

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

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In re: House Bill 1565, 1566, 1567, 1569, 1669

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Stenographic report of hearing
taken at 22-A, Capitol Annex,
Harrisburg, Pennsylvania

Thursday
May 19, 1988
9:30 a.m.

HON. KEVIN BLAUM, CHAIRMAN

MEMBERS OF JUDICIARY SUBCOMMITTEE
ON CRIME AND CORRECTIONS

- Hon. Michael E. Bortner
- Hon. Lois Sherman Hagarty
- Hon. Richard Hayden
- Hon. Gerard A. Kosinski
- Hon. Allen Kukovich
- Hon. Paul McHale
- Hon. Jeffrey E. Piccola

Also Present:

- Michael P. Edmiston, Esquire, Chief Counsel
House Majority Judiciary Committee
- Mary Wooley, Esquire, Counsel
House Minority Judiciary Committee
- Sue Germanio

Reported by:
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1987-107

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1 CHAIRMAN BLAUM. Good morning everyone. Welcome
2 to the Judiciary Subcommittee on Crime and Corrections on
3 Child Abuse. Right now I would like to introduce the
4 members who are here today. To my left is Representative
5 Lois Hagarty, Representative Allen Kukovich. To my far
6 right is Representative Dick Hayden, Representative Jeff
7 Piccola, Mike Edmiston, attorney for the Majority side,
8 Attorney Mary Wooley, counsel for the Minority side.

9 We are here today to consider the child abuse
10 laws of Pennsylvania. We have several bills to consider.
11 They are the result of the Attorney General's task force
12 report entitled Violence Against Children. We hope to
13 bring Pennsylvania's child abuse laws up to date and
14 hopefully into compliance with federal law. That is our
15 goal to begin today. We are fortunate to have with us
16 the man who created the task force. He is our first
17 witness, Attorney General LeRoy Zimmerman.

18 GENERAL ZIMMERMAN: Thank you, Mr. Chairman,
19 members of the Committee. Before reading my testimony I
20 would like to introduce some people here at the table
21 with me. Susan Kelly Dreiss to my right, Vice Chair of
22 the task force. She has done outstanding work in all of
23 these matters. To my left is Executive Deputy Attorney
24 General Louis Ravelli and Deputy Attorney General Kathleen
25 McGrath. Kathleen has been working on the task force and

1 will continue to do so. Unfortunately today, Jim Strazzella,
2 Dean of the Temple Law School, Temple University Law School,
3 who chairs the Attorney General's task force wanted to be
4 here. But when the hearing was rescheduled he could not
5 be because today is commencement day at Temple Law School.
6 I would like the record to show he will certainly continue
7 his work as chair.

8 By the way, Mr. Chairman, we are nearing
9 completion of the task force's second part of the
10 work in connection with abuse against the elderly. The
11 original report that you referred to, the task force report,
12 was released in early '87. It is our hope that the second
13 part of the task force will be released in the next several
14 weeks or thereabouts, next several months.

15 Thank you for inviting me to testify today on
16 the urgent need for legislative reforms to better protect
17 our children from abuse, exploitation, and abduction. Five
18 of the bills before you were drafted to implement the
19 legislative recommendations made by the Attorney General's
20 Family Violence Task Force in its report on Violence
21 Against Children. I want to specially acknowledge
22 Representatives Lois Hagarty and David Sweet for the help
23 and leadership that they have provided as prime sponsors
24 of these bills.

25 We have learned much about child protection in

1 the 20 years since Pennsylvania enacted its first child
2 abuse reporting law. Two lessons are perhaps paramount
3 First, good laws alone are not enough. The law enforcement
4 and social service agencies that respond to violence
5 against children must be adequately staffed and funded.
6 Their personnel must be properly trained And they must
7 effectively coordinate their efforts. Indeed, the task
8 force report was directed as much to training and inter-
9 agency cooperation as it was to legislative reform.

10 The second lesson that experience teaches us
11 is that neither law enforcement nor social service alone
12 can respond effectively to child victimization. Because
13 we seek to preserve families, we cannot rely exclusively
14 upon the criminal justice system and its ability to punish
15 offenders. Yet we must never forget that virtually every
16 act of child abuse is a crime No less than adults,
17 children deserve the protection of the criminal justice
18 system. Sometimes, arrest and prosecution are the only
19 sanctions sufficient to influence the offender to obtain
20 treatment.

21 The statute that most directly influences the
22 roles of social service and law enforcement agencies in
23 responding to child abuse is the Child Protective Services
24 Law - the "CPSL." That law requires professionals who come
25 into contact with children to report suspected abuse to

1 child protective service agencies.

2 As enacted in 1975, the CPSL excluded law
3 enforcement from the system of reponse that the law created.
4 Protective service agencies were prohibited from referring
5 cases to law enforcement And law enforcement agencies
6 were denied access to child abuse records. It was not
7 until 1982, after a series of shocking cases, that the law
8 was amended to require that cases of death, sexual abuse,
9 or serious bodily injury be referred to law enforcement,
10 and to afford law enforcement access to child abuse records.

11 By channeling reports of suspected child abuse
12 to protective service agencies, the CPSL has interposed
13 those agencies between the child victim and law enforcement.
14 District attorneys throughout the state report that
15 virtually every case of child abuse that they prosecute
16 originates with a referral from a protective service agency.
17 Law enforcement thus has a vital interest in the provisions
18 of the CPSL that define child abuse and that regulate the
19 relationship between protective service and law enforcement
20 agencies.

21 Pennsylvania currently has the most narrow
22 definition of child abuse in the United States. Under the
23 CPSL, a child must suffer actual serious injury before that
24 child is considered abused. The task force concluded,
25 and I agree, that children should be afforded the full

1 protection of the law before they suffer serious injury.
 2 Accordingly, House Bill 1569 expands the definition of
 3 child abuse to include conduct that threatens to cause
 4 serious injury. The bill further requires the referral
 5 to law enforcement of attempts to cause a child's death
 6 or serious bodily injury.

7 In discussions with my staff, the Department
 8 of Public Welfare and county children and youth administra-
 9 tors have expressed concern about the specific language
 10 chosen to accomplish the purpose of the amended definition,
 11 and about their ability to administer the expanded
 12 definition without additional funding. With respect to
 13 the language of the bill, we have been working closely
 14 with DPW and the county administrators. I believe I can
 15 fairly report that we are very close to an agreement that
 16 resolves their concern.

17 With respect to funding, I can say only that
 18 the agencies should be given the funds they need to do
 19 the job right. On average nationwide, the states spend
 20 about \$22 per resident-child on protective services.
 21 California spends \$36. New York spends \$29. We spend
 22 less than \$13 per child. We must do better than that.

23 House Bill 1569 would accomplish a number of
 24 other changes in the CPSL. It would recognize as potential
 25 child abusers persons who provide temporary care, control,

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1 or supervision of children. It would require professionals
 2 to report abuse that they discover in a confidential
 3 relationship if the child is at continuing risk of further
 4 abuse It also would remove from the CPSL several
 5 impediments to effective cooperation between protective
 6 service and law enforcement agencies, which remain in the
 7 law from the days when cooperation was prohibited.

8 The other four bills before you are directed
 9 to the Crimes Code and the criminal justice system. They
 10 were drafted to implement the recommendations of the task
 11 force regarding child sexual abuse and missing children.

12 Under current Pennsylvania law, there is no
 13 specific crime of child sexual molestation. Acts of child
 14 sexual abuse as serious as penetration by hand, finger,
 15 or foreign object are generally nothing more than a
 16 misdemeanor. House Bill 1566 makes child molestation a
 17 felony. It also forecloses the defense, available under
 18 current law, that the child consented to the sexual
 19 assault.

20 The Crimes Code currently does not prohibit
 21 the possession of child pornography unless it can be proven
 22 that such possession is for the purpose of sale or transfer.
 23 That restriction is a serious obstacle to the protection
 24 of children from pornographers and from molesters. It is
 25 not required by the Constitution. And House Bill 1566,

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1 quite properly, would eliminate it

2 We need to do more, however, to deal with child
3 molesters than merely strengthening our criminal laws.

4 Many molesters engage in persistent, repetitive, and
5 highly predictable behavior, involving multiple child
6 victims. Yet the law currently prohibits the State Police
7 from using computer technology to help identify perpetrators
8 of child sex abuse. That prohibition should be lifted.

9 Investigations have uncovered the use of computers by
10 pedophiles to store, retrieve, and exchange information
11 on victims and sexual acts. It is a cruel irony that
12 police are barred from the use of equally efficient
13 technology to protect children.

14 House Bill 1565 would authorize the State
15 Police to use computer technology not only to help identify
16 perpetrators of child sex abuse, but also to help locate
17 missing children. On that subject, we know that the
18 great majority of missing children are runaways, and that
19 very few have been abducted by strangers. We also know,
20 however, that a significant number of missing children
21 have been abducted by a noncustodial parent.

22 House Bill 1566 offers an innovative approach
23 to this problem. The bill would make it a crime for one
24 parent to conceal the child's whereabouts from the other
25 parent, unless concealment is authorized by court order

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1 or is a reasonable type of response to domestic violence
2 or child abuse. By prohibiting not the taking of the
3 child, but rather the concealment of the child's whereabouts,
4 this law would save police the sometimes impossible task
5 of determining which parent has the right to custody.

6 Mr. Chairman, time prevents me from addressing
7 all of the changes in the law that the bills before you
8 would enact to better protect children from abuse,
9 exploitation, and abduction. I instead want to reemphasize
10 that good laws are not enough. We need better training
11 and better enforcement. Toward these ends, I have
12 established in my office a Child Abuse Prosecution
13 Support Unit, which is already involved actively in
14 providing technical assistance to district attorneys and
15 in training police, prosecutors, judges, and other
16 professionals.

17 With the task force and the support unit,
18 I have tried to advance the cause of child protection in
19 Pennsylvania. I am now asking you to help further advance
20 the cause by strengthening the laws that define and give
21 force to our efforts.

22 Before we take your questions, as I indicated
23 to you, I know Susan may have a comment or two that she
24 would like to add at this point in time to what I have
25 offered if that is permissible. Thank you.

1 MS. DREISS Good morning. It is a pleasure
2 to be here as a representative of the Attorney General's
3 Task Force on Family Violence. The legislative recommenda-
4 tions and subsequent consideration of the drafting of
5 the bills before this Subcommittee came about as a dialogue
6 among professionals who work with child abuse cases. This
7 task force was made up of judges, police, district attorneys,
8 child advocates and child protective service workers,
9 and the main focus of the task force was to offer greater
10 protection to children against abuse and to try to improve
11 and facilitate more prosecution and improve investigations
12 of child abuse cases.

13 The first recommendation in the report was
14 to broaden the definition of child abuse to include
15 act or omissions that threaten the child's safety or
16 harm. The task force believes this change would place
17 an emphasis on intervention before serious injury occurred.
18 It would also provide for children parallel protections
19 that have been available to adults under the Protection
20 from Abuse Act which was passed in 1976. That Act enabled
21 court orders where there was actual or threatened abuse.

22 Also, the task force was very serious about
23 wanting to expand the definition of care giver. It seems
24 very important in this state where children are very
25 vulnerable in temporary care situations and yet placed more

1 and more in temporary care situations due to mothers working.

2 Lastly, I want to speak on behalf of the
3 Pennsylvania Coalition Against Domestic Violence in respect
4 to House Bill 1566. The concealment section 2909
5 acknowledges that one parent may be forced to remove
6 a child from the custodial care of the other parent whenever
7 there is domestic violence or child abuse. This is a very
8 important exception. What we are finding in the Domestic
9 Violence Program is approximately one-third of all of our
10 cases are cases where the battered wife is accompanied by
11 the child who is also battered. Mothers will often tell us
12 that the courage that it took for them to leave home came
13 as a result of seeing the child battered even though she
14 had been battered herself. This is an improvement we would
15 like to see stay in that bill in terms of seeing that there
16 are circumstances that are reasonable in which to conceal
17 a child.

18 GENERAL ZIMMERMAN: Thank you, Susan.

19 CHAIRMAN BLAUM: Anybody else?

20 GENERAL ZIMMERMAN: We would be happy to answer
21 any questions.

22 BY CHAIRMAN BLAUM:

23 Q My first question would be to expand upon the
24 definition. Right now we have to have serious injury to
25 call it abuse. We are changing that, recommending the task

1 force recommends that we change to threatened serious
2 injury. Could you give us examples for our audience and
3 for the members of the Committee, examples of how threatened
4 serious injury is a very serious problem and should be
5 considered in the legislation and in the law?

6 A Well, unless the narrow definition creates a
7 great deal of difficulty and uncertainty, attempts at
8 serious injury can be just as devastating, just as
9 injurious to a child as an actual assault on the particular
10 child and it is very important that we get that change
11 made.

12 Lou Ravelli may want to comment with
13 specificity.

14 MR. RAVELLI. Yes. I think both Kathleen and
15 I can give you a few examples that came to light during
16 the task force meeting and deliberations. And of course,
17 won't reference names since the child abuse system
18 maintains the utmost of confidentiality with respect to the names
19 of both victims and perpetrators.

20 But I recall specifically when we were trying
21 to think of examples, when we were trying to locate
22 examples that would show what we are trying to get at
23 with attempted serious abuse, we postulated a situation
24 where one child had a knife thrown at him or her and the
25 knife hit. The child was seriously injured. And another

1 situation where the knife was thrown and it missed. Now
2 we hypothesized that thinking that is too outrageous,
3 too serious an example to be true, but a protective
4 service caseworker informed us that within a few months
5 span of time they had exactly those two situations occur
6 in their agency. In the one case a knife was thrown,
7 the child was hit and seriously injured. In the other case,
8 the knife was thrown and missed. The child, I am sure
9 was quite traumatized by that and perhaps seriously injured
10 emotionally but not physically. In one case a finding
11 of child abuse was made and in the other case no finding
12 of child abuse was made. We could obviously give you
13 examples all day, but a few will help to illustrate the
14 situation.

15 MS. McGRATH. Another example that was brought
16 to our attention was where a situation of ~~a f a m i l y~~
17 of three young children, all under the age of seven, were
18 living in a trailer in a very rural area of Pennsylvania.
19 The mother went off for a weekend with the boyfriend
20 leaving the children alone in the trailer all under the
21 age of seven. Miraculously nothing happened to those
22 children. They were okay. But because nothing happened,
23 the case was reported as abuse but the agency said the
24 children didn't suffer any injury so that was not abuse
25 under our current definition. Even though I think we would

1 all agree that that was a pretty risky situation for
2 children to be in.

3 Another really outrageous example is a
4 situation where a father held a child hostage in a house
5 and doused the house with gasoline, threatened to set it
6 on fire. In fact, he did set it on fire. The child was
7 rescued unharmed by police or fire fighters and it wasn't
8 abuse because the child was rescued unharmed. Even though
9 the parent, the father, had intended at least to harm that
10 child I am sure the child was very emotionally damaged
11 by that.

12 We were also told of an incident where a child
13 was beaten with a wooden utensil and bruised. But the
14 agency determined the bruises weren't serious enough to
15 constitute child abuse under our current law. Six months
16 later the child come back, was severely beaten, had teeth
17 knocked out and had 16 bruises, serious bruises, all over
18 the child's body. Now that was abuse. There are other
19 examples, but this kind of thing.

20 BY CHAIRMAN BLAUM: (To Mr. Ravelli)

21 Q Could you tell the Committee and the people in
22 the audience, the present definition of caregivers. Who
23 is responsible right now and under the recommendation of
24 the task force and legislation by Representative Hagarty
25 and Representative Sweet, who that would include in the

1 future?

2 A Presently, the language of the law is sufficiently
3 broad to include both persons who provide care on a
4 permanent basis and persons who provide care on a temporary
5 basis. There was several years ago, however, a Commonwealth
6 Court decision that held that teachers are not covered
7 by the child abuse law and there was language in that
8 decision which suggested that a caregiver, that could be
9 considered a caregiver under the child abuse law, you had
10 to provide care, you had to provide basic necessities such
11 as food, shelter and clothing that are typically provided
12 only by parents and surrogates of parents.

13 The task force recommended that the law be
14 amended to make perfectly clear that it covers, as it
15 does now in the Department of Public Welfare regulations,
16 both permanent and temporary caregivers.

17 This is very important, particularly in view
18 of recent amendments to the child abuse law, that require
19 child care agencies to check the child abuse and criminal
20 history records or to have checks done to make sure that
21 the people they are hiring are not past child abusers.
22 If the law doesn't reach those situations anyway, then
23 those recent amendments are quite futile.

24 CHAIRMAN BLAUM: Representative Kukovich.

25 BY REPRESENTATIVE KUKOVICH: (To Mr. Ravelli)

1 Q Maybe I can just direct a few of these questions
2 just generally to the panel. I was pleased in your
3 statement about the necessity for funding because I think
4 that is the key. Reading over your report I really
5 appreciate it that the need for training, interagency
6 cooperation, because I think that is very important. I
7 think that is where the emphasis should go. Whenever you
8 cite those examples of one child, because that child wasn't
9 directly, physically hurt, that that was not deemed child
10 abuse. I am not so sure that expanding the law deals
11 with that problem. I am not so sure the current law
12 can't already deal with that problem. What I am certain
13 of, because of lack of funding, lack of training, because
14 of lack of interagency cooperation, there are a lot of
15 inequities in the system. I don't recall from the report
16 dollar amounts that were talked about. There are no
17 appropriations figures in these bills.

18 I wondered if within your work you could tell
19 us, give us any sort of fiscal analysis as to how much
20 more we would need to fund something like 1569?

21 A I think we can give some insight on that.
22 But by way of background, and I think this answers partly
23 one of the concerns that you expressed about the ability
24 of the current law to cover the kinds of situations that
25 we gave examples of, right now in Pennsylvania there is

1 sort of a parallel system of response to child abuse. We
2 have what you might term a bifurcated system. In other
3 states they deal with actual and threatened harm in one
4 system. In Pennsylvania we deal with actual harm in the
5 child protective services system. We deal with threatened
6 harm in something called the general protective services
7 system which is a system which derives basically from one
8 sentence in the Public Welfare Code, but it does extend
9 to local children and youth agencies ^{the} capacity to intervene
10 in a case where a child is at risk but hasn't yet been injured.

11 One of the big problems, however, those
12 agencies receive their funding in one lump sum amount and
13 they have responsibilities that they have to execute
14 under the child protective services law that they cannot
15 decide not to. They have to give priorities to those.
16 So to whatever extent their funding is inadequate, it is
17 the general protective services system, the system that
18 is designed to respond in the at risk situations that
19 suffer.

20 Another problem with that parallel system is
21 that it is not subject to the same accountability and
22 record keeping requirements that the child protective
23 services system is. Every year the Department of Public
24 Welfare puts out a comprehensive report of what those
25 agencies have done during the past year and what kinds of

1 cases they have responded to and what way they have
2 responded. Those reports don't encompass the cases where children
3 are at risk rather than having actually suffered serious
4 harm.

5 If the general protective services system
6 today was adequately funded, if all our child welfare
7 programs today were adequately funded, the impact of the
8 change of the definition that our task force has recommended
9 would be quite small. In fact, it may be possible to
10 accommodate all the changes in the definition without
11 additional funding if the current funding was adequate.
12 Our findings, and I am not speaking of empirical or
13 scientific findings, because we did not have the capacity
14 to undertake that.

15 Q How much would be adequate? You are saying
16 it is inadequate, and we agree, to what extent?

17 A All we can do, all we can provide by way of
18 insight into that, I think the Department of Public
19 Welfare can give you harder numbers, and I am sure that
20 the county agencies can help on that score too. But all
21 we can do is what we have done, which is to compare the
22 funding levels in Pennsylvania with other comparable size
23 states. In the Attorney General's testimony he mentioned
24 New York which funds protective services to the tune of
25 \$29 per resident child annually. By resident child, we mean

1 if you take the total number of children in the state and
2 divide that into the appropriation for child protective
3 services, you come out with \$29 per resident child.

4 Q According to the Attorney General's testimony
5 the equivalent in Pennsylvania is something like \$13?

6 A Less than \$13 and that includes both child
7 protective services and general protective services.

8 Q Can you extrapolate that amount and tell me
9 how much we need statewide?

10 A Well let me take that one step further and
11 point out that Pennsylvania is not the only state that
12 is below the national average which is \$22 per resident
13 child, not the only large state for example. Ohio spends
14 \$15 per resident child for protective services. That
15 may sound like there is not that much difference between
16 Pennsylvania and Ohio, but if you ask representatives
17 from the Department of Public Welfare or the county agencies
18 whether they could make good use of a two-dollar per
19 resident child, approximately an 18 percent increase
20 in their annual appropriation, I think they would tell you
21 that that would be a tremendous improvement in our funding
22 of child protective services programs.

23 In terms of straight hard numbers, how many
24 million dollars more the system needs to be funded adequately,
25 the Attorney General's Office, neither the Attorney General

1 nor the task force has the capacity to provide you with
2 those numbers, but we do recognize that additional funding
3 is necessary.

4 Q My concern is that obviously everybody here
5 wants to do something about child abuse. What I have seen
6 the General Assembly do in related issues that are
7 emotional is do the easy thing. It is always easy to
8 expand criminal statutes, talk tough. But to really get
9 to the heart of the problem, the General Assembly has
10 got to do a difficult thing and that is spend more money
11 And I guess it is specially sensitive now at this point
12 in time because we are going through another budget
13 problem. One chamber is asking for another \$100 million
14 tax cut. In the last four years this Commonwealth has
15 lost two billion dollars due to tax cuts four years in a
16 row. And if we are serious about child abuse, we got to
17 start talking about dollars. Bring dollars into the system.

18 I think it is terrific, the Attorney General's
19 testimony. What I am afraid of is, again, we opt for the
20 easy thing. We pass laws that I think for the most part
21 are good and we don't deal with the tough issues and that
22 is what I am concerned about.

23 GENERAL ZIMMERMAN: We address in an ancillary
24 way, an indirect fashion, because as Mr. Ravelli said, we
25 are really not in a position in the Attorney General's

1 Office nor was the task force in a position to put a
2 dollar amount or number on the cost. We have shown by
3 comparison what other states are doing. That to a large
4 degree is relevant. But I certainly agree in philosophy
5 generally that you cannot talk tough and not be willing to
6 do what is necessary to back up that tough talk.

7 The analogy is a good one to mandatory
8 sentencing. Mandatory sentencing, we hear a lot about.
9 But unless you have the cell space to take care of the
10 increased number of prisoners, it falls flat on its face
11 and it is rhetoric. It doesn't do the job. But I think
12 that in this case, as Mr. Ravelli points out, there is
13 a money problem but it is not all money problem. It won't
14 result in that much more money perhaps generally speaking
15 because of what is being done and what is required to be
16 done now by regulation and what would be required to be
17 done when this legislation is enacted.

18 BY REPRESENTATIVE KUKOVICH. (To General Zimmerman)

19 Q You really don't have any fiscal analysis for
20 any of these bills as to how much it might cost? For
21 example, let me refer to House Bill 1565 which would
22 statutorily create a State Police missing persons unit.

23 A Yes, we can address that.

24 Q Administratively that has been created. I am
25 wondering how much that currently costs. And what the

1 advantages are to making it statutory and if there will be
2 an increase in cost to fund that unit if it becomes
3 statutory.

4 MR. RAVELLI I think the principal advantage
5 of making it statutory is to give it the recognition,
6 recognize the importance of a permanent institutionalized
7 response to the problems of missing and sexually exploited
8 children. I know that there will be a witness today from
9 the State Police who can provide more detailed information.
10 But the functions of the State Police Missing Persons Unit
11 are already operative and funded out of the current
12 appropriations of the academy. I'm sorry, of the State
13 Police.

14 BY REPRESENTATIVE KUKOVICH: (To Mr. Ravelli)

15 Q Funding would not increase the services
16 provided by that unit would not increase. The only
17 difference is it would be statutory and not subject to
18 change by a future administration.

19 A That is one thing. There is one aspect of it
20 that would change albeit I don't believe it requires any
21 substantial additional funding, and that is to afford the
22 police the authority to use their computer systems to
23 help identify the kind of serial perpetrator of sexual
24 abuse that is not an uncommon phenomenon in the context
25 of child sex abuse and to help locate missing children.

1 Right now the law prohibits them from using their computers
2 in that fashion, but they have the computers and they have
3 the capability. I am sure that there will be some
4 reprogramming costs. I don't think in the scale of their
5 budget that is a tremendous increase. I am sure you can
6 direct your question to the State Police witness.

7 Q Just a couple more questions. I want to get
8 off the financial thing. House Bill 1566, there is a
9 section in there, Section 2910. It is on page 2, line 24
10 about luring a child into a motor vehicle. Is there any
11 definition of that either in case law or somewhere in the
12 criminal code about luring a child?

13 GENERAL ZIMMERMAN: Where is that, Representative
14 Kukovich?

15 REPRESENTATIVE KUKOVICH. Page 2, line 24.

16 MR. RAVELLI. Is there a definition of lure
17 in the Crimes Code, no, there isn't. That would be the
18 common usage of that term. And that provision is designed
19 to get at situations where a kidnapping has not been
20 consummated and yet an act has been committed that has --
21 that in fact has the capability to terrorize whole
22 communities. We have seen that in the Harrisburg area
23 not too long ago when there was a person running around
24 in an automobile. The same automobile kept turning up at
25 different sites trying to get children into the car. When

1 you do apprehend a person like that, it is very difficult
2 to prosecute and convict. Because the only crime that is
3 available now is attempted kidnapping. In attempted kidnapping, you
4 have to prove that the person actually intended to kidnap the child.

5 BY REPRESENTATIVE KUKOVICH (To Mr. Ravelli)

6 Q So you're satisfied this language will enable
7 you to get that type of person without being overly broad?

8 A Yes, absolutely.

9 Q Just a question about House Bill 1669. I have
10 some concerns about that because of the first amendment.
11 For example, in the definition on page 2, it wasn't one
12 of the recommendations, if you are not prepared to comment
13 on that --

14 A Is this the child pornography bill?

15 Q Yes.

16 A There was a task force recommendation to render
17 the possession of child pornography criminal and while --

18 Q What I am concerned about is the new definition
19 that appears on page 3 which includes new language. If
20 the pictures, drawings, whatever are for governmental
21 or judicial purposes, they are exempted. However, under
22 the language which excluded, I'm trying to find 20 at the
23 bottom of page 2, artistic is removed.

24 A We don't have a copy of that. We don't have
25 that particular bill.

1 Q My concern was, the way I read this, for
2 example, about a month ago I got a copy of the U.S.
3 Department of Justice, an addendum to the Meese Report.
4 And I was shocked. In the back there was some pictures,
5 cartoons that were offensive depicting child pornography.
6 I can possess those pursuant to this because it was
7 drafted for governmental purposes, the U.S. Department of
8 Justice.

9 But on the other hand, I have seen some
10 feminists' works drawings that were for the purpose of
11 creating awareness to try to attack the problem of child
12 abuse. I could be in possession of what I think are more
13 grotesque pictures that I was provided by the U.S. Department
14 of Justice. But under this definition I think I could be
15 prosecuted for having some feminists, the tract, which
16 is anti-child abuse which I find less offensive but I
17 think falls under this.

18 GENERAL ZIMMERMAN. I suppose that is debatable
19 and any time you get into this area you get varied
20 interpretations depending on the prism through which you
21 examine the language. But you do have a governmental
22 exception here that I could respond and say you would be
23 exempted by.

24 BY REPRESENTATIVE KUKOVICH: (To General Zimmerman)

25 Q I am protected from the Meese pornos, but

1 apparently I am not protected by the anti-porno so-called
2 drawings that could be covered here and that was just one
3 of the incongruities. See, my concern with all of this
4 legislation, and much of it is good, my concern is as
5 legislators, as political creatures, normally when we are
6 forced to deal with emotional, difficult issues, we move
7 quickly, we rush to judgment and we pass things that
8 sometimes might be overly broad, that might have
9 constitutional problems, that might be deter us from
10 providing money where it is really most necessary.

11 A I think just in quick response generally to
12 that, certainly we can share your concerns. However,
13 the issue is such a heightened one of importance, I think,
14 to the people of the Commonwealth and the money is
15 necessary and we will have to rely on the court to protect
16 those interests.

17 MR. RAVELLI Let me add it may be necessary
18 and appropriate to give effect to your concern which is
19 legitimate. That adjectives other than educational,
20 scientific, governmental or judicial be added to this
21 bill. We may want artistic or satirical or something
22 such as that to help encompass those kinds of cases where
23 we don't want to prosecute. But we mustn't throw the
24 baby out with the bath water so to speak. There are most
25 of the kind of cases that come to light that we can't deal

1 with now are those where you come upon someone who has
2 a veritable library of child pornography. All of which,
3 of course, is produced at the expense of a child victim.
4 It is very difficult to prosecute those cases when you
5 have to demonstrate a commercial purpose. Because the
6 principal way, FBI reports will tell you, the principal
7 way this material is produced and exchanged is through,
8 it is homemade in its production and it is exchanged
9 by barter. It is traded among pedophiles. We will never
10 get at it if we have to prove the purpose of sale.

11 REPRESENTATIVE KUKOVICH: I understand that.
12 Again, we want to get those people that you want to get.
13 We want to do it in statutory language not overly broad
14 and hurt innocent people. That is my concern. I have
15 no further questions.

16 CHAIRMAN BLAUM I would just like to make one
17 note about funding. I expressed this to both the Majority
18 and Minority staff. That anything this Committee does
19 with these bills, that we also make the tough call and
20 make the recommendation as to where the money will come
21 from. And if necessary, also recommend with this the
22 legislation to produce that money. Representative Kukovich.

23 BY REPRESENTATIVE KUKOVICH: (To General Zimmerman)

24 Q Could I follow up. Would the task force be
25 able to survey their members to see if we could get a

1 statement that would say something like there should be
2 no further tax cuts in Pennsylvania until we provide
3 adequate funding to children and youth and attack the
4 problem of child abuse?

5 A We want to get this moving forward, Representa-
6 tive Kukovich.

7 REPRESENTATIVE KUKOVICH: That is what I thought.

8 CHAIRMAN BLAUM: Representative Piccola.

9 REPRESENTATIVE PICCOLA: Thank you, Mr.
10 Chairman. I have a couple of questions, technical questions,
11 but before I ask them I would like to congratulate the
12 Attorney General and the task force and your staff for
13 an outstanding report. I congratulate the sponsors of
14 the legislation for putting it into place. I am hopeful
15 that these subcommittees and the full Committee, Judiciary
16 Committee, will put this legislation on a fast track.
17 Direct staff to make the appropriate mark-ups as soon as
18 we can after this hearing, because I believe the people of
19 Pennsylvania are demanding and the children of Pennsylvania
20 deserve this type of protection.

21 In making reference to Representative Kukovich's
22 concern about the first amendment in House Bill 1669,
23 I also highly value the first amendment. But in reading
24 House Bill 1669 and the wording of the crime of possession of child
25 pornography, I have absolutely no fear whatsoever that

1 possession of such material would trample on the first
2 amendment. It clearly defines the material as being
3 anything depicting a child under the age of 17 engaging
4 in a prohibited sexual act or simulation of such an act.

5 I can't imagine anything that does that
6 qualifying as art. I would not even support the suggestion
7 of the gentleman that we include art or satirical
8 information. As soon as you do that you just open the
9 biggest loophole that you can drive a truck through.

10 BY REPRESENTATIVE PICCOLA: (To Ms. McGrath)

11 Q I have a question, a specific question, about
12 House Bill 1569. On page 5, the definition section, you
13 have a definition of injury and we rightfully expand that
14 to include medical harm and include physical neglect.
15 Could you expand on, I don't see physical neglect actually
16 defined anywhere in the bill. Maybe it is and I missed it.
17 But could you expand on, perhaps for legislative history
18 purposes what we are talking about when we are talking
19 about physical neglect?

20 A Right now, under the current child protective
21 services law neglect is covered. The law now says serious
22 physical or mental injury or serious physical neglect.
23 Our recommendation is not to expand the kinds of neglect
24 that are encompassed by the law now except to expand it
25 to include serious threat. Serious neglect is defined in

1 regulations now, Department of Public Welfare regulations,
2 and it requires that that serious neglect manifest itself
3 in some physical injury essentially.

4 Again, going along with our theme that we
5 should be able to intervene before the injury occurs, we
6 would want situations that put the child at risk to be
7 covered as well as situations that already have caused
8 injury. The concept of neglect is not being expanded.

9 Q Would physical neglect include perhaps allowing
10 a child to play in a side yard in close proximity to a
11 dangerous intersection without supervision?

12 A Well, of course, each factual situation would
13 have to be evaluated. It depends on the age of the child
14 and whether the child could be trusted to stay in the yard
15 and those kinds of things. I can't say yes or no that
16 would be included.

17 Q Is that type omission included under the
18 regulations now, the definition of the regulations?

19 A Well, I suppose if it was a two-year old and
20 you let the child play in the yard and the child went into
21 the intersection and was hit by a car, that the injury
22 would have occurred due to neglect. Under our current
23 provision that possibly could be covered.

24 Q If the child merely played there that could not?

25 A No, because it now requires that the injury

1 have occurred.

2 Q Under this definition, even if there was no
3 injury, no accident at the intersection involving the
4 child, just the sheer fact the child being there without
5 supervision could possibly be considered to be injury
6 under this definition?

7 A I think that again it is going to depend on
8 the caseworker and the interpretation given the act by
9 the Department and the caseworkers and the administrators.
10 But one incident of that kind of thing probably not
11 repeated, that kind of behavior repeated over a period
12 of time when there has been some input from the agency,
13 who if the agency knows about it, trying to instruct the
14 parent that may not be appropriate for a child of those
15 tender years, it may at some point escalate to constitute
16 abuse even though injury hasn't occurred. But sending a
17 child out once or a child runs out of the house and you
18 don't know that the child is there, I don't think would
19 fall within.

20 Q Then based upon what you are telling me you
21 think it would be perhaps preferable to take the words
22 physical neglect out of the statute and continue to allow
23 that to be defined in the regulations where you have more
24 flexibility?

25 A You need to put it in the Act so that physical

1 neglect can be covered. But I think we should do what
2 the Act does now, which is mention it, and allow the
3 definition of it to be maintained in the Department of
4 Public Welfare regulations. That is the current law and
5 we are not advocating that that be changed.

6 GENERAL ZIMMERMAN. Isn't there case law at
7 this time interpreting neglect under the regulations?

8 MR. RAVELLI. There is case law, but any
9 definition of child abuse that is included in the child
10 protective services law is going to require careful and
11 detailed definitional regulations by the Department of
12 Public Welfare. That is the requirement now, and if
13 anything, that requirement would only be heightened and
14 strengthened by the proposed changes. There is no doubt
15 about it the Department has to give detailed definition
16 to what that Act is trying to get at.

17 REPRESENTATIVE PICCOLA: But we use the words
18 physical neglect in our statute now.

19 MS. McGRATH: Yes.

20 REPRESENTATIVE PICCOLA: So it does have
21 case law definition from a statutory --

22 MR. RAVELLI. And regulatory, yes.

23 GENERAL ZIMMERMAN: Representative Piccola's
24 concern is well founded, but there is a body of case law
25 already in existence.

1 REPRESENTATIVE PICCOLA: That is what I was
2 trying to get at. Thank you.

3 CHAIRMAN BLAUM: Representative Hagarty.

4 REPRESENTATIVE HAGARTY: I want to join
5 Representative Piccola and say as prime sponsor of this
6 package to the Attorney General, LeRoy Zimmerman, Susan
7 Kelly Dreiss, Lou Ravelli, Executive Director and Kathleen
8 McGrath, I think you have performed a very valuable service,
9 provided very careful review of child abuse laws and their
10 impacts in Pennsylvania today and brought to us what I
11 think are largely very sensitive, carefully crafted
12 recommendations. I am very hopeful and certainly want to
13 commit myself to doing my best. I am very pleased and
14 specifically thank the Chairman of the Crimes and Corrections
15 Subcommittee for convening this hearing and allowing this
16 issue to be aired and the support, I think, we are hearing
17 this morning and concern on the part of this Committee which
18 I think will be needed in moving forward with this
19 legislation.

20 BY REPRESENTATIVE HAGARTY (To Mr. Ravelli)

21 Q My first question is what happens presently
22 to children who fall under the new category we are proposing?
23 In other words, by the new category I am talking about
24 patterns of abusé or threatened harm. What happens
25 currently if a child is in that situation, either harmed,

1 threatened or there is a pattern of abuse but no serious
2 bodily harm?

3 A First of all, if the child hasn't suffered
4 serious injury so that the conduct that is giving rise
5 to that situation isn't covered by the child protective
6 services law, then if it comes to the attention of a
7 professional, a teacher, doctor, whoever or other such
8 person who is required to report suspected child abuse,
9 they are not required to report in that situation. Because
10 the conduct, even if it is verified, if it is substantiated
11 that it occurred, that it does not constitute
12 child abuse.

13 Second, there will be no, if it does come to
14 the attention of a protective service agency, it will be
15 dealt with in what I referred to earlier as the general
16 protective services system in which there are not the same
17 kinds of time limits and other strictures that are required
18 in the child protective services system.

19 Even if we get past that and the agency does
20 indeed investigate the case and considers it a situation
21 where it is necessary to intervene, we have to be
22 concerned whether in that particular county, given the
23 funding constraints they are working under, they have
24 the funds available to take care of that situation. If
25 they do, then it is possible under current law to pursue a

1 court order and to intervene in that situation. Our law
2 currently does allow theoretically for getting at cases
3 of threatened harm. The problem is funding. The problem
4 is accountability, being able to supervise that system,
5 knowing what is going on in it. The problem is record
6 keeping. The problem is keeping track of people who are
7 found in that alternate system to be perpetrators. None
8 of that exists right now.

9 MS. McGRATH. May I add to that? We received
10 a letter because we have been receiving much correspondence
11 because of our report. We received a letter from a
12 private service provider in the Philadelphia area saying
13 that they had a mother that had bruised the child severely.
14 The case had been reported to protective services and they
15 investigated that and said, yes, the child was injured.
16 Yes, the parent admitted injuring the child, but the child
17 was not injured severely enough for it to be child abuse
18 under our law. They said, as a consequence of this one
19 thing that will happen, a letter will be issued that says
20 you have been investigated because of this abuse of child
21 report and it has been determined that the report is
22 unfounded. The agency said to me, now we have told,
23 society has told this mother this behavior that she
24 inflicted on her child, the injury she inflicted on her
25 child, society says is not abuse. So we have reinforced

1 for her the fact that this behavior was acceptable.

2 Now, we can try to get other services to that
3 woman through the general protective services that Mr.
4 Ravelli talked about, but on the one hand we told her what
5 you did wasn't abuse, and I think that is a problem.

6 REPRESENTATIVE HAGARTY: Thank you.

7 BY REPRESENTATIVE HAGARTY: (To General Zimmerman)

8 Q In terms of your further criminalizing child
9 or influence
abuse can you tell us what type of pressure/law enforcement
10 can provide to get these offenders into treatment? In
11 other words, what I am suggesting is not only important
12 that we provide criminal sanctions, but what else does
13 that do to help get people into programs which are needed.

14 A Well, you point out, Representative Hagarty,
15 accurately that criminal sanctions are important and
16 sometimes, as I said earlier, the only type of thing that
17 works within the structure of the criminal justice system,
18 law enforcement is already and can, these changes occur
19 utilize programs like parole conditions under the supervision
20 of the judge, ARD, accelerated rehabilitative disposition,
21 different techniques in pre-indictment probation programs,
22 a variety of things that will provide the supervision,
23 the accountability, as Mr. Ravelli referred to, in areas
24 of major concerns.

25 Q I want to ask you a question that came to my

1 attention through talking to a doctor and I do not know
2 how present law or whether this would impact upon it. A
3 treating obstetrician at the University of Pennsylvania
4 sees a large number of clinic patients who are drug addicts.
5 Told me, I was discussing with him my sponsorship of this
6 abuse package. He said to me, his distress at seeing
7 pregnant women who are drug abusers knowing they are
8 bringing into the world drug dependent babies, taking
9 them home to homes in which women are going to continue
10 being addicts and wondering whether isn't this abuse or
11 isn't the system responsible in some way for following up
12 on babies who they know are going home to drug addicted
13 parents. And I wonder if you have any answer? He did
14 indicate he does report to, I guess, child protective
15 services, who under their general scheme can follow up
16 on homes in which they know a child is being taken to
17 a drug addicted mother. He in fact does not see this
18 happening. I wonder if there was any recommended law
19 changes or anything currently that we can do to deal with
20 this type of problem.

21 A Of course, this whole problem you can expand
22 the discussion into AIDS as a developmental approach to this.
23 There are programs in existence in the Philadelphia area,
24 particularly in some of the major hospitals that are
25 supervising to some extent to some degree these women who

1 have these children who are drug addicts. I am not sure
2 exactly at the moment. I will hand the question to Lou
3 or Kathleen to see if they want to comment further.

4 REPRESENTATIVE HAGARTY. It occurred to me
5 do we require, I don't even know, do we require hospitals
6 to report babies who are born addicted, parents are
7 obviously going to continue to be addicted? Is there any
8 type of supervision of that child?

9 MS. McGRATH. I think there is some debate
10 over whether that is covered now. You could say that
11 child is injured at the point where the child is drug
12 dependent at birth. Whether the parents inflicted the
13 injury, you could say, yeah, they did. And at the point
14 of birth that could be child abused. Now I think though
15 from what I have heard, from people I also heard about
16 this problem, I think the system is not handling it that
17 way. Now what they are doing is sending the baby home
18 with the drug dependent parents and waiting for something
19 else to happen. And when something else happens, then
20 they will intervene. The problem with that is I am told
21 that in this situation you may never find that child
22 and woman again. They may not have a home where they
23 go to settle. They may basically be wandering from
24 place to place. So it is very hard for the system to
25 track that child. If you let the child leave the hospital

1 with the parent, you have problems.

2 I think under the definition, the task force
3 recommends it is clear that that is a child whose parents'
4 behavior in the past exhibits that the child's health
5 is seriously threatened. And under our expanded definition
6 it is clearly child abuse at the moment the child is born
7 and that intervention could occur at that point.

8 REPRESENTATIVE HAGARTY: One other question,
9 did the task force examine effectiveness of the child
10 line which is used for reporting child abuse? And I wonder
11 if you did, what you found with regard to the child line
12 I think it is called?

13 MS. McGRATH: The task force itself, in our
14 deliberations, did not address that directly but subsequent
15 to issuance of the report I have received, as the
16 Executive Director of the task force presently, I have
17 received several phone calls about that. People saying
18 there are some problems in getting through. That the lines
19 are busy frequently. This poses a very serious problem
20 because you may have a mother who observes a father sexually or
21 physically abusing the child. She may get a lot of courage
22 up at one point and decide she is going to call and report.
23 Maybe the father is an alcoholic and he is out right now.
24 Okay, I can call and it is safe. But she makes the call
25 and the line is busy. She can't get through. So she may

1 have lost her opportunity and more abuse may be inflicted
2 before she gets her courage up and gets the opportunity
3 to call. We have been told that it is very difficult to
4 get through. We have been told that they have severe
5 personnel staffing problems there. Again, we don't have
6 any firm documentation of that. Perhaps the Department of
7 Public Welfare can address that.

8 REPRESENTATIVE HAGARTY: Thank you. I think
9 it is something we ought to look into. I can't imagine
10 any excuse for not being able to make a report of child
11 abuse. Thank you.

12 CHAIRMAN BLAUM. Thank you, Mr. Attorney General,
13 and your staff for, again, an outstanding report. Now
14 it is in our hands to deliberate over and hopefully improve
15 the definition of. Thank you for staying long beyond your
16 scheduled time. I thought it important that it be your
17 report and that members have a chance to ask any and all
18 questions that they have.

19 We will move more expeditiously the agenda.

20 GENERAL ZIMMERMAN: Thank you, Mr. Chairman,
21 for this opportunity. And for the record, I would just
22 like to make one addition. Susan Kelly Dreiss, in addition
23 to being the Vice Chair of the task force, is also the
24 Executive Director of the Pennsylvania Coalition Against
25 Domestic Violence. She wears several hats.

1 CHAIRMAN BLAUM: Thank you. Joseph Loftus-
2 Vergari, Director Luzerne County Children and Youth Services.
3 Joe, thank you for coming and thank you for waiting while
4 we dealt with the Attorney General. If you would like to
5 introduce your staff and then begin.

6 MR. LOFTUS-VERGARI: I will be glad to do that.
7 Thank you for inviting me. I am representing the
8 Pennsylvania Children and Youth Administrators Association
9 which is comprised of 67 counties. We are the agencies
10 that actually do the protective service work. On my left
11 is Nancy Rohrer, representing the County Commissioners
12 Association of Pennsylvania of which Luzerne County is
13 a member. On her left is our solicitor, who has many years
14 court experience should any of you have questions about
15 the mechanisms for court action on a particular case. That
16 is Victor Grossi. On my right is Mr. Gene Caprio, Protective
17 Service Supervisor who, hopefully, can answer any questions
18 you may have in terms of how we would technically apply
19 the law. I am here to comment specifically on Bill 1569.
20 I, again, would like to thank the Attorney General for
21 convening the task force and for the task force in
22 developing what I consider to be an excellent outline of
23 the problems that we are facing in child protective services.
24 We have begun now working with the task force and the
25 Department of Public Welfare on the specific recommendations

1 of this particular bill.

2 I do, however, have very serious concerns about
3 the language of this bill. I feel that it will strongly
4 affect the child protective services in Pennsylvania and
5 will demand trained, competent workers and a large increase
6 in dollars. I have brought some figures with me,
7 particularly Luzerne County, and will be happy to work
8 with you on getting any other types of data that you would
9 need, both money and numbers and types of cases. We can
10 survey our members fairly quickly. Not to overtax them
11 but at least within the next two months or so and provide,
12 I think, good competent valid data.

13 In terms of the problems that we currently face,
14 which is the basis from which I make this discussion,
15 we feel strongly we need a professional base from which to
16 work. You can't implement this kind of legislation with
17 the problems we have in turnover. Some agencies have as
18 high as 50 percent, paying workers \$12,000 a year or a
19 little better, and of course, having them untrained.
20 And what you are going to get is probably more of the same
21 problems you currently have. There are, by the way,
22 our neighboring states, New Jersey, New York, Maryland,
23 West Virginia and Ohio that do have licensing of child
24 protective service workers and there is a companion bill,
25 I call it a companion bill, No. 1543 which is being proposed

1 to license child protective service workers which I think,
2 again, will go a long way in developing the kind of
3 protective service system we want.

4 The concern I have about the language and
5 the implementation of this bill is number one, the role
6 of the child protective service worker. I think it will
7 be blurred with that of the police. I'm going to talk
8 about how that will happen in a minute. Number two,
9 I think there is very unclear decision making as to which
10 cases will constitute a b.u.s.e to be investigated by
11 child protective service workers and which cases will
12 constitute those general protective service cases in
13 which we really need to intervene. Thirdly, expanding
14 the role of the child protective service worker to
15 investigate sexual abuse in which the perpetrator is not
16 a familial member, not someone of that family system,
17 is absolutely going to tax our resources and our only
18 option at that point, our only role I can see at that point
19 is to validate whether or not the sexual abuse happened.
20 And I am not sure it will be effective at all in offering
21 any kind of treatment that is not presently available
22 already to families. We have different victims resource centers
23 set up as well as I think mental health centers that are
24 offering good, competent help to families whose children
25 have been sexually abused.

1 I think if we work to refer cases that come
2 under the new definition of abuse to the police, I doubt
3 very seriously that the police will investigate and be
4 able to prosecute cases in which an actual injury or physical
5 evidence or harm to a child has not already happened. So
6 we will be left with our workers making a decision about
7 harm or threatened harm. And I can tell you as a matter
8 of course that we did a little study. We took two months'
9 worth of general protective service intakes. Those children
10 who we feel are out of parental control, lack parental
11 control, lack parental support, and are referred to us
12 for neglect and other problems. And we looked at what
13 would happen if we had to expand the definition of the
14 law. We feel strongly that from our 1300 cases that we
15 have right now at intake, over a thousand of those cases
16 have been labelled child protective service cases. We
17 will not be able to distinguish whether or not an event
18 may eventually harm the child. Therefore, our workers
19 are going to label all of those cases child protective
20 service worker cases. Our workers will then concurrently
21 refer all of those to the police.

22 The second problem then is the dilemma of
23 my worker. Will my worker be a police agent? In
24 California they have a very different child protective
25 service law than the State of Pennsylvania. It is my

1 understanding that in California they face the same
2 dilemma which resulted in a large systems change. And I
3 will give you an example. In San Mateo County all cases
4 of suspected abuse; emotional abuse, physical abuse or
5 neglect are referred to the police. The police then have
6 a decision to make about whether or not they wish to take
7 protective service custody of the child because they can
8 do that and we can't. So they are there to decide if the
9 crime happened and if immediate custody needs to be taken.
10 The protective service worker's job is to provide service,
11 to develop a plan for the family and protect that child.
12 So the two roles are very clear. It is my feeling that
13 if we don't work at some changes in the legislation, that
14 our protective service workers are going to be placed in
15 that dilemma. There are no requirements for police
16 response in this bill. There are no requirements for,
17 what I would consider to be, a vertical hierarchal
18 prosecution system that a case absolutely referred to the
19 police within the time frame we now have in the bill.
20 But then after the case is referred to the police, it
21 be given to one prosecutor, assigned to one judge and
22 that strict time frames happen so that we don't have cases
23 lingering more than 180 days. We are often left in the
24 position of cases now under the law that come under the
25 purview of the criminal justice system of not being able to

1 follow our mandate and have visitation between partners.
2 The child in a family whose mother or father has been
3 accused of abuse and who are involved in a criminal
4 prosecution may often be separated because the child is
5 the witness, the family is the perpetrator, but the child
6 is unable to visit, the child is unable to see their parents
7 while the criminal process is happening. And most of the
8 cases that I have seen, honestly, the child wants the
9 pain to stop. They don't want their parents prosecuted.
10 That is our decision. That is our decision to make. They
11 want the pain to stop. And I don't think that this issue
12 has been well thought through.

13 The next issue that I wanted to address,
14 although I think it has been talked about, is the difference
15 between general protective services and child protective
16 services. We cannot, under our present law, declare a
17 child dependent. That is, a child who is beyond or who
18 does not have parental control, does not have parental
19 support. We have to go into court and prove that that
20 child is in need of parental support. So the example of
21 the child who is perhaps a victim of a fight between two
22 parents or the child who may be almost thrown against the
23 wall and hurt, all of these examples bother my workers
24 terribly. We stay up many nights wondering if, on the
25 second occasion, that child is going to be hurt after they

1 are threatened by a parent. We would have to go into court
2 presently and substantiate the child's dependency. We
3 have the mechanism right now through that statute to take
4 custody of that child to protect the child. The only
5 difference in the law under this proposal in terms of
6 what we are doing right now is that a child abuse case
7 has to have a worker with two years' experience who has,
8 within ten days, kind of a sign-off that they have seen
9 the family, reviewed the case, begun an investigation and
10 made a decision about the safety of that child, and they
11 have to begin an investigation within 24 hours. The
12 supervisor then has to sign off on a plan and in six months
13 the worker has to decide whether or not that family is
14 still at risk -- whether or not that child is still at
15 risk.

16 The services behind the child protective
17 services investigation are the same for general protective
18 services as well as child protective services. There is
19 no difference. The issue for us as a service provider
20 is in the investigation.

21 We will have to investigate, as I said, some
22 1,000 cases as child protective service cases. The cost
23 to us is well over \$250,000 for that piece of legislation
24 for our agency. Adding to that the perpetrator statute
25 in the sexual abuse section of the law, that is, someone

1 who is not a familial member sexually abusing the child,
2 we would, because of the numbers in Luzerne County, need
3 an additional five workers and a special sex crimes unit
4 to go ahead and investigate those. And there are states
5 that have taken their child protective services investigative
6 unit, because of this very dilemma and combined them with
7 the police, which is another option for the State of
8 Pennsylvania. I am not sure we want to do that, but they
9 have taken the investigation away from child welfare.
10 Child welfare does the treatment and an investigation is
11 done by people with expertise in that investigation.

12 In Luzerne County we have a team. The team
13 is composed of a county detective specially trained with
14 our child protective service workers to do the investigation
15 and to begin the process within 24 hours. They work well
16 together as a team. They work on 110 cases a year. If
17 we were to add this particular provision of the law, the
18 data I just talked about would really need to be looked
19 at. We would need an additional unit. Then I would
20 question whether or not we would be fulfilling the mandate
21 of the child welfare system in the State of Pennsylvania.

22 One final observation, I have been asked by
23 my staff to make clearly evident to the Committee is the
24 burden of proof on the agency after the worker indicates
25 a case. Not one in which a judicial decision about being

1 founded is made, but the worker because of their decision
2 has indicated a case. We have had well over 14 cases of
3 confirmed sexual abuse with expert testimony be overturned
4 by our administrative law judge upon appeal by the parents.
5 One in which I feel very strongly there is physical evidence.
6 One in which I feel very strongly meets the current
7 definition of the child protective service law. If upon
8 appeal, for these kinds of cases we are left in the same
9 dilemma, I am sure every one of them will be overturned. I can just
10 imagine what will happen in an administrative hearing
11 when the parental side of the system, the parents and
12 attorneys argue against protective services that an injury
13 will actually occur. How much force do I know will it
14 take to hurt a child. Those kinds of decisions are very
15 difficult to make. If we were to indicate those cases,
16 I think those decisions would be overturned because of
17 the problems in the law.

18 The last piece that I wanted to comment on,
19 again, is the process we are now going through. We have
20 a subcommittee technically working with the Attorney
21 General's Task Force and the Department of Public Welfare
22 to look at the concerns within this law. All of us agree
23 that there are problems in child protective services in
24 Pennsylvania. That children need more service. That
25 children are being threatened and are being harmed and that

1 often these are cases that have come to the attention of
2 the protective services system in Pennsylvania. We clearly
3 need more dollars, more trained workers, and I think a
4 clearer piece of legislation to help us decide how we
5 are going to intervene in those children's lives. But
6 again, it is like for me legislating illiteracy. All of
7 us are against it, but the implementation to protect
8 the child is to develop a plan to help the family. It is
9 a professional process. It is a decision making process
10 that we are left with right now with some difficult roads
11 ahead. I feel we need some strong changes in the law. So
12 that is my comment.

13 CHAIRMAN BLAUM: Thank you very much.

14 BY CHAIRMAN BLAUM:

15 Q If I heard your testimony right, you said you
16 had problems with various aspects of the law. At the same
17 time in closing said that we need changes. Do you think we
18 ought to change definition of child abuse to include
19 threatened serious injury?

20 A I think that all children who are involved
21 with neglect, physical abuse and sexual abuse, threatened
22 serious injury need service. That is why I would like to
23 study the problem. We have been working over the last
24 six months in an attempt to get language that would get
25 services to those families in an accurate, good time frame

1 and that would also protect children and we are dealing
2 with that dilemma. I am not sure right now I can offer
3 you the words for that legislation that will satisfy those
4 requirements.

5 Q You want to get ^{them} services but what don't you
6 want to do or have to do?

7 A I want to get ~~them~~ services, but I am not sure
8 which cases need police intervention at this point and
9 I certainly don't have the funding necessary to fulfill
10 the requirements of the bill. If you change the bill as it
11 is right now, I will be left with a mandate to take 1,000
12 more cases and make them protective services cases. All
13 of this will be out of compliance.

14 Q I think that is a separate issue. Once we
15 decide we are going to change the law, I think it is
16 incumbent upon the members here and the Legislature if we
17 do it, to come up with the money so you can do it. What
18 I want to know is is your hesitancy in your testimony
19 based on dollars or is it just that you don't think the
20 changes in the law, the recommended changes in the law,
21 are necessary? For the time being let's separate the two
22 to see if we agree or disagree that the definition should
23 be changed. If we think, yeah, it is a great idea, then
24 it is up to the members of this Committee to figure out
25 how much it is going to cost and try to come up with the

1 money.

2 A I have both concerns. The first is what the
3 definition of happenstance is. Two acts of non-accidental
4 harm to a child within two years does that constitute abuse?
5 I think those are definitional issues that we are
6 really struggling with right now with the task force to
7 work through. And then what will the impact be? Because
8 what we are proposing -- what we are hoping will happen
9 is that if you implement this legislation, the child's
10 life will be saved. The child will not be harmed any further.
11 A child will get services and be helped. And we are not
12 sure how that will happen. I am very concerned about
13 the definition of happenstance and threatened harm. My
14 workers will not be able to sort that out. That is clear.

15 Q Why not?

16 MR. GROSSI: In terms of maybe having to
17 implement what might be construed as an act that could
18 lead to abuse, I have been in grocery stores and seen a
19 child be struck by a parent in discipline. My position,
20 in the position I am in now, I would think it is a lawless
21 change. I would be in a quandry as to whether or not
22 if that occurred eight or nine more times, whether or not
23 that could result in a serious injury for that child. If
24 the same blow occurred on the child's buttocks nine more
25 times, that could result in serious harm to that child.

1 Now, is that certainly a case appropriate for our agency
2 if this child was struck in anger. Yes, absolutely. But
3 is that something that needs to be shared with law
4 enforcement that this child was struck or that this act
5 could have led to, if repeated or if no intervention occurred,
6 to a serious injury. Some people would interpret that
7 as yes. Some would interpret that as no and that is the
8 difficulty with the definition of happenstance.

9 BY CHAIRMAN BLAUM: (To Mr. Grossi)

10 Q Don't you have those shots to call every day
11 under the current law?

12 A Yes. My dilemma would be, very honestly,
13 the issue of what is going to be involved in the criminal
14 system. Because of the effect of that, to report to the
15 police, there is, very honestly, one agenda and that is
16 whether or not a crime is committed and there is going to
17 be a conviction. Our experience is that has little to do
18 with repairing the damage to the family. That the issue
19 is, that that treatment for the victim, for the alleged
20 perpetrator of the crime and generally the uninvolved
21 parent has to do with the coming back together. Not
22 certainly in all cases to live, but coming back together
23 in some sort of treatment modality to confront these
24 issues that have occurred, and the criminal system certainly
25 is necessary to protect people when that person is dangerous,

1 when that person is a continued threat.

2 But in most of our family oriented, family
3 related violent issues, the factor is family stress.
4 The factors are finance, marital relationships. All those
5 things need to be addressed in a treatment modality that
6 is prohibited by criminal prosecution.

7 MR. LOFTUS-VERGARI: The cases we now refer
8 to the police are absolutely appropriate, serious physical
9 injury, serious neglect and sexual abuse. We need the
10 police process in the protection and treatment of those
11 children and found them effective. But in cases in which
12 there is no injury to the child and it is threatened, I
13 have a real concern. If the police are involved and
14 an arrest is made, that will become public. My workers'
15 work with the family will become public and we open up,
16 I think, most of our records to the media which again is
17 a concern.

18 BY CHAIRMAN BLAUM: (To Mr. Loftus-Vergari)

19 Q What about the case where the knife misses?

20 A The case where the knife misses, very clearly,
21 I think our solicitor is here, is one we would take to
22 court under dependency and get custody of the child. So
23 I am not sure what the dilemma is.

24 Q But that person would not be listed in any
25 files anywhere as someone who --

1 A No, and we ought to have --

2 Q As someone who abuses children in case they
3 want to go out and work in a day care center somewhere.
4 If that person throws a knife and misses, they won't be
5 listed anywhere as someone who might harm a child.

6 A That is absolutely correct.

7 Q Isn't that a problem?

8 A That is a problem, but I am not sure you would
9 be able to prove that. You would have to prove that that
10 person did throw the knife and go through that process.
11 If we can do that, then I don't think that is a problem.

12 But I can give you another example of a shaking
13 injury. A child who has had a very severe head trauma.
14 And clearly has only been the result of some kind of non-
15 accidental shaking and was in the custody of both his
16 parents. We would take that child and that child would be
17 dependent, but how do you prove which parent did it under
18 our law. We often have cases in which there is a stipulation
19 to dependency. We know the child has been abused. We
20 can't find out who the perpetrator is. So I am not sure
21 how this^{law} would allow us to go ahead and do that. In the
22 case of the parent threatened the child, threw the knife,
23 then maybe in that one instance putting that parent on
24 a registry might help us.

25 Q One instance? That is the exaggerated case.

1 A What would the effect be of registering the
2 parent? Would it get them better service? Is there a
3 service issue at the end of that registration?

4 Q Isn't there a registration issue?

5 A I am not sure that the registration is important
6 at this point. We have the child, we have the family.
7 We know what has happened to them. If you wish to register
8 them, you could probably register them under the present
9 general protective service law as a family who has neglected
10 or hurt that child. The service will be the same. If you
11 change the law, register that family, under the present law,
12 we could serve them the same just as we do now.

13 CHAIRMAN BLAUM: Representative Hagarty.

14 BY REPRESENTATIVE HAGARTY. (To Mr. Loftus-Vergari)

15 Q I'm sitting here patiently waiting to clear
16 something up. I think there is a misunderstanding. This
17 bill only provides the threatened instances of serious
18 bodily injury as defined by the Crimes Code you reported.
19 Serious bodily injury, as defined by the Crimes Code,
20 is not just serious injury. Let me read to you, because
21 I don't understand the dilemma or the belief that this is
22 going to cause broad reporting.

23 Serious bodily injury is defined as bodily injury
24 which creates a substantial risk of death or which causes
25 serious permanent disfigurement or protracted loss or

1 impairment of a function of any bodily member or organ.

2 There is nothing in this bill that says you
3 have to report attempts to cause serious injury. It says
4 serious bodily injury. Serious bodily injury, if you are
5 suggesting that an attempt that rises to that level, we
6 are talking about bodily dysfunction, that you shouldn't
7 be reporting that to law enforcement, I am shocked.

8 A No, I am not saying that.

9 Q What is your problem with it?

10 A My problem is with this instance, and I agree
11 with that first part. My problem is with the non-accidental
12 act or omission of a caregiver that could have caused a
13 child serious injury, but because of the intervention by
14 others or happenstance did not --

15 Q But you are not supposed to report that to law
16 enforcement.

17 A Well, that to me is, and also, the second
18 follow up, part three, the definition. "Two or more non-
19 accidental acts or omissions of the caregiver that occurred
20 within two years of one another which individually did not
21 and could not have caused serious injury."

22 Q But let's define the issue. The first issue
23 which I heard raised is what do you have to report to law
24 enforcement. That is not what you have to report to law
25 enforcement. That is simply the new definition of abuse.

1 So let's put away the first issue of all the concerns about
2 your becoming a referral to law enforcement in every instance
3 just isn't true. That definition is only a definition of
4 abuse. That is not the definition that ties into when you
5 report to law enforcement. That definition is what kicks
6 in the abuse provisions under the law and not the general
7 child protective services which have not proven adequate
8 to protect children.

9 A I was told that this definition would then
10 require --

11 Q Okay, but that is our first misunderstanding.
12 It does not. It is clear. It does not. It is clear.
13 I am telling you. I am the sponsor of the bill. If it
14 doesn't do that, I will change that. I wrote the bill.

15 A I believe you. When Deputy Secretary, Julia
16 Danzy, comes to testify perhaps that is a point of
17 discussion.

18 Q It is clear. If it is not clear, it will be
19 clear.

20 Secondly, on the definition of abuse, we are
21 not just talking about threats. I don't understand that
22 you are telling me you have a broad number of cases in
23 which but for intervention or happenstance are you telling
24 me that you have a lot of cases that but for intervention
25 or happenstance, there would have been serious injury?

1 We are not just threatening serious injury. There has to
2 be happenstance or intervention. Which word don't you like?

3 A I think it is the happenstance. For instance,
4 the two-year old that is left unattended, to me, on an
5 occasion that I get a call about, I am very concerned.
6 Could that two-year old walk out on the street and be killed
7 by a car?

8 Q That doesn't meet the definition.

9 A Maybe that is the implementation issue that
10 I am talking about.

11 Q Okay, then I don't disagree and I understand
12 that further language is being worked on to further define
13 it. Maybe part of the problem is, as a former prosecutor,
14 where I am used to proving the element of a crime and know
15 you've got to ask specifically what that definition calls for may be
16 a different reaction when you are looking at a broad clause.

17 A Yes.

18 Q Would you be happier then if we specifically
19 defined what repeated conduct --

20 A Absolutely.

21 Q Would result in that. You do not object to
22 broadening the definition. You just feel the language
23 isn't specific enough to give you guidance?

24 A Perhaps I wasn't clear in that when we joined
25 the Attorney General's Task Force at the end, we are really

1 struggling to redefine these pieces of language. I just
2 wanted to talk about how my workers would interpret this
3 right now. And so, yes, I am for bringing Pennsylvania
4 in compliance with the rest of the nation.

5 And I thought I talked about the money issues,
6 the language changes that really need to happen right now.
7 The dilemma that would place us in. It is the dilemma that
8 the problem is causing us and I agree with you.

9 Q I think it is a misunderstanding. That our
10 goals are similar.

11 A The goals are the same.

12 Q I just wanted to understand, as you in misunder-
13 standing it, criticized these bills. I think it may have
14 been perceived in a way that wasn't what our goals are.

15 A What we did is we took a 150 cases and gave
16 this definition to workers and let them decide just based
17 on the language what would happen and that is what came out
18 of it. We really have some problems with the definitions.
19 We would need to work on that.

20 Q You would agree, of course, that whatever
21 language is passed that training is going to be necessary
22 to define what conduct we need?

23 A Absolutely, yes.

24 REPRESENTATIVE HAGARTY: Thank you.

25 CHAIRMAN BLAUM: Representative Hayden.

1 REPRESENTATIVE HAYDEN: Thank you, Mr. Chairman.

2 BY REPRESENTATIVE HAYDEN:

3 Q Mr. Vergari, I would like to refer you to page
4 6 in your testimony where you mention, "It is my strong
5 feeling that the goals of the criminal justice system
6 are prosecution not treatment for the victims."

7 I suspect one of the purposes for prosecution
8 is to deter the same conduct which is the subject of the
9 prosecution. I think that is one of the objectives of
10 prosecution. I am interested in your empirical evaluation
11 of the 1300 cases you have in your file. Have you done
12 any analysis of recidivism rates on individuals you have
13 referred to and have actually had prosecution and placed
14 back in the family setting and what the subsequent history
15 of that individual has been?

16 A It is in process. We have pulled out select
17 150 cases and we are trying to really distinguish the
18 antecedent variables. So we are looking at that right now.
19 I wouldn't make a statement, a categorical statement,
20 without the basic data. This is really kind of an
21 analogy. We had a number of cases in which, and I will
22 give you an example, we had a child that was slapped by
23 her father with a strap. Dad was a prison guard. He was
24 arrested. She was slapped on the thigh; clearly abuse.
25 He was arrested. He said, again, holding this up to the

1 child if I am prosecuted, I am going to kill myself. We
2 didn't know this. He did not accept an ARD, came through
3 prosecution, killed himself. And I am left with a 13-year
4 old who said, all I wanted him to do is stop hitting me.
5 I've got a number of those small stories. That was the
6 germ that is really causing us to look at the 150 cases.
7 I know for sexual abuse it is very effective and I am --

8 Q Prosecution?

9 A Absolutely. It is the only way to stop the
10 abuse. It is the only way, if you work long enough with
11 the victim and treatment with the victim to help him
12 understand the process. And we have had, we have a number
13 of men who are willing to talk now who have gone through
14 prosecution and tell us the only way the abuse is stopped,
15 one of the major ways, is because they were prosecuted and
16 arrested. We have to deal with the fallout, but that is
17 our professional job to do that.

18 Q Once you produce that analysis of those 150
19 cases, I would be interested in seeing them.

20 A I will be glad to send them to you. Our dilemma
21 is, our problem is, pulling out the neglect and physical
22 abuse cases.

23 REPRESENTATIVE HAYDEN: Thank you.

24 CHAIRMAN BLAUM: Representative McHale. I
25 would like to introduce Representative Paul McHale from

1 Lehigh County, note his appearance.

2 REPRESENTATIVE McHALE: After listening to the
3 earlier exchange, I understand why Lois was such an
4 effective prosecutor. I hope she never prosecutes me.
5 Also, I hope I never give you a reason to prosecute me.

6 BY REPRESENTATIVE McHALE:

7 Q I listened to your testimony earlier. You
8 described the California model in which the initial
9 intervention is by the police followed by a discretionary
10 (inaudible), therefore, referral to child protective
11 services. Could you amplify how long has that been
12 theirsystem and how well has it worked?

13 A Well, I have talked to a policeman whose
14 job it is to work with the child protective services. And
15 what they do is jointly go out and evaluate each case.
16 The role of the police is to take protective custody,
17 and really work very effectively with the protective
18 services system. You know, I am not going to prosecute
19 this case if there is a likelihood of treatment and
20 they use that kind of street power that only police have
21 and do very well.

22 He thinks the system works well and that is
23 one person's opinion about the law. I know that there was
24 an appeal to the Supreme Court of California or Superior
25 Court, I am really not sure, that appealed a caseworker's

1 role in the criminal process. The court ruled that the
2 caseworker's testimony and job action and function overlapped
3 the role of the policeman and they should not be in that
4 role. And hence, the clarity I think in the process that
5 the social worker do the social worker's job and the
6 policeman do the policeman's job. And they worked very
7 effectively as a team according to them. I will be glad
8 to explore that further for you and talk about the San Mateo
9 County system and get that data to you.

10 Q I would very much like to see that. How long
11 ago was that court challenge?

12 A I got the finding this year. So I can send
13 that to you also.

14 Q All right, and lastly, if you could send us
15 what the impact of that decision was, I would like to know
16 what changes took place in the California model once the
17 court reached that determination?

18 A Will you pay for the long distance bills to
19 California? My poor county is overmatched as usual.

20 Q If you need some long distance phone calls to
21 be made, we will take care of it within reason.

22 A All right.

23 BY CHAIRMAN BLAUM.

24 Q Joe, does your association have any idea of
25 the cost of implementing these bills statewide? We are

1 going to cut in half whatever you say.

2 A I only did Luzerne County. And that is why
3 Nancy Rohrer is here to discuss that.

4 MS. ROHRER: I am Nancy Rohrer. I am Deputy
5 Director of the Commissioners Association. Right now,
6 as I hope most of you are aware, we are about \$30 million
7 in an overmatched situation already. So, we presently
8 cannot take care of the cases that we have. What was
9 originally conceived as a 70 percent state-funded program,
10 30 percent county-funded program --

11 BY CHAIRMAN BLAUM. (To Ms. Rohrer)

12 Q Could I interrupt you for a second? When
13 this Committee undertook these bills, I had heard that.
14 We shouldn't even talk about this because they are going
15 to cost X amount of dollars and I reject that opinion out
16 of hand. I think what we should do, because of who is
17 at risk, is decide whether or not they are a good idea.
18 Then assuming it is a good idea, here is how much it is
19 going to cost. If you don't give us money, then it is
20 not that great of an idea. If we keep them separate,
21 but don't tell us --

22 A Our estimate is that the cost would double.
23 Right now the state puts in about 120 million and counties
24 put in about 60 million plus another 30 million in overmatch.
25 Our estimate is the costs will double. To a large degree

1 the reason for that is the number of children right now
2 in protective services that we know we are serving
3 inadequately, because of funding problems, that would now
4 be moved into the child abuse category and we would be
5 mandated to provide more services for them.

6 So for us the issue is not so much a change
7 in definition but rather a change in funding coming to the
8 agency.

9 Q When we hear the amount of dollars per child
10 in Pennsylvania is 13, are they figures that you --

11 A Yes.

12 CHAIRMAN BLAUM That is horrendous. Thank
13 you very much. Joe, I am sure we will be talking an awful
14 lot over the summer months. Daniel Mihalko, Director,
15 Prohibited Mailings Postal Inspection Service. You may
16 begin.

17 MR. MIHALKO. Thank you, Mr. Chairman, members
18 of the Committee. I would like to also introduce Chris
19 Macco (phonetic), who is the Postal Inspector in charge
20 of our Harrisburg Division. She is with me this morning.

21 I am Daniel Mihalko, Postal Inspector and
22 National Program Manager of Prohibited Mailings for the
23 U.S. Postal Inspection Service. I appreciate the opportunity
24 to appear here today to discuss House Bill 1669 and 1566 which
25 prohibits the knowing possession of child pornography.

1 I am doubly appreciative to be here this morning since I
2 am a native of Cambria County. I look forward to this
3 opportunity to help the Commonwealth of Pennsylvania
4 combating the serious crime of child pornography and child
5 sexual abuse.

6 As Attorney General Zimmerman stated in his
7 testimony this morning, children deserve the protection
8 of law enforcement and I couldn't agree more and the
9 Postal Inspection Service couldn't agree more. For you
10 who are not familiar with the work of the postal inspectors,
11 I would like to just briefly touch upon the functions of
12 our service. The Postal Inspection Service is the law
13 enforcement arm of the U.S. Postal Service, with authority
14 to enforce some 85 federal criminal and civil statutes
15 relating to the mails and the postal service. Of most
16 importance to this Committee is our investigative
17 responsibility as it relates to child pornography.

18 The Postal Inspection Service places a high
19 priority on investigating those individuals who use the
20 mails to traffic in child pornography. We are the leading
21 federal agency in the battle against those who sexually
22 exploit our children by trafficking in child pornography.
23 Postal inspectors have conducted child pornography
24 investigations which have resulted in over 900 arrests
25 nationwide since passage of the Federal Child Protection

1 Act of 1984. Postal inspectors throughout the country,
2 and particularly in the Commonwealth of Pennsylvania, work
3 closely with state and local law enforcement agencies in
4 combating the sexual exploitation of children. We support
5 the passage of House Bill 1669 and 1566 as we have
6 supported other states' statutes banning the possession
7 of child pornography. State possession statutes reach
8 into an area not reachable by the federal laws.

9 My law enforcement experience in child
10 pornography investigations goes back to 1980. From 1980
11 through 1986, I was the Postal Inspection Service's Child
12 Pornography Specialist in the New York Division. Since
13 1986, I have been the National Program Manager for
14 Prohibited Mailings, directing and overseeing all child
15 pornography programs of the Postal Inspection Service. In
16 1985, I was the senior investigator for the Attorney
17 General's Commission on Pornography. More recently in
18 1987, I coordinated the highly successful Postal Inspection
19 Service nationwide child pornography sting operation that
20 we dubbed, "Project Looking Glass."

21 I would like to share with you some of my
22 observations and experiences in this area.

23 Child pornography exists only for the pedophile
24 and child pornographer. A pedophile is defined as an
25 individual who has an abnormal sexual desire for children.

1 Pedophiles are the major producers, distributors and
2 consumers of child pornography. Theoretically, if there
3 were no pedophiles, there would be no child pornography.

4 In every instance child pornography is the
5 permanent record of the sexual abuse and exploitation of
6 a child. Presently, these visual depictions are lawful to
7 possess in the Commonwealth of Pennsylvania. The dangers
8 of the sexual exploitation of children cannot and should
9 not be minimized. The Supreme Court stated in *New York*
10 *v. Ferber* (1982), "That the use of children as subjects of
11 pornographic materials is harmful to the physiological,
12 emotional and mental health of the child." The court
13 further stated that "The prevention of sexual exploitation
14 and abuse of children constitutes a government objective
15 of surpassing importance."

16 Child pornography is often used by a pedophile
17 as a tool to seduce children into engaging in the sexual
18 activity that is depicted. Child pornography is also
19 utilized to arouse the sexual curiosity of a child, to
20 lower his inhibitions and to convince the child that the
21 depicted activity is acceptable behavior. Once the child's
22 anxiety has been reduced, the pedophile can convince him
23 to participate and be photographed. The ultimate goal
24 of the pedophile is the satisfaction of his sexual desires
25 by physical sexual activities with children and possibly

1 preserving that satisfaction in the form of pictures. Soon
2 the child becomes another link, what we refer to in the
3 "cycle of victimization" with their photographs being
4 traded to other pedophiles and to the producers of
5 commercial publications, which will then be sold throughout
6 the world. This is one of the horrors of child pornography.
7 These pictures will then be viewed and used over and over
8 again for many years.

9 This is one reason why the private possession
10 of child pornography further intensifies the harm and
11 abuse to the child victim. In Preventing the Sexual
12 Exploitation of Children: A Model Act in the Wake Forest
13 Law Review (1981), the author states:

14 The injury suffered by child victims of
15 pornography is akin to that experienced by
16 the victims of sexual abuse and prostitution.
17 Yet, pornography poses an even greater threat
18 to the child victim than does sexual abuse
19 or prostitution. Because the child's actions
20 are reduced to a recording, the pornography
21 may haunt him in future years, long after
22 the original misdeed took place. A child
23 who has posed for a camera must go through
24 life knowing that the recording is circulating
25 within the mass distribution system for child

1 pornography. Therefore, even if the child can
2 overcome the humiliation of the act of posing
3 himself, he must carry with him the distressful
4 feeling that his act has been recorded for
5 all to see.

6 Laws banning only production and distribution
7 of child pornography are insufficient to stop the sexual
8 abuse of children. During my career, I have had the
9 occasion to investigate many child pornography violators.
10 These violators came from all walks of life. None of them
11 met the stereo type of a dirty old man in a trench coat.
12 Some of the occupations included executives, doctors,
13 lawyers, teachers, police officers, farmers and priests.
14 But the common thread that tied them all together was their
15 possession of child pornography. The child pornography
16 collections maintained by the pedophiles ranged from a
17 few boxes of photos to voluminous amounts of photos,
18 magazines, slides, videos and photographic equipment worth
19 tens of thousands of dollars. Lacking a ban on possessing
20 these collections of child pornography, eliminates
21 prosecuting these individuals for their collections.
22 Additionally, seizure of this material is legally difficult.

23 Many times during my career, I worked in an
24 undercover capacity. During this time I had many contacts
25 with pedophiles who told me that they possessed child

1 pornography, often describing it in detail and revealing
2 the location. Federally, we must continue investigating
3 until such time as we develop a viable violation. Whether
4 it be a federal or a state violation. Even Section 6312
5 of the Pennsylvania Crimes Code requires that the
6 possession be "for the purpose of sale, display for sale
7 or transfer." Barring these exchanges, no crime will
8 have been committed, the suspect will retain all his
9 child pornography material, remain uncharged with the
10 possession of child pornography, and be free to use this
11 material in the seduction of children.

12 As a specific example, a Philadelphia resident
13 was charged and convicted federally after he mailed
14 photographs depicting children engaged in lascivious
15 displays of their genitals This was his second federal
16 conviction for mailing child pornography. In the first
17 instance, he was proven to be a commercial dealer of
18 child pornography. Because possession of child pornography
19 is not a crime in Pennsylvania, his collection was not
20 taken from him after his first arrest and conviction.
21 He used that same collection as his source to mail child
22 pornography for which he was arrested the second time.
23 During the execution of a search warrant in the second
24 case, he was found in possession of a voluminous amount
25 of child pornography. Although local police assisted us

1 in this case, this man could not be charged with
2 possession of child pornography since it is currently not
3 a crime in Pennsylvania. Just to cite one more case
4 in Susquehanna County, this was done by our postal
5 inspectors in Harrisburg, a school teacher was sexually
6 involved with one of his male students and photographed
7 the boy. Incident to the execution of a federal search
8 warrant, sexually explicit photographs were discovered.
9 Unfortunately, the statute of limitations had expired
10 for state molestation charges and no evidence was discovered
11 to prove the school teacher had intention of selling
12 the photographs. His possession of those pictures were
13 for his own personal enjoyment and no state charges could
14 be initiated under existing state law.

15 In our recently completed nationwide child
16 pornography sting operation, Project Looking Glass, 198
17 search warrants were executed throughout the country. In
18 those states that outlaw the possession of child pornography,
19 violators were charged with possession violations and
20 their collections seized in addition to being charged
21 with federal violations of receiving child pornography
22 through the mail. Sixteen Project Looking Glass investiga-
23 tions were conducted in the State of Pennsylvania. Although
24 collections of child pornography were found, no individuals
25 were charged with possession even when evidence of

1 molestation was uncovered. Passage of House Bill 1669
2 will close the loophole.

3 Presently, 15 states have statutes that outlaw
4 the possession of child pornography. Colorado recently
5 enacted a possession statute that takes effect on July 1,
6 1988. The constitutionality of these statutes has been
7 challenged in three states and has been upheld in all three
8 In Ohio the state successfully argued that the Legislature
9 is "justified in barring possession of materials which
10 visually depict minors engaging in sexual activity because
11 society's interest is safeguarding the privacy and physical
12 and psychological well-being of its children is paramount."

13 House Bill 1669 is in essence a child protection
14 act. It will deter the sexual exploitation and abuse of
15 children and will allow law enforcement officers to further
16 protect children by taking pictures of child victims out
17 of the hands of pedophiles and out of circulation in this
18 underground subculture of pedophilia

19 As stated in your Attorney General's Family
20 Violence Task Force Report, Violence Against Children,
21 "It is and should be the goal of law enforcement to eradicate
22 child pornography." The Postal Inspection Service
23 encourages the passage of House Bill 1669 and 1566 and
24 stands committed to work with all Pennsylvania law enforce-
25 ment agencies in the fight against the sexual exploitation

1 of children. I will be happy to answer any questions.

2 CHAIRMAN BLAUM: Thank you very much.

3 Representative Kukovich.

4 BY REPRESENTATIVE KUKOVICH

5 Q Mr. Mihalko, there were three states that have
6 had such statutes that have been upheld. One I guess
7 you mentioned was Ohio?

8 A Yes.

9 Q What are the other two?

10 A The other two I think are Alabama and Illinois.

11 Q How similar to those statutes is 1669?

12 A They are very similar, very similar, in all
13 14 cases.

14 Q Do they also include simulations in those other
15 statutes? I'm concerned about broadness, the darn old
16 First Amendment again. Are you concerned about the
17 simulation which can take place under this, as being
18 a little broad, in your experience?

19 A I can refer to simulation as it is referred
20 to in the federal statute. Simulation is covered.
21 Although the federal definition of child pornography,
22 which is a visual depiction involving the use of a minor
23 in sexually explicit conduct limits the simulation to
24 a visual depiction which actually depicts a child. In
25 other words, it does not include drawings or sketches.

1 Q Are you saying that the drawings of children
2 engaged in a prohibited sexual act would not be included
3 under 1669?

4 A They appear to be included in 1669. Under
5 the federal statutes though they are not included.

6 Q Under 1669 they would?

7 A Yes.

8 Q In words depicting those types of prohibited
9 acts would also be prohibited under this?

10 A I didn't particularly read that into 1669.

11 Q See, my concern is what this bill does is
12 eliminate our serious literary materials from the exemption.
13 I think what we could be doing, I might be wrong, I think
14 there is a potential there. Some of the most important
15 things we have done to create awareness to attack the
16 problem of child abuse has been a strong body of feminist
17 literature. Writers like Toni Morrison who have written
18 about what has happened to them very eloquently and reached
19 a lot of people. There is a possibility under 1669 we
20 could be prohibiting that kind of work I am wondering
21 if that is a possibility in your opinion?

22 A That is one of the reasons why the federal
23 statute deals with visual depictions and visual depictions --

24 Q That is the federal statute?

25 A Right. I would encourage that maybe you might

1 want to relook at some of the wording in 1669. Overall
2 I certainly support the bill, but you might just want to
3 fine tune that part.

4 CHAIRMAN BLAUM: Mr. Mihalko, thank you.
5 There are no other questions, thank you for coming.

6 MR MIHALKO: Thank you.

7 CHAIRMAN BLAUM: The Postal Inspection Service,
8 from what I have been told, does an outstanding job in
9 tracking child pornography, going through the mail and
10 we thank you for that.

11 MR. MIHALKO: I appreciate that.

12 CHAIRMAN BLAUM. Mr. John Driscoll, President
13 of the District Attorney's Association, District Attorney
14 from Westmoreland County.

15 MR. DRISCOLL. Good morning. I thank you for
16 the opportunity to appear before this distinguished House
17 Committee to present testimony on these very important
18 pieces of legislation. I hope that the testimony you
19 receive from the witnesses today will be helpful to you
20 as you search for practical, effective legislation to
21 increase the protection of children in dangerous and
22 difficult times.

23 I will confine my comments to HB 1669.

24 HB 1669 recognizes that not only must
25 distribution, transfer and sale of child pornography be

1 classified as criminal conduct, but that mere possession
2 of child pornography is of such harm to minors that
3 possession in itself of child pornography is a form of child
4 abuse.

5 A criminal investigator or prosecutor when
6 confronted with a case of child pornography is hit with
7 a feeling of horror, not because of a material's
8 pornographic nature, but because there is before one's
9 eyes the depiction of exploitation. Coldly, cruelly,
10 insensitively, the heart and spirit of a young person is
11 smothered by an exploitive act that will go unnoticed by
12 much of the world, though the world of that young girl
13 or boy will be forever troubled and tormented. The
14 exploitation of the young girl or boy in that pornographic
15 photograph is profound and permanent, not only in the
16 picture, but in the soul of that young victim. To those
17 who have become desensitized to this horror (through
18 too-often accepted forms of humor contained in over-the-
19 counter magazines such as Playboy and Hustler,; "Chester
20 the Molester" for example), I say you need to only talk
21 to the police, investigators and case workers who work
22 these cases and deal with the victims and their lives.

23 In Westmoreland County alone, and Westmoreland
24 County is by no means the worst, it is not uncommon to find
25 significant quantities of child pornography in places where

1 least expected. Recently, upon the execution of a search
2 warrant in a drug case, detectives and police found dozens
3 of polaroid photographs of a couple's young children,
4 nude and in sexual poses. Though these photos were not
5 intended for entry into the stream of commerce, they
6 were highly exploitative of the victims. The parents were
7 into selling drugs and exploiting their children, the
8 former was punishable and the latter not. Under HB 1669,
9 these incongruous results are remedied. Possession of
10 child pornography is recognized for what it is under House
11 Bill 1669 - not just another form of pornography - but
12 exploitation of children.

13 HB 1669 should be enacted promptly. Both
14 the product and the process of child pornography are
15 abusive of children. In recognition of this, the language
16 of HB 1669 wisely reaches material that does not rise to
17 the level of "obscene" under definitions set forth in
18 Miller v. California and the Pennsylvania Crimes Code
19 (§5903), and the language criminalizes conduct which is
20 less than that required under obscenity laws. I believe
21 HB 1669 recognizes the compelling interests of Pennsylvania
22 in protecting its children against exploitations, and
23 there are no First Amendment violations within this
24 statute. (See New York v. Ferber.)

25 All of the legislation you are considering

1 today is aimed at protecting Pennsylvania's children,
2 particularly House Bill 1669 to which I am commenting.
3 Law enforcement people, prosecutors and Children's Bureau
4 personnel must deal with victims and exploiters on a daily
5 basis. They know of the needs for funding, new and
6 forward-looking approaches (such as offender programs,
7 realistic forms of intensive probation, incarceration
8 often for indeterminate terms, and victims' counseling
9 and rehabilitation), and they know the difficulties in
10 managing the never-ending caseloads in the criminal and
11 social service fields. They need practical and effective
12 legislation that meets the needs of victims and the system
13 within which they work. The bills you are considering
14 today, particularly House Bill 1669, meet those needs
15 and should be passed.

16 I thank you.

17 CHAIRMAN BLAUM. Are there any questions?

18 BY REPRESENTATIVE KUKOVICH

19 Q I hate to question my DA. But Judd, did you
20 get a chance to hear some of my previous questions of
21 Mr. Mihalko, the Postal Inspector?

22 A Relating to the First Amendment, use of words
23 rather than pictures --

24 Q I was also worried --

25 A Overbroadness.

1 Q I was worried about the drawings also. There
2 are some well known poets, feminist poets, who have written
3 poetry about their personal experience, how they were
4 abused as children. There have been drawings that have
5 accompanied that. Again, it is not going to hinder the
6 pedophiles. The purpose is to create awareness. When
7 I look at page 2, Section D, lines 18 to 23, you know,
8 I've got to wonder if it might not be overly broad.
9 Whenever you take out the exceptions from lines 28 to 3,
10 and I don't have any problem with the new language. But
11 when you take out some of that, I get a little concerned
12 we might be going a little too far. When we take out
13 educational and r e p l a c e it with bona fide educational,
14 I am not sure what that means either. I mean, is that
15 going to allow some right-wing fundamentalist group to
16 start censoring educational textbooks? I don't know. But
17 with that language change, I am beginning to become a little
18 concerned.

19 A No, it may create some debate in certain areas
20 of academia or some area of intellectual discourse. I
21 think from the perspective of a prosecutor who deals with
22 cases and who deals with criminal investigations, it
23 would never be a problem. Prosecutors are very practical
24 individuals. However, I have felt that the exceptions --

25 Q At least in Westmoreland County.

1 A Particularly in Westmoreland County. I felt
2 that there are broad exceptions here; education, science,
3 governmental use, judicial purposes. And I think the
4 statute is intended not to be as narrow as an obscenity
5 statute. I don't think that is the purpose. It is
6 difficult for me to, if we had some depictions and materials
7 for us to discuss actual publications or issues, I would
8 find it difficult to be confused about what is child
9 pornography and what isn't.

10 Q I don't want to drag this on. I know Jeff
11 has a problem with putting artistic back in. Maybe
12 serious literary doesn't open up the loophole. Again,
13 I use the Toni Morrison example I mean, she is a
14 serious writer. She has written good stuff and her
15 whole purpose is to try and attack this problem. And
16 I think we need to look at this definition more carefully.

17 A Just one brief response. I know the Committee
18 is behind schedule. I know you must strive to draft
19 articulately legislation that meets the purpose. That
20 is not overbroad. But in this particular instance, in
21 this particular statute, would it not be better to leave
22 the limitation of the statute to courts, juries, case
23 decisions and to people on a case-by-case basis. We
24 will protect our constitutional liberties. In this case,
25 don't we have to come down hard and effectively with a

1 piece of practical legislation that will enable investigators,
2 law enforcement people to strike at a very, very
3 profound area of exploitation.

4 REPRESENTATIVE KUKOVICH: Yes, I would agree
5 with that with one caveat. Unless we don't draft it
6 constitutionally, it is going to be challenged and thrown
7 out of court and we won't have a statute at all and we
8 are going to have to come back and do it over again.
9 That is all I have.

10 CHAIRMAN BLAUM: Any other questions?

11 (No response.)

12 Thank you, District Attorney. Now, the
13 prime sponsor of the legislation we are considering today,
14 Representative Lois Hagarty.

15 REPRESENTATIVE HAGARTY. As a legislator, one
16 of my primary areas of activity has been directed toward
17 improving the lives of Pennsylvania's children. My
18 legislative activity has included sponsoring or having
19 major roles (through my work in this Subcommittee and
20 the full Committee) in achieving the enactment of:

- 21 - 1982 - Adoption Amendments
22 - 1985 - Child Support Enforcement Amendments
23 - 1985 - Acts 33 and 34 - Requiring background
24 checks for child care workers and teachers, and most recently
25 - 1988 - Major revisions of the 1980 No-Fault

1 Divorce Code

2 The overriding goal of all this legislation
3 was to improve the lives of Pennsylvania's children.
4 Now, it is time to turn to another of our laws designed
5 to serve children, an area which has gone unexamined far
6 too long - the Child Protective Services Law.

7 One of the most valuable lessons I have learned
8 during my tenure as a member of the General Assembly is
9 that we must give such comprehensive laws sufficient time
10 to operate, then evaluate their efficacy through the input
11 of experts and affected parties. Our recent revisions of
12 the Child Support Law and the No-Fault Divorce Code were
13 handled in this fashion and are prime examples of how such
14 efforts can result in substantial improvements to the law.

15 As the Attorney General mentioned, Pennsylvania
16 adopted the Child Protective Services Law, in 1975. It
17 established a child protective services system in each
18 county with a comprehensive system of reporting, investiga-
19 tion, record keeping, protective custody, and services for
20 abused children and their families.

21 When the General Assembly enacted Acts 33 and 34
22 of 1985, glaring problems in our Child Protective Services
23 Law came to the attention of members involved in drafting
24 the legislation. Representatives David Sweet, Jeff Piccola
25 and myself were particularly concerned that the Child

1 Protective Services Law and system was in need of study
2 and potential revision.

3 Of course, we were pleased to learn of Attorney
4 General Zimmerman's appointment of the Family Violence
5 Task Force, which joined professionals from many relevant
6 disciplines to analyze the Child Protective Services Law
7 and the criminal justice system's response to family
8 violence.

9 The task force's exhaustive analysis of the
10 laws of other states plus federal law, in addition to a
11 thorough examination of the judicial and administrative
12 interpretation and implementation of the Child Protective
13 Services Law and relevant Crimes Code provisions, served
14 as the foundation for the development of House Bills
15 1565-1569. Upon review of the task force's report and
16 legislative proposals, Representative Sweet and myself
17 agreed to co-sponsor the bills and work toward their
18 implementation.

19 The General Assembly must correct Pennsylvania's
20 unfortunate distinction of having the most narrow definition
21 of child abuse in the United States. Children who are
22 victims of repeated incidents of abuse, which individually
23 did not cause serious harm, are not protected by the
24 present law. We must facilitate intervention in such cases -
25 we can no longer force our child protective services

1 workers to wait until the abuser hits just hard enough to
2 meet the test of "serious harm" We must include threats
3 of serious harm and situations where intervention or sheer
4 luck prevents serious harm to the child. We must also
5 provide Pennsylvania's children greater protection against
6 abuse caused by persons other than parents and caretakers,
7 that is, those persons in temporary care, control or
8 supervision of children. Right now, Pennsylvania's children
9 are clearly at risk in these situations. House Bill 1569
10 would do much to end that risk.

11 The Crimes Code provisions contained in the
12 remaining bills represent essential steps which must be
13 taken to improve the criminal justice system's ability
14 to prevent child abuse.

15 House Bill 1565 will facilitate the exchange
16 of information via computer systems to identify perpetrators
17 of child sexual abuse and help locate missing children.
18 The incidence of sexual abuse - as evidenced by the fact
19 that approximately 50 percent of abuse reported under the
20 Child Protective Services Law is sexual abuse - must be
21 met more forcefully. Enhancing law enforcement's ability
22 to investigate these crimes is essential. We must also
23 correct a loophole in our Crimes Code regarding sexual
24 molestation by an object, hand or finger. Presently,
25 there is no such crime. Such a criminal act is not rape as

1 defined in our Crimes Code. The district attorney can only
2 charge the offender with indecent assault, a second degree
3 misdemeanor, or corruption of a minor, a first degree
4 misdemeanor. The new offense of child sexual molestation
5 contained in House Bill 1566 would make the crime a third
6 degree felony.

7 Other components of House Bills 1565 and 1566
8 address the tragic problem of parental kidnapping - an
9 occurrence which, in addition to being a criminal act -
10 causes irreparable psychological harm to the child victim
11 and aggrieved parent. As the members of our subcommittees
12 will recall, several years ago we took steps to strengthen
13 the offense of interference with the custody of a minor
14 which addressed parental violations of custody orders.
15 However, another loophole exists. In many situations
16 parents live separate and apart without formal custody
17 agreements or orders. When one parent leaves with a child,
18 there is no remedy. The bill does not criminalize the
19 taking of the child from the other parent but, it does
20 make concealment of a child's whereabouts a crime. Both
21 parents are entitled to know the whereabouts of their child.
22 The bill is written so that the FBI can assist in the
23 investigation under the Federal Fugitive Felon Act.

24 Finally, as to pornography, another loophole
25 exists in the Crimes Code. It criminalizes possession of

1 child pornography for sale or transfer, but actual
2 possession is not a crime. Child pornography is child
3 sexual abuse - it is usually the homemade product of the
4 crime it depicts. An essential element of stopping this
5 crime is to stop the demand for its product. House Bill
6 1566, which criminalizes its possession, would be a
7 significant step in that direction.

8 House Bills 1567 and 1568 make relatively minor
9 changes in the present law which will require administrators
10 of schools and day care facilities to report newly enrolled
11 children to the Pennsylvania State Police who will then
12 check the names against the missing persons file. The
13 task force found that many children missing from their home
14 and community are enrolled in day care facilities in other
15 communities. Furthermore, experts believe these children
16 are enrolled in their legal names. Therefore, the checks
17 mandated by House Bills 1567 and 1568 would provide
18 valuable information in the search for missing children.

19 Critics of these bills argue that they pose
20 an unwarranted intrusion by law enforcement into families'
21 problems. I argue that House Bill 1569 does not
22 substantially broaden law enforcement's involvement. The
23 1982 amendments to the Child Protective Services Law
24 mandated child protective services to refer to law
25 enforcement certain types of abuse such as murder, sexual

1 abuse and conduct involving a risk of death or serious
2 permanent disfigurement. That crucial policy decision
3 by the General Assembly was the step that brought law
4 enforcement into the child protective services system.
5 House Bill 1569 makes a modest amendment to that provision -
6 it will also mandate the reporting of "attempts" to
7 commit those specific crimes. That is, we will reflect
8 the new definition of child abuse which includes
9 threatened serious bodily injury. It is important to note
10 that attempted rape, attempted aggravated assault and
11 attempted murder are crimes in Pennsylvania. We are
12 talking about established crimes with clearly definable
13 elements. As noted in the task force report, this
14 approach reflects Pennsylvania's policy of family
15 preservation by responding to all but the most serious
16 cases of intrafamily abuse through the child protection
17 system.

18 A second major point of opposition to expansion
19 of the Child Protective Services Law is that there is an
20 existing inadequacy of funding to enable our counties to
21 operate the existing system, much less undertake broader
22 responsibilities. I recognize the unrealistic financial
23 constraints which are placed upon our county systems at
24 this time. According to information we obtained from
25 the National Conference of State Legislatures, from

1 1981-1985 there was a 53.1 percent increase in child abuse
2 reports in Pennsylvania with a 2.8 percent increase in
3 funding during that period.

4 This is clearly unacceptable. I am committed
5 to seeking additional appropriations for the existing
6 system and the new duties imposed by House Bill 1569.

7 Additionally, I must emphasize Representative
8 Sweet and I are anxious to work with Representative Blaum
9 and the members of the Subcommittee on Crime and
10 Corrections to address the concerns of the Department of
11 Welfare, our counties and other interested parties. It
12 has been my experience that the process of input and change
13 inevitably produces a better product. I look forward to
14 this opportunity.

15 In summary, I would like to quote Jim
16 Strazzella, Chairman of the Family Violence Task Force.
17 He said, "...violence against children is a particularly
18 insidious problem. It scars our young and provides a
19 destructive model for future generations, often planting
20 the seeds for later cyclical violence."

21 I am committed to preserving the dignity of
22 Pennsylvania's families. I firmly believe that permanence
23 must be the goal of social service intervention through
24 our child protective service system. I also believe the
25 present state of our law and system fails to adequately

1 protect children who are being physically, sexually and
2 emotionally abused. This General Assembly must provide
3 our protective service agencies and criminal justice
4 agencies the statutory tools which they need to end this
5 abuse.

6 Thankfully, the fine work of Attorney General
7 Zimmerman's Family Violence Task Force has given us the
8 means to do so. I call upon this Subcommittee and the
9 full Judiciary Committee to consider House Bill 1565-1569
10 with diligence study but with a sense of urgency. Our
11 children have waited too long. Thank you

12 CHAIRMAN BLAUM. Thank you very much,
13 Representative Hagarty. Any questions?

14 (No response.)

15 Thank you for getting these bills into
16 committee so that they can be considered.

17 Ms. Joanne DeHart and Ms. Josephine Parks,
18 Co-chairpersons and Ms. Anne Vaughan, counsel, Parents'
19 Rights Organization. Anne, do you want to begin?

20 MS. VAUGHAN. The testimony, sir, is going to
21 be given by Ms. Jo Parks.

22 MS. PARKS. Honorable Chairpersons and
23 Representatives, this is presented to you on behalf of
24 Parents' Rights Organization.

25 CHAIRMAN BLAUM. Excuse me, where is Parents'

1 Rights Organization from?

2 MS. PARKS: I am sorry, Parents' Rights
3 Organization is from Delaware County.

4 CHAIRMAN BLAUM: Sorry.

5 MS. PARKS: Parents' Rights Organization,
6 a group of parents who have been, are or may be involved
7 with child welfare agencies. To save time, we have put
8 our concerns about the specifics of the legislation and
9 attached them, but we are here today because we believe
10 that the bills take the wrong tack. The bills would move
11 the child welfare system away from the social service
12 agency that helps families toward increasing punishment.
13 We asked the Legislature to redirect its attention to
14 the very expensive foster care system. We ask you to
15 focus on providing help to families in their homes, to
16 save families and money. Your attention is needed to
17 legislate standards and guidelines on risk assessment
18 and determine levels of care and services needed to help
19 poor families take care of our children in our own homes.

20 A parent is not abusive or neglectful because
21 they do not have enough money for their family. Families
22 that are poor are most at risk of CYS involvement. The
23 parents in our group have this in common - they are on
24 welfare or food stamps or SSI or medical assistance.
25 Since we care about our children, help us provide stable

1 home lives for them. Don't put them in foster care so
2 easily. There are risks there too. We are very tired of
3 a child welfare system that separates parents from children
4 instead of giving services so we can be together with
5 our children with help of good social workers. The
6 proposed legislation misdirects the purpose of child
7 welfare services which should be a caring and helping
8 system. We ask that you look at the purpose of the laws
9 that protect our family interests and the purpose of the
10 Social Security Act that pays states that comply with laws
11 on services to keep families together whenever possible.
12 We urge you to look at Congress' purpose behind the
13 1980 amendment to the Social Security Act that provided
14 financial incentives to states to reduce foster care and
15 increase placement prevention and reunification services.
16 Despite laws on services and keeping families together,
17 too many poor families lose their children to foster care
18 and too many poor families have not gotten help and there
19 are far too few "in home" services. Parents who ask for
20 food and shelter at the state child care agencies are
21 denied the precious right to be with their children while
22 child welfare agencies put children in foster care that
23 is very expensive. For example, welfare payments for a
24 family of four are about \$450 a month, or \$5,400 per year
25 but a child placed in foster care can cost the state

1 exorbitant fees if the child is vendor placement, \$24,000 -
2 \$30,000 per year per child. Are we really helping
3 taxpayers and families or is this a misuse of state funds?
4 Are we really helping children when we do not pay for
5 social services to help families stay together? We are
6 told and believe that even in troubled families there is
7 a bond between parents and children and that the children
8 are harmed if that bond isn't furthered. Yet in case
9 after case our parents have lost their children to foster
10 care, sometimes permanently, rather than being given
11 meaningful services from the state agencies. Parents
12 seldom see the social worker, and sometimes even the
13 children don't see the worker. Child welfare agencies must
14 make a service plan within 30 or 60 days after it accepts
15 a family for services, but often families don't get plans
16 until long after the child is placed in foster care.
17 Pennsylvania's law says the agencies should provide these
18 specific services: parenting education, day care,
19 homemakers and caretakers, and counseling. But there
20 are no caretaker services and very limited homemaker
21 services, and parents have had trouble even finding out
22 how to apply for day care, never mind getting it. There
23 is not help in the home for families when a parent is sick,
24 no public programs that allow parents on SSI and children
25 who need support to be together in care or a boarding home

1 or with the help of a caretaker. There are insufficient
2 housing programs to keep parents and their children together,
3 and Pennsylvania only gives emergency shelter through
4 child welfare agencies to children, when the whole family
5 needs shelter. Parenting education is only one hour each
6 week for six weeks, in a group setting. Parents wait,
7 six months or longer, after a mental health diagnosis before
8 they get treatment, and we know of cases where families
9 have drastically deteriorated in the meantime. And when
10 children are finally put into foster care, the placement
11 can be far from home. Siblings are often separated and
12 visits may be only one hour every other week in an agency
13 office.

14 When parents tell workers that our children
15 are hurt, unhappy, have medical needs or need clothing
16 in foster care our concerns often go unanswered. Parents
17 are cut off from their children, instead of allowed to
18 participate in planning and care with the social workers
19 and the foster parents. What is this state doing to
20 families in the name of protecting children? It's adding
21 to state costs for foster care.

22 Years ago, parents would ask the child care
23 agency for help and would get practical, hands on help
24 that really was a help, not an investigation. I know a
25 mother of nine children asked for help with her first group

1 of children nine years ago and got it: This was Mrs.
2 Joanne DeHart who could not be here today. Children and
3 Youth Services gave her day care overnight so she would
4 have a rest and could attend to her other children. Later,
5 as a single mother, she lived in a motel and turned to
6 CYS for help, voluntarily placing her children because
7 she had no home. CYS placed her children for a year and a
8 half and paid for that foster care rather than help her
9 find and pay for housing. Child care also told her they
10 were going to terminate her parental rights and adopt her
11 children within six months after placement.

12 Parents who need and ask for help get reported
13 instead to the state and courts for abuse and neglect.
14 Each worker is supposed to make reasonable efforts to
15 prevent placement. Now, the children act out their fear
16 of CYS coming and taking them away. We know of many
17 examples like this. An investigation only is not a
18 reasonable effort to prevent placement but services are.
19 Parents may not want to ask for help from an investigator
20 who goes to court against them.

21 How do we believe that you can help state
22 and local agencies prevent harm to children? There are
23 already criminal laws. We need you to establish clear
24 and articulate guidelines on risk assessment and services
25 needs determinations -- and then fund those services - don't

1 leave this critical process to the board's discretion of
2 a social work system that believes children should not get
3 dirty and that every scratch is abuse and who may hold
4 parents to a measure most of us could not meet. Life is
5 not, unfortunately, risk free for children. Require
6 agencies to assess risk realistically and honestly and
7 fairly, and to assess the need for help realistically
8 and honestly and fairly, and let parents have a voice.
9 Fund these services. Before a child is removed, weigh
10 what actual risk there is to a child of being home with
11 the full services.

12 Let parents apply for services. Require
13 agencies to decide what service to give and document and
14 record and report to the state for funding purposes in
15 time sheets showing hours. Look at Senator Greenwood's
16 bill, Senate Bill 1389.

17 Focus on prevention, not punishment. We know
18 that skilled social workers familiar with the poor
19 community can really help our families and teach them about
20 better care. Reactivate statewide advisory boards. Let
21 parents constitute majority membership to refocus this
22 plan. We know sympathetic agencies can fund housing and
23 other assistance and reunite our families. But our
24 children need a chance to stay home. Provide services to
25 families and prevent what happened in Philadelphia. Allow

1 family unity. Indifference to families is not how our
2 state child welfare system should work. Thank you for
3 your attention.

4 MS. VAUGHAN: I would like, if I may, to
5 follow through with a few comments. We note that in
6 Secretary White's report, he wants to make children a
7 top priority and that is really what we are about here.
8 We don't think the focus the Legislature is turning in
9 is going to help in this process. Our focus is to end
10 the victimization of children by providing services to
11 help families stay together.

12 We think the significant facts in the
13 Attorney General's child abuse report are the following:
14 the decrease by 23.9 percent in homemaker and caretaker
15 services from 1986 to 1987. Poor families are the most
16 involved in the child welfare system according to HHS and
17 I refer you to footnotes 43 and 42. Single parents are
18 heavily involved in the system. 64.2 percent of the
19 reports filed are unfounded. There were 44 deaths in
20 Pennsylvania within the last year. That is 44 too many.
21 I think that the solution here is not post-trauma
22 punishment but pre-trauma assessment, risk assessment
23 and provision of services. And that is what the Legislature,
24 we believe, should take control of here. They have not
25 done that. There is broad discretion, as Ms. Parks said

1 in her testimony, as to what the state welfare workers
2 may do. I think the standards vary from agency to agency
3 without any guidelines by the Legislature. Either the
4 Legislature we believe or the Regulatory Review Committee
5 could establish risk assessment standards.

6 But what we are looking for here is some
7 intelligent planning, a broad based policy approach to
8 solution of the problems. We think that we need to have
9 a uniform assessment instrument so we are all looking at
10 the problem in the same way. We are all recording it
11 in the same way and we are all measuring the problem in
12 the same way. Then we want a set of guidelines and
13 protocol so we will be interpreting what is risk to
14 children, interpreting the criteria in the same way.
15 For instance, must every alcoholic parent have her children
16 removed? Must every child with an unexplained bruise
17 be removed? Must every ungovernable teenager be removed?

18 We have tremendously expensive costs here.
19 We think that the answer is clearly no. Those children
20 do not need to be removed. We think that there is an
21 increased number of black children entering the foster care
22 system and I refer you to something that has not been
23 referred to yet. I do not have the most recent report here.
24 The Pennsylvania Abstract talks about an increase from
25 35 percent to 49 percent of black children in foster care

1 between the years 1970 and 1985. I don't have figures
2 more recent than that. I can look for them and get them
3 to the Committee if that is something you would like. I
4 think that the Department of Public Welfare probably has
5 those figures available.

6 But I think we need to look at the high cost
7 of foster care. I think we need to look at what services
8 can be provided out of the funds that presently go to
9 very, very expensive foster care placement. That that is
10 the solution. Providing the services up front. Turning
11 the system back into a system that parents go to voluntarily
12 to seek and request services. Not something that will
13 investigate them and parents will turn from and fear.

14 Obviously, there are going to be cases of
15 abuse. The state needs to look at those. But we are
16 here about the vast number of children who enter the foster
17 care system because of lack of availability of services,
18 because of lack of availability of funds to keep those
19 children in homes with services when the problem is poverty.

20 CHAIRMAN BLAUM: Thank you very much.

21 BY CHAIRMAN BLAUM: (To Ms. Vaughan)

22 Q And Ms. Parks, just one question. As I
23 understand the child abuse law, poverty or being poor
24 does not make you a child abuser. Are there people in
25 your organization who are having their children removed,

1 they are not being charged or found to have abused their
2 children?

3 A In some cases, sir. I would like to say that
4 I believe the allegations of child abuse are very readily
5 leveled against parents and very readily founded even in
6 the court or substantiated as indicated reports with the
7 Department of Public Welfare that very minimal, slight
8 hurt to children, and none of us wants to see a child hurt,
9 but minimal hurt, a child brushing against a mother's
10 cigarette while walking down the street, a child with two
11 unexplained bruises, those are being put up as child
12 abuse. So we do have persons who have those sorts of
13 problems and are involved in the system as a result of
14 those problems.

15 Q Some of the things you are talking about made
16 terrific points. Some of the things you were talking
17 about were not really child abuse. People who may be
18 who are having difficulty making ends meet and that is
19 something we should also be concerned with. My point is
20 all the people were not, I mean, nobody is accusing them
21 of abusing their children simply because they don't have
22 the money to provide what they would love to provide.

23 MS. PARKS: They are in foster care.

24 BY CHAIRMAN BLAUM: (To Ms. Vaughan)

25 Q But I'm saying they are not being called abusers

1 while they are taking the kids and putting them in foster
2 care until the parents get their feet on the ground.

3 A We believe there is a connection.

4 Q I hope they are not being charged with abuse.

5 A We believe that parents who are poor get reported
6 more frequently than those who are not poor. We believe
7 that parents who are not poor, the middle class, can afford
8 to purchase services which are not available to the poor.
9 And even though, yes, as you say, the CPSL does not allow
10 for abuse reports to be based upon matters that are not
11 within the control of the parent. We think that there
12 may not be a direct link but there is -- well, there is
13 a direct link. But there will be other reasons placed
14 there by the agency, but the reason often is financial.
15 Lack of housing could be called child abuse under some
16 circumstances and yet that is clearly an economic matter.

17 CHAIRMAN BLAUM: Representative Kukovich.

18 REPRESENTATIVE KUKOVICH: I don't really have
19 a question, perhaps a comment. I am in agreement with
20 much of what you have said. I think there is some things
21 in this legislation we need to do. My concern is not
22 for getting the funding and the other areas which we have
23 only given lip service to children. I think if I could
24 sort of paraphrase what you are saying, which your
25 organization is saying, is that the best way for us to help

1 children is for the state to do things for families instead
2 of two families. Is that --

3 MS. VAUGHAN: Absolutely.

4 MS. PARKS: We feel that the children should
5 be helped, but we also feel that, if along with the children,
6 you help the parents. Because some of these children do
7 not want to leave their homes no matter how bad it is.
8 They want to be with their parents.

9 REPRESENTATIVE KUKOVICH: What you are asking
10 us to do is a lot more complicated, expensive. Prevention
11 is difficult to articulate, put into a state plan. It is
12 a lot more difficult to do it and it costs more money.

13 MS. VAUGHAN: We would agree, the easy solution
14 is foster care. It is easy to separate if your social
15 services are underfunded, if your social workers turn
16 over 50 percent, as we heard, if there is a salary of
17 \$12,000. That is not an incentive to stay and provide
18 good social service work services. I would like to ask
19 the Legislature to look, if they would, at SB' 5. and
20 analogize that to what is happening here. It seems to
21 me that that was a system that attempted to provide,
22 under the guise of protective services for older Americans
23 in our state, a system of social services without criminaliz-
24 ing the process. And we would ask that that sort of
25 attention be paid here to this system.

1 CHAIRMAN BLAUM: Representative Bortner.

2 BY REPRESENTATIVE BORTNER: (To Ms. Vaughan)

3 Q Just a couple of questions. Do you believe
4 where there is a documented case of abuse those children
5 ought to be removed from the family?

6 A Clearly there are cases for removal from
7 families. We do believe that children are removed very
8 easily. That the standards are not clear. The children
9 are at risk. And that is why we think the Legislature
10 ought to take control of, either directly or by referring
11 it to the Subcommittee for some attention here as to
12 what is risk. How much risk justifies and warrants the
13 removal of a child. How much risk warrants a certain
14 level of services and what should be the character of
15 that service and how many hours a week should it be
16 available? That sort of attention to the process is not
17 available here in Pennsylvania. It is difficult because
18 you are talking about social work. You are not talking
19 about dollars and cents as you are within AFDC or counting
20 the dollars, something of that sort. But it is done
21 here in the nursing home system. You have levels of
22 care. I believe that it is also done with the mental
23 health system. There is some sort of needs determination
24 and risk assessment process because of that.

25 Q But you agree the decision to remove the child

1 from the home is a judgment call by the agency in many
2 cases?

3 A No, I think we disagree.

4 Q That has to be made on fairly short notice.

5 A Sometimes it does. Then you are talking about
6 an emergency situation. I think that you have children
7 that remain in foster care for far too long, far too long.
8 I think that there should be after, if the emergency
9 seems to warrant the removal of a child immediately, that
10 just as immediately there should be a risk assessment
11 process. What really did happen here? Can the child be
12 safe in the home? Can the child be returned to that home
13 with services? Yeah, sometimes there have to be emergency
14 steps taken. Obviously, no one does want to see children
15 at risk. We are not saying do away with foster care.
16 That is not our position. We are saying reduce the time
17 that children stay in foster care, but providing the
18 services to the family so the problem is resolved
19 promptly. We are saying don't criminalize the system
20 that only puts a wedge, as you have heard several people
21 testify here between family reunification and that sort of
22 focus. We think that Pennsylvania gets its strength from
23 its families and we hope to be focusing on that.

24 Q I don't disagree with that. But there is a
25 point in time where the decision has to be made by counties.

1 In a couple cases, those were made too late. The child
2 welfare agency came under a great deal of criticism because
3 they appear to have worked too long and allowed the child
4 to stay too long in the family where there was evidence
5 of abuse, reported evidence of abuse. So I think there is
6 sometimes a very difficult balance that has to be struck.

7 A There is a difficult balance. If we wanted
8 to safeguard against any potentiality of any hurt happening,
9 I think we would take all children away from their parents
10 and place them in some sort of institutional guarded situation.
11 We don't do that because we are a democracy. We don't
12 do that because we don't transfer the children of the
13 rich and the poor and the uneducated and place them in
14 other settings under our system of law. So there is
15 obviously not going to be a risk proof system. However,
16 there should be a system available that allows for some
17 better assessment that goes on without the broad discretion
18 that is now there.

19 One of our concerns is that the 44 deaths
20 in Pennsylvania last year, the Children and Youth Services
21 was involved in a number of those. I don't know the
22 number, but they were involved. They knew there was a
23 problem, but their services were not being provided.

24 Q I don't know the situation in your county.
25 I can only say that some of the things you say are somewhat

1 surprising to me. The indications I have in my county
2 is (a) the Children and Youth Services are pretty much
3 only dealing with the emergency cases. That is about
4 the best thing they can do is to keep up with the emergency
5 cases.

6 Secondly, that they have a difficult time
7 placing the children in foster homes. That there is
8 not a lot of available families out there that are taking
9 children for foster homes. Particularly children that
10 come out of abused cases. I certainly will be interested
11 in talking to my Children and Youth Services agency to
12 find out what their experience is.

13 A I think you should ask them, sir, to look at
14 the cost of residential and vendor placements. Foster
15 care placements may not be that available and they don't
16 pay very well. However, if you look at the cost of place-
17 ment and the cost in vendor care situations, a few are
18 \$43,000 a year. One, Hoffman Homes, I think is around
19 \$26,000 a year per child; very, very expensive. The money
20 certainly can be used in better ways. Locally to keep
21 the child protected and safe.

22 Q If that can be done safely. If it can't be,
23 as far as I am concerned, it doesn't matter what the cost
24 is. The cost is justified if that is what is necessary
25 to protect the child and that is the difficult decision

1 you have got to make.

2 CHAIRMAN BLAUM: Attorney Mary Wooley.

3 MS. WOOLEY: I would just like to point out
4 that there has been a focus in Pennsylvania on the issue
5 of the importance of permanence. There is a Permanency
6 Planning Task Force which is operated out of the Juvenile
7 Court Judge's Commission of which I am a member. And
8 that task force has primarily focused on the important
9 public policy for Pennsylvania of keeping these families
10 together. That task force was the source for the
11 legislation that this Committee passed and was enacted
12 into law which requires our Juvenile Court judges to
13 review placements of children on a six months' basis.
14 And the Permanency Planning Task Force in Pennsylvania
15 received national recognition as a result of the enactment
16 of that statute.

17 The task force has also funded certain pilot
18 projects based on a model which Judge Cassimatis began
19 in York County to make sure that these children have the
20 necessary accompaniment through the system, through the
21 dependency side of Juvenile Court.

22 There are a number of other policy initiatives,
23 legislative initiatives, psychological parent legislation
24 recognizing that foster children do bond with other people
25 in addition to their natural parents and it is important

1 to continue those bonds. So that perhaps some of your
2 concerns are appropriate for the continuing work of the
3 Permanency Planning Task Force.

4 MS. VAUGHAN: Thank you. We would like to
5 say in closing that permanency planning to us has meant
6 permanent separation of children from their natural parents
7 rather than focusing on return with services of children
8 to their natural parents.

9 CHAIRMAN BLAUM: Attorney Michael Edmiston,
10 Counsel for Majority side.

11 MR. EDMISTON: Ms. Parks, Ms. Vaughan, were
12 you participants in the Attorney General's Task Force on
13 Family Violence?

14 MS. VAUGHAN: Pardon me?

15 MR. EDMISTON: Was your organization
16 participating in the Attorney General's Task Force on
17 Family Violence?

18 MS. VAUGHAN: No, we have not.

19 MR. EDMISTON: Were other organizations like
20 your own, with which you are familiar or which you have
21 dealings, involved in that?

22 MS. VAUGHAN: Not to my knowledge, but that
23 is something I don't have the answer to. If you mean an
24 organization such as the Welfare Rights Organization or
25 any of those groups that consist primarily of low income

1 persons and who might be clients of the legal services
2 project, I do not know of their involvement. But I am
3 not the best person to answer. Maybe the Domestic
4 Violence Coalition would know.

5 CHAIRMAN BLAUM: Thank you very much.

6 Rev. Thomas Doyle, Dominican House of Studies,
7 Washington, D.C. Following Father Doyle's testimony, we
8 will take a very brief 20-minute break.

9 REV. DOYLE: Thank you for inviting me. I
10 am honored and flattered that somebody saw fit to bring
11 a foreigner into the State of Pennsylvania to talk about
12 this very serious problem. Since I am a foreign commodity
13 here I have been asked to describe my qualifications so
14 that you know I have some background from which I speak.
15 I am a Roman Catholic priest and I have been such for
16 18 years. Aside from my first three years of full-time
17 parochial work, Harrisburg and Chicago, I have worked
18 almost exclusively with divorced persons, divorced families,
19 children from divorced families in Chicago, Illinois until
20 1981. In 1981 I was appointed Secretary Canonist. It
21 is like a legal counsel to the Vatican Embassy in Washington
22 and in '86 I took up a similar position with the Archdiocese
23 for the Military Services. And at this time do a lot of
24 work with families in the military that are experiencing
25 difficulties.

1 While at the Vatican Embassy, it was my
2 charge to monitor the newly arising cases of clergymen,
3 priests, who had sexually abused children. Since that
4 time, about four or five years ago, I have worked a great
5 deal in this area, developed some expertise in pedophilia,
6 pedophiles, victims of pedophilia and the after effects
7 of this sexual disorder. I have worked with an attorney,
8 Mr. F. Ray Mouton, who was from Louisiana and with the
9 late Father Michael Peterson, a priest psychiatrist,
10 who worked exclusively with clergy and others who suffered
11 from both sexual, alcoholic and drug addicted behaviors.
12 He consulted with Johns Hopkins University and other health
13 care facilities that specialized in treating both
14 pedophiles and pedophilia.

15 My professional qualifications include Masters
16 degrees in five separate areas, a doctorate. I have
17 published five books and 47 articles. And if anyone is
18 an aviation buff, I am also a licensed pilot if that helps.
19 And probably the only member in this room, person in
20 this room, who is a member of the Titanic Historical Society.

21 I want to address the issue of child abuse
22 with particular reference to pedophilia. I want to say
23 that this is a psychological disorder, not just a crime,
24 but a psychological disorder whereby a person, usually a
25 male, is compelled, highly compelled, to seek sexual

1 gratification by fantasizing about sexual acts with children
2 under the age of 13 usually or by fondling, touching or
3 actually having some form of sexual activity, either oral
4 or anal or full penetration with the child.

5 Pedophilia can be subdivided. There are
6 those who are fixated. In other words, they are fixed
7 at having exclusive sexual gratification from children.
8 Other pedophiles it is a temporary thing. I won't go
9 into that. There are two basic types. One called ego-
10 dystonic. These are men who do not want to be pedophiles.
11 Whenever they act out, they feel a great deal of shame
12 and remorse. Yet the compulsive level of this disorder
13 forces them to act out. For your information, most
14 clergymen that have suffered from pedophilia, it is a
15 very, very small number, are ego-dystonic. They do not
16 want to be what they are.

17 The other is the ego-syntonic. He thinks there
18 is nothing wrong with being a pedophile and thinks it is
19 perfectly acceptable and that those who think there is
20 something wrong are discriminating against him. You may
21 have heard of a rather sick organization called The Man-Boy
22 Lovers Association of the United States of America. That
23 is the full title. It is actually an association of men
24 who are pedophiles. In most cases, the ego-dystonic
25 pedophile is accompanied by, his disorder, is accompanied

1 by an abuse of alcohol and/or drugs and in many instances
2 also some sort of a personality disorder. So we are
3 dealing with a very complex situation.

4 Sexual abuse of children has always been
5 present in society and in the churches. There is a
6 significant but small percentage of men of all types who
7 are pedophiles, suffer from pedophilia. What is new is
8 a concern and the manner with which the acting out of this
9 disorder is being handled. The so-called quiet or private
10 solutions are no longer and should no longer be acceptable
11 to society in general nor to the legal system. The
12 greatest number of pedophiles are members of the victim's
13 family; fathers, stepfathers, grandfathers, uncles or
14 brothers. I believe that the myth must be debunked
15 that biological parenthood is sufficient excuse to assure
16 that a parent always has the right of possession of that
17 child. Sexual or whatever violence against a child
18 should outweigh the so-called right or possession or
19 custody of the child if the parent in fact is truly abusing
20 that individual. The widespread publicity given to instances
21 of priests and clergy of other denominations who have sexually
22 abused children has heightened the consciousness of
23 church authorities and in a way forced the issue to be
24 seriously considered. In most of the Catholic dioceses
25 in this country, effective steps have been taken to

1 implement policies and procedures for dealing with
2 allegations of child abuse and with priests who suffer
3 from pedophilia.

4 Part of my experience in this area has
5 indicated that there is definitely a ripple effect of
6 the sexual abuse of a child. It affects the child. It
7 affects the child's relationships with others. It
8 affects the child's peer relationships and relationships
9 within the family and can affect the relationships of
10 the family with other families.

11 The dramatic rise of reports of the various
12 kinds of child abuse that is documented in your own
13 information in the State of Pennsylvania and from other
14 states is due in part, I believe, by the outrage of
15 society in general but also to the increased awareness or
16 education of children and adults alike. The stories
17 children tell their parents or others now are not always
18 shrugged off as myth or imagination but are taken seriously.
19 And this is indicated to us in the widespread incidence
20 of sexual child abuse in our society.

21 As I said, pedophilia is a disorder that
22 some scientists believe the pedophile is born with. He
23 cannot catch it nor can it be cured but it can be controlled
24 in many instances. Control consists of a multi-faceted
25 modality of treatment including psychotherapy, group therapy

1 and use of the drug known as Depoprovera which diminishes
2 the compulsion to act out. I know of several people,
3 many people, who have been treated with effective after-care and
4 ^{now} are functioning successfully in society. Many of these are
5 priests.

6 I am also aware of the fact that there are
7 few health care facilities in this area and throughout
8 the country that effectively can evaluate and comprehensively
9 take care of people who suffer from pedophilia.

10 I believe that it is incumbent upon legislators
11 to enact legislation that is as broad as possible to
12 protect children from the various forms of sexual or
13 other abuse. I say this because I am deeply aware, well
14 aware, of the disastrous emotional, psychological, spiritual
15 and physical effects that sexual abuse can have on a child.
16 It can impair and does impair his or her peer relationships,
17 relationships with parents, relationships with siblings,
18 relationships with members of the opposite sex. In my
19 work with divorce and divorced persons and studying the
20 reasons, often deep in the background, the failure of
21 the marriage, one finds with unhappy regularity the fact
22 that one or the other was sexually abused as a child.
23 Another factor is the fact that many, many pedophiles or
24 sexual abusers were sexually abused themselves, abused
25 in their infancy, generally, by someone in their own family.

1 Often these effects manifest themselves not so blatantly
2 at the time of the incident or in the years surrounding,
3 but later on as one goes into adulthood. One prime example:
4 late last year in Louisiana a young man committed suicide
5 the night before his wedding because of the sexual
6 conflict he was living with. He had been sexually abused
7 by a priest who also abused his four brothers. It was
8 a very sad spectrum to watch his four brothers carry their
9 brother's coffin up the aisle on the day of his funeral.
10 The priest, by the way, is now incarcerated and will be
11 for a long time.

12 Now, I would like to address some of the
13 specific issues of the bills before this Subcommittee.

14 Bill 1566 establishes sexual abuse of a child
15 under the age of 14 as a felony and Bill 1569 expands
16 the definition of abuse in general and sexual abuse in
17 particular.

18 I concur with the establishment of sexual
19 abuse of children as a felony, and I believe that the
20 definition of sexual abuse should be expanded to include
21 any form of sexual exploitation of a child (penetration,
22 oral intercourse, filming, fondling, etc.). I also
23 concur with the provision to include acts or omissions
24 which could have caused serious damage but did not do so
25 because of the intervention of others.

1 I say this because many pedophiles do not
2 actually have full intercourse with their victims. They
3 may only fondle the child or may take pictures of the
4 child, and this, I would like to refer briefly to the
5 bill on pornography, which I would also heartily concur
6 with.

7 Possession of child pornography and somebody's
8 making it, and those who are making it are sexually abusing
9 children. They either kidnap them, they use them one
10 way or another. They take the pictures and sell them to
11 others. So possession itself might seriously cut down
12 the market, the offense for possession.

13 In other cases a sexual abuser may well
14 escalate his or her acts from fondling up to full penetration
15 and even violence. In this regard the provision for
16 identifying the early signs of a pattern of abuse is well
17 founded and would serve, hopefully, to prevent extensive
18 damage to the children.

19 Next I would like to address the question
20 of perpetrators. Recommendation Number 4 on the Book of
21 Family Violence suggests that the law should include as
22 perpetrators of child abuse "any person" irrespective
23 of that person's relationship to the victim. Why should
24 a nonrelationship to a victim single the person out and
25 omit his liability. Perhaps I am misreading the bill or

1 the present legislation, but I would strongly urge that
2 any person be included. The list given in the Bill 1569,
3 pages 2 and 3, should not be construed as taxative or
4 complete but as a list of possible examples of those
5 covered by the law. I would suggest also that the words
6 "clergy" or "lay employees of religious organizations and
7 institutions" be included. I do not believe that a
8 person's status as a clergyman or church employee should
9 in any way exempt that person from answering for the crime
10 of sexual abuse or any other form of abuse of children.

11 Recommendation Number 5 suggests that the
12 definition of child abuse be expanded to include injury
13 perpetrated by persons who provide temporary control,
14 care or supervision of a child. This should imply
15 teachers, day care workers, employees of religious
16 institutions and any institutions that the parents entrust
17 their child to for purposes of education, assisting at
18 religious services or the like. I also strongly concur
19 with the provision to require record checks of those
20 who would apply for teaching positions. I want to say
21 right now that there are supposedly only two to four
22 million pedophiles in the United States. It is very
23 hard to document the numbers, but a significant number
24 are teachers. I think a record check would certainly
25 justify in cutting down the risk of this occurring in

1 schools.

2 Persons Required to Report: Bill 1569 lists
3 the persons required to report and discusses immunity
4 from reporting in cases of confidential or privileged
5 communication.

6 I believe if you put the term "any person"
7 in your bill it is going to open you up to excessive
8 and perhaps too many unfounded reports. On the other hand,
9 I believe the wording of the law as proposed is broad
10 enough and should be able to include most if not all
11 possibilities. I am unclear as to whether or not the
12 law would require that the information be received
13 directly from the child. This is archaic. It is my
14 experience that most often the child discloses the act
15 of abuse, sexual or otherwise, to a parent, an older
16 sibling, a teacher or someone else in authority, a clergyman.
17 These people should be allowed, by the wording of your
18 bill, to make a report. Am I correct in that?

19 CHAIRMAN BLAUM: Yes.

20 REV. DOYLE: Thank you.

21 Privileged Communication: The law gives
22 conditions under which certain persons are not required
23 to report; psychologists, psychiatrists, physicians and
24 clergymen. It also states, I believe, that privileged
25 communication shall not be a grounds for failure to report

1 when suspected child abuse is the case. Is that true? Is
2 it true that I would not be able to invoke privileged
3 communication in a case of suspected child abuse? I would
4 have to report it. Thank you.

5 CHAIRMAN BLAUM: Unless you heard it in
6 confession.

7 REV. DOYLE: Thank you. I am going to get
8 to that. I am going to address the issue of the so-called
9 "priest-penitent" privilege, or the privilege of clergymen.
10 This has been widely misunderstood by many clergy, at
11 least in my own denomination. It is my understanding
12 that under ordinary circumstances the privilege, in most
13 if not all states, extends to and covers that which both
14 the clergyman and his client understand to be confidential
15 communications and I believe the privilege belongs to
16 the client. This is especially true of communications
17 received in what we call "sacramental confession." Not
18 all communications with clergymen are sacramental and
19 not all can be construed as privileged communication.
20 In reference to reporting child abuse, this privilege
21 should not be extended too broadly because of the fact
22 that in many instances clergymen, in their ordinary course
23 of duties, do become aware of instances of child abuse and
24 would not be violating communications or privilege if
25 they disclosed this to the proper agencies. For instance,

1 if a priest admits to his superior that he has abused
2 a child, if a parent reports to a clergyman that a child
3 was abused by another clergyman, another person or an
4 employee of a church organization, the privilege should
5 not apply. If however, a priest or minister receives
6 information about a specific instance of an abused child,
7 third party information, or information from a child abuser,
8 while under the circumstances of sacramental confession,
9 I believe you all understand what that means, under no
10 circumstances for any reason would the priest ever be
11 able to disclose any part of this information even with
12 the penitent's permission. The best he can do is to urge
13 the person, abused or abuser, to disclose the information
14 himself or herself to the proper authorities.

15 Finally, forms of sexual molestation.

16 Recommendation Number 13 suggests that the
17 definition of sexual molestation include other forms of
18 contact and intercourse. I heartily concur with this
19 as a child can be molested and can suffer the disastrous
20 after effects from sexual exploitation in many other ways
21 than full penetration. Most ego-dystonic pedophiles do not
22 in fact have full penetration. They may fondle, touch,
23 expose their genitals to the child. They may engage in
24 some form of oral contact, but they may not necessarily
25 engage in full penetration. And while this may appear to

1 be the most dramatic and seemingly complete form of
2 molestation, it is not the only form. The bottom line,
3 even fondling, any form of exploitation, taking pictures
4 of children doing things with each other can seriously
5 harm the child by inducing a long-term traumatic response
6 that may only manifest itself in most disastrous ways
7 later on in life.

8 Treatment of Pedophiles: Sexual abuse of
9 children is one of the most abhorrent crimes that this
10 society has. Yet we have to acknowledge the fact that
11 most, if not all pedophiles, are severely disturbed people,
12 men who act out by a very high degree of compulsion.
13 Society demands, and rightly so, that there be some form
14 of punishment and demands also that there be no legal
15 or social acceptance of sexual abuse of children as
16 an alternate form of sexual activity. Because of the
17 compulsive nature, when a sexual abuser, a pedophile
18 is incarcerated, even for a lengthy period of time, he
19 will, when returned to the streets, probably return to
20 his pre-incarceration behavior patterns in spite of the
21 threat of repeated conviction and punishment. In other
22 words, incarceration is the least effective form of
23 treatment. For the sake of children, for the pedophile
24 himself and our society in general, I believe it is
25 important to eventually take advantage and take cognizance

1 of the advances of the clinical sciences, of the clinical
2 practitioners, who are making excellent advances in
3 determining what pedophilia is and how it can be controlled.
4 And while the convicted child abuser should be confined,
5 effective forms of multi-faceted treatment modalities
6 should be not only researched but effected.

7 One final suggestion, and this refers to
8 child abusers in general. I had some experience in the
9 State of Illinois in instances of both physical and
10 sexual abuse of children when it took place within the
11 family. I recall only too well and painfully how difficult,
12 agonizingly difficult it was, using the court system to
13 remove minor children from a custodial parent who was
14 seriously abusing them. And I recall in one instance
15 where the children were finally told by the judge, two
16 young boys, that they would never have to go to their
17 mother again, they broke down and cried and only later
18 recounted the story of life in that home that would make
19 Stephen King's horror stories look like fairy tales. This
20 is not an isolated incident and I am sure it happens in
21 the State of Pennsylvania.

22 I would wish to conclude with saying that
23 I agree with the opinions of some professionals that
24 children should always be with their parents, particularly
25 their mothers^{even}/if the parent demonstrates that he or she is

1 quite incapable of properly rearing the child. Biological
2 appropriation must be accompanied by the capability of
3 adequate nurture. That is the way God intended it. That
4 is the way the natural law is and that is the way that
5 society should expect but protect. Thank you again.

6 CHAIRMAN BLAUM: Thank you. Are there any
7 questions? Representative Hagarty.

8 BY REPRESENTATIVE HAGARTY:

9 Q I was very interested in your comment about
10 teachers and pedophilia. Teachers are presently
11 excluded under our child protective service system and
12 therefore are not reported. And because of my concern
13 with that I am wondering do you have any statistics or
14 any further documentation with regard to that problem?

15 A For the State of Pennsylvania I believe all
16 I have is what was sent to me. After the break, if you
17 could provide me with your address, ma'am, I would be
18 delighted to send you the documentation I have which is
19 extensive.

20 Present with me today is the woman from
21 Washington who conducted a national child abuse study.
22 She does not prefer to speak publicly, but probably will
23 speak with you privately after this.

24 REPRESENTATIVE HAGARTY: Thank you very much.

25 CHAIRMAN BLAUM: Father, if you would send that

1 to Representative DeWeese's office or myself. We will
2 give you those addresses.

3 REV. DOYLE: Fine.

4 CHAIRMAN BLAUM: Any other questions?

5 (No response.)

6 Father, I appreciate your coming up here from
7 Washington and giving us your very frank testimony. I
8 think it is excellent and will be beneficial to this
9 Committee in what we do with this legislation in the
10 months to come.

11 REV. DOYLE: Thank you very much. I would
12 just like to conclude by saying, again, I am honored.
13 I continue to work extensively with clinical professionals
14 who have an area of expertise which puts them in direct
15 contact with pedophiles, the victims of pedophilia and
16 other forms of sexual abuse. I would be delighted to
17 make any kind of references or contacts that would be
18 helpful to you. Thank you.

19 CHAIRMAN BLAUM: Thank you. We will take a
20 break for lunch and resume at 1:05.

21 (Whereupon the hearing was recessed at
22 12:45 p.m. to be reconvened at 1:05 p.m.)

23 CHAIRMAN BLAUM: Rev. Doyle has requested
24 that we make a correction to his testimony which the
25 court reporter will now read.

1 (The correction is as follows: I disagree
2 with the opinions of some professionals that children
3 should always be with their parents, particularly their
4 mothers even if the parent demonstrates that he or she
5 is quite incapable of properly rearing the child.)

6 CHAIRMAN BLAUM: Betty Miller, R.N., Migrant
7 Child Development Program (Adams County). I would like to
8 thank you, Betty, for waiting and all the witnesses for
9 coming and being kind enough to wait. We ran far behind
10 time. I also would like to recognize the presence of
11 Representative Jerry Kosinski. Thanks for coming.

12 MS. MILLER: I found it very interesting and
13 the wait was no hardship for me.

14 As a nurse directly caring for children who
15 have been victimized physically, emotionally and/or sexually
16 and as a selected representative on Child Sexual Abuse,
17 I want to give testimony in support of Bills 1565, 1566,
18 1567, 1568, 1569 and 1669.

19 In February, Chairman Strazzella came to
20 Gettysburg College at our invitation to present and discuss
21 these 37 recommendations that he had made. We were ready
22 and waiting to have him, or any public official who is
23 working to change and strengthen the law, come to Adams
24 County because of our frustration with hand-tying laws and,
25 therefore, a system which has not been as effective in

1 protecting the rights and lives of children. Despite all
2 of our efforts to improve the system and to educate the
3 public, we knew that all of our work would not be successful
4 unless archaic laws would change.

5 In spite of all of our meetings; all our
6 discussions with judges, attorneys and district attorneys;
7 all our advocacy for the County Children and Youth Services;
8 all of our grant proposals for prevention education
9 resources and coordinators; all our gifts of books and
10 safety curricula -- in spite of all the time and energy,
11 accomplishments and change, we have not been able to
12 protect children as effectively as we feel necessary. And
13 we won't be able to unless there are great improvements
14 in the law.

15 Present laws do not serve as a deterrent to
16 this heinous crime. Children and Youth Services is given
17 tremendous responsibility but little power. On February 5,
18 Representative John D. Fox of Montgomery County was quoted
19 by the media as indicating that laws should be enacted
20 which will close loopholes and increase criminal penalties
21 for child abusers. We agree with his demand for more teeth
22 in the law and for more responsibility of law enforcement
23 agencies to aid Children and Youth Services in the
24 performance of their protective function.

25 We feel strongly that legal consequences for

1 abusive behaviors can be a part of positive treatment
2 modalities, often be helpful in making abusive families
3 healthy. Indeed, these are often necessary in rectifying
4 unhealthy, unbalanced relationships between children and
5 adults. When an adult has had enough from an abusive
6 relationship, he or she has resources to call upon for
7 assistance or to escape it. But what about a small,
8 helpless victim who is dependent upon adults for care,
9 shelter, food and emotional nourishment, even if minimal
10 in quality or quantity? If an adult commits assault and
11 battery against another adult, he or she would be charged
12 accordingly. Why are we so confused then about the same
13 response when these same behaviors are inflicted upon a
14 child?

15 The law is frustrating, but when you see, as
16 I do, the little faces of children who have been burned;
17 tossed across rooms; demeaned, diminished and demoralized
18 by words; coerced into the confusion of sexual activity,
19 then frustration becomes unbearable. As citizens, we are
20 responsible for our laws. And our current laws border
21 on abusive. These 37 recommendations are not a political
22 issue; these are about humanity. Changing laws is always
23 argued to be expensive. But we contend that not to change
24 Pennsylvania laws, which allow children to be abused, is
25 our most expensive choice. Think in terms of dollars that

1 will be spent in the future for the treatment, hospitaliza-
2 tion, and maybe even incarceration of victims because we
3 have not offered adequate and appropriate protection today.

4 Specific Cases Which Exemplify Poor Laws

5 1. Lebanon County - Three-year old female
6 locked in attic. Food being withheld. Had her admitted
7 to well known medical facility. Mother convinced hospital
8 staff that nothing was wrong. When I examined her, she
9 weighed 26 pounds, losing hair, potbelly and spindly legs.
10 After nine months of me trying to convince people, father
11 takes child to Children and Youth Services and admits that
12 all is true.

13 2. Adams County - Two-year old boy scalded
14 from waist down by mother or paramour. Admitted to burn
15 center, Washington, D.C. Mother kept child, neglected
16 therapy. Child had scarring over genitals, buttocks,
17 and legs. Child taken from mother one year later because
18 culture for sore throat was positive for gonorrhoea -
19 caseworker was aware that teenage mother drank a fifth
20 of vodka a day and smoked marijuana.

21 3. Franklin County - 1983 - Eight-month old
22 boy with flattening of left side of face and head with
23 severe wry neck and enlargements of right occipital area
24 of skull. Right shoulder neck muscles in spasm and enlarged.
25 Child appeared pathetically neglected and had not been held

1 or received any verbal, mental or emotional stimulation.
2 1984 - Child appeared very neglected and very sad, unhappy,
3 unloved individual that I suspected was being physically
4 abused. Child had large human bite mark on right wrist
5 area and appeared malnourished. By now, he had baby sisters
6 who were twins and the pattern was being repeated on them
7 (roaches in bottle nipples, sour milk) when they came into
8 our day care facilities. 1985 - Children placed in foster
9 care and mother jailed when it was reported that mother
10 had gone out of town and left children to fend for
11 themselves in a locked house. Neighbors heard them crying
12 during these two days. Children had multiple illnesses
13 and lived in filth. Children may be back with mother at
14 this time.

15 4. Luzerne County - Three-year old female so
16 brutally sexually assaulted by man of another family
17 sharing same living quarters. Walking was so painful for
18 her, she could not join other children in play. Bruises
19 of every shade discolored her genital region, inner thighs
20 with skin abrasions most evident. Physician stated that
21 it appeared suspicious but would not report. Child left
22 area to follow the stream with her mother who was a migrant
23 worker. There was no father and the other family left the
24 area. Destination unknown.

25 CHAIRMAN BLAUM: I want to thank you for

1 presenting these examples. Could I ask you to skip over
2 the next few and keep going.

3 MS. MILLER: Do not read any more or just
4 leave?

5 CHAIRMAN BLAUM: I thank you for bringing
6 those to our attention.

7 MS. MILLER: Well, I wanted to make an impact
8 on you of how frustrated we are dealing with these patients
9 firsthand. I am a nurse practitioner. I examine these
10 children and it is appalling to me that my statement
11 would not be valid or acceptable in a court in testifying
12 the evidence of sexual abuse.

13 Without question, Pennsylvania's Children and
14 Youth Services agencies have their hands tied through
15 legislation and insufficient funding. Our state and county
16 officials must provide a budget which permits us to
17 implement these urgently needed laws. For the sake of
18 our innocent children, it is ~~past~~ time to politically
19 enforce some concrete changes. Enforcement of punishment
20 for criminal acts perpetrated upon Pennsylvania's children
21 all too often seems to be bungled by our bureaucratic
22 system. For instance, prosecution often hinges upon the
23 testimony of children who are too young to stand up to
24 the rigors of the criminal justice system. We cannot allow
25 our legislators to hesitate to improve the definition of

1 terms such as "child abuse" or "serious injury". If
2 legislation does not make serious improvements in child
3 abuse laws, there can be no excuse.

4 Neither can we allow excuses for current laws
5 to stand on the argument that government must not invade
6 the privacy of the so-called "sanctity of the family".
7 First off, abuse almost always occurs out of sight of the
8 public, making it a private secret between the offender
9 and the young victim. Secondly, if emotional, physical
10 or sexual abuse is taking place within a family, then there
11 is no sanctity within that family for any law to protect.
12 Don't we have to choose to protect the safety of a child?

13 Recommendations Concerning the Task Force Report

14 The bills up for review today meet minimal
15 standards and serve only as a beginning to address this
16 serious problem. This ACCSA group after studying the bills
17 offer support of Bills #1565, 1566, 1567, 1568, 1569 and
18 1669.

19 However, we would like you to address the
20 following questions:

- 21 1. HB #1568 - Does shelter placement insure
22 confidentiality and safety?
- 23 2. HB # 1566 - Subsection 2909, lines 4, 5,
24 6, 7 - What is defined as reasonable concealment?
- 25 3. What has happened to the recommendations

1 that do not appear in the house bills? Will they be
2 considered and possibly sponsored in the very near future?

3 4. Should a child brutally, sexually assaulted
4 have a test for AIDS - Rule of thumb - AIDS is a sexually
5 transmitted condition.

6 5. Provide Child and Youth Services agencies
7 with the authority that will allow them to mandate
8 treatment for offenders and family members of abused
9 victims.

10 We have numerous educational, social, medical
11 and human service agencies, supported by tax dollars,
12 which are mandated to protect abused children -- and who
13 desperately want to do just that. But something is terribly
14 wrong if the number of abused children are increasing.
15 Something is terribly wrong when children are being battered
16 repeatedly by the same perpetrators. Something is terribly
17 wrong when perpetrators can move from state to state or
18 county to county with impunity. Something is terribly
19 wrong when those of us who see abuse firsthand -- and those
20 of us who are mandated to provide forms of protection --
21 are so frustrated that sometimes we spend too much time
22 blaming each other and trying to figure out who is
23 responsible for the system's unresponsiveness rather than
24 trying to implement constructive changes.

25 The bottom line is this: All of us are

1 concerned not just with protecting the civil rights of
2 our children -- we are tremendously burdened by the need
3 to safeguard the future of each member of this society --
4 and society itself. With legislation of these recommendations
5 or ones just as strong legally and morally, Pennsylvania
6 will provide its state and county systems with the
7 desperately needed power for advocacy and protection of
8 its most vulnerable and precious citizens.

9 We, the committee thank you for the opportunity
10 to speak out on these issues. We are grateful that there
11 is such a governing body with the power to change life
12 for these silent victims. I hope I have touched a nerve
13 that will stir your emotions and through wisdom given
14 you by God that your decision will be right and just.

15 CHAIRMAN BLAUM: Thank you very much. Again
16 I think your testimony is very helpful. I was just reading
17 over some of the other examples that I think argue well
18 for the enactment of some of the legislation that we are
19 talking about today. Are there any questions? Representa-
20 tive Hagarty.

21 BY REPRESENTATIVE HAGARTY:

22 Q When you shared these examples that you have
23 reported with us, when you share those with the Children
24 and Youth agencies do they fail to proceed to investigate
25 them?

1 A Sometimes it takes time. Sometimes they are
2 not investigated at all. Sometimes the case is closed
3 very quickly after investigation. I can truthfully quote
4 that 95 percent of all the cases I have presented have
5 gone unresolved.

6 Q What do you think the reason for that is?
7 Is there a reluctance because these children are not
8 apparently --

9 A Well, I have gotten various reasons for that.
10 Some say that their hands are tied because of the reasons
11 of the law. That they cannot remove, and I'm not aware
12 really of each district what their law is, but they cannot
13 remove a child unless there is a court intervention and
14 unless there is a law enforcement agent. Until they have
15 really documented proof, that that child cannot be removed
16 from a family. I was also told that the first rule with
17 the Children and Youth Services is to stabilize and
18 sustain family life. That bothers me because what we
19 are all about is protecting children regardless of how
20 we have to approach that. So I have gotten different
21 readings from different counties of how their protocol is
22 interpreted and carried out.

23 Q What would you say to allegations by the
24 parents that we have heard today, that I have heard on
25 one other occasion, that children are taken from parents

1 for instances of no more than bruising or accidental
2 injury.

3 A Okay, I have had that happen to me because
4 of the cultural group that I deal with. That they believe
5 in disciplining their children and sometimes it is a
6 little harsh, but it is a one-time incident. And through
7 intelligence you can certainly define and separate who
8 would give all of the symptoms of an abuser or who was
9 trying to be a good parent and using a discipline method
10 that they were familiar with. Not really inflicting
11 permanent damage on a child but carrying out what they
12 feel is parental duties and training their child to fit
13 into society.

14 Q My question is do you think there is a problem
15 with agencies taking children who --

16 A I definitely do. Because in many instances,
17 I personally have felt that these children should have
18 been removed, when according to their guidelines they
19 were not.

20 Q I mean from the other side, do you mean it
21 is a problem that there are agencies taking children who
22 should not be removed?

23 A Definitely not, definitely not.

24 REPRESENTATIVE HAGARTY: Thank you.

25 CHAIRMAN BLAUM: Ms. Miller, thank you so much

1 for coming. Deputy Secretary Julia Danzy, Department of
2 Public Welfare. Madam Secretary, thanks for waiting.

3 MS. DANZY: Good afternoon.

4 CHAIRMAN BLAUM: Do you want to introduce
5 your staff?

6 MS. DANZY: I am Julia Danzy, Deputy Secretary
7 of the Office of Children, Youth and Families and this is
8 Jeannine Davis, Legislative Assistant to the Department.

9 Mr. Chairman and members of the Committee,
10 on behalf of Secretary White I wish to thank you for
11 inviting the Department of Public Welfare to testify here
12 today on House Bill 1569 which addresses an issue which
13 could affect us all--child abuse.

14 The family is the single most important
15 element in ensuring the well-being of our children and
16 their future. Preserving the integrity of that unit in a
17 way that supports the proper growth of children is the only
18 way to begin to address the problem of child abuse. If
19 we are to break the cycle of dependency, keeping the victims
20 of abuse from becoming abusers themselves, we must have
21 a system that emphasizes prevention, not one that simply
22 reacts to a situation after the greatest harm has already
23 occurred. We must have a system that allows us to provide
24 a troubled family with the support needed to get beyond
25 situations which result in abuse. Thus averting the need

1
2 to remove that child from the family--an action which harms
3 the development of the child. Secretary White and I both
4 believe that the family is the key to effective child
5 abuse prevention.

6 In 1975, under the leadership of Senator
7 Michael O'Pake, the General Assembly took a giant step
8 forward in responding to the epidemic of child abuse by
9 passing the Child Protective Services Law. This Act
10 requires certain professionals such as doctors, nurses,
11 teachers and day care workers to report instances of
12 suspected child abuse and establish a comprehensive system
13 of reporting, investigation, record keeping, protective
14 custody and services to abused children and their families.

15 The enactment of the CPS law marked the
16 beginning of a substantial effort to identify and treat
17 abusive families. With the establishment of the Childline
18 Program, reporting under the CPSL has increased from
19 6,415 reports received in 1976 to 20,260 reports received
20 in 1987. In 1977, more reports of child abuse were
21 substantiated in that one year (4,498) than were
22 substantiated from 1968 through 1974 under the previous
23 statute. Since the enactment of the CPSL, over 65,000
24 reports have been substantiated as child abuse. In addition
25 to the identification of abused children, the CPSL has been

1 instrumental in increasing the capacity of the counties to
2 respond to the problem through enhanced investigatory
3 systems and the establishment of new services to treat
4 child abuse.

5 While the enactment of the CPSL represented
6 a significant beginning to combatting the problem of child
7 abuse and neglect, our data and experience in administering
8 the law indicate that the law may not go quite far enough
9 in meeting the needs of today's families and children.

10 In limiting child abuse to serious cases of abuse and
11 neglect, the child protective services system often becomes
12 involved when the situation has deteriorated to the point
13 that the only option is to remove the child from the home.
14 For example, if a young child is left alone for several
15 days and survives the ordeal, the county child welfare
16 agency has no authority to intervene under the child
17 protective services law and make sure that child is
18 adequately cared for. It is only after the child suffers
19 some sort of injury as a result of this neglect that the
20 agency has the authority, and is required, to intervene
21 under the CPS law. The only other possible recourse is
22 for the agency to seek an adjudication of dependency
23 under the Juvenile Act and intervene on that basis. But
24 this is also an action which doesn't provide for immediacy
25 necessary for intervention in a timely fashion and should

1 be used only as last resort.

2 We have also found that the impact of drug
3 and alcohol abuse on our society has created a situation
4 whereby children are being born to addicted parents who
5 have no plans for treatment. These are situations which
6 obviously represent families at risk. Once again,
7 however, a county Children and Youth agency has limited
8 authority to aggressively and immediately intervene so
9 as to ensure the child is not harmed.

10 These are the types of situations we believe
11 should be covered under the CPSL. If the county Children
12 and Youth agencies had the authority to intervene, we would
13 be able to provide the intensive monitoring and specialized
14 in-home services (such as treatment for the addicted
15 mother, day care, counseling, etc.) necessary to help keep
16 abuse from occurring, or reoccurring, thus averting the
17 need to remove the child from the family. As I said
18 earlier, Secretary White and I believe very strongly that
19 providing proper support to a family early enough is the
20 only effective way to prevent child abuse. But I would
21 be remiss if I did not point out that any public policy
22 that is made relative to child abuse must recognize that
23 child abuse is a problem which occurs within the
24 constitutionally protected zone of family privacy. We
25 need to be sensitive to the rights of families, parents

1 and children, making sure we intervene only when a
2 sufficient basis exists to suspect that a child is at risk.
3 The following are principles which must guide any
4 recommendation on how to effectively handle child abuse.

5 1. Government intervention into the lives
6 of families through the child protective service program
7 must be limited to those situations where there is
8 reasonable cause to suspect that a child's welfare has
9 been harmed or is at risk of harm.

10 2. When intervention does occur, it is for
11 the protection of children who are harmed or threatened
12 with harm.

13 3. Child protective service intervention must
14 direct its remedial and preventive service efforts for
15 the child within the context of the child's family.

16 4. Child protective services must be provided
17 in the least restrictive, most family-like setting.

18 5. Removal of a child from the home is the
19 most drastic action taken to protect the child from further
20 abuse or neglect and should be viewed by the state as a
21 last resort.

22 6. When a child must be removed from the home,
23 immediate efforts must be undertaken to reunite the child
24 with the family or to find another permanent, stable family
25 for the child.

1 With these principles in mind and as part of
2 the process of considering what changes to the law may
3 be appropriate, I have convened a group of practitioners
4 to discuss and make specific recommendations regarding how
5 the CPS law ought to be changed to allow us to provide
6 preventive services to those families most at risk. Not
7 only are we discussing the extent to which the law needs
8 to be broadened to protect children who are the subjects
9 of, or who are threatened with, abuse and for which there
10 is inadequate authority under the CPS law to assure their
11 protection, but we are also discussing what needs to be
12 done to bring Pennsylvania's definition of child abuse into
13 line with the federal definition. You may have read
14 recently that Pennsylvania is ineligible to receive
15 federal funds because our statutory definition of "child
16 abuse" includes the modifier "serious". In other words,
17 for a child to be considered abused, he or she must have
18 been the victim of "serious physical or mental injury or
19 serious physical neglect". The federal law requires that
20 the state definition include negligent treatment or mal-
21 treatment of a child under circumstances "which indicate
22 that the child's health or welfare is harmed or threatened
23 thereby". It is the opinion of the Federal Government that
24 including the word "serious" in our state definition makes
25 it too narrow in scope and does not include instances of

1 harm or threatened harm to a child.

2 This group of practitioners has already met
3 several times and the Department will be making some specific
4 recommendations. But generally, we believe that any change
5 in the definition must move toward preserving the family
6 structure and not provide additional penalties. We believe
7 very strongly that child abuse cases should be handled by
8 the social services system, not the criminal system. It
9 is only by providing additional services and counseling
10 that an effective program of prevention can be implemented.
11 The social services system is the more appropriate place
12 for that to happen.

13 A change in definition will also need to
14 distinguish between those situations that require immediate
15 action in order to respond to or avert an instance of
16 child abuse and those that are less critical where a longer
17 response time is more appropriate permitting the agency
18 to provide the appropriate attention to all cases.

19 These are admittedly, tentative, general
20 comments, about best ways to protect children and to keep
21 families together. Our working group will help refine
22 these general concepts into more useful, specific ones;
23 they are experts and it is important to have their input.
24 Our comments on House Bill 1569 would echo the comments I
25 have just made regarding what we believe need to be central

1 elements in any proposal to change the definition of child
2 abuse. We support the concept that the definition needs
3 to be changed, but we do not agree that the definition
4 should be broadened to the extent outlined in the bill.
5 Given the impact changing the definition to this extent
6 would have on an already overburdened county welfare system,
7 we cannot support this bill until we understand more
8 clearly the effect these changes would have on the family
9 and the system as a whole. Much more consideration must
10 be given to preventing abuse, preserving the family structure
11 and making sure that removing the child from the family
12 is absolutely the remedy of last resort and that criminal
13 sanctions are only involved in the most serious physical
14 or sexual abuse cases.

15 Thank you for this opportunity to comment.

16 Any questions?

17 BY CHAIRMAN BLAUM:

18 Q Yes. In your testimony back on the last page,
19 you say, we support the concept the definition needs to
20 be changed, and I agree that the definition needs to be
21 broadened to the extent outlined in the bill.

22 Now, as I read the bill, it is the changing
23 definition to broaden it so that it is not just serious
24 injuries which have occurred but threatened serious injuries
25 that have occurred. You don't agree with that?

1 A I agree within the context that we must be
2 clear about what parameters exist in threatened harm to
3 the child. And I don't think we have that specificity and
4 we could be more injurious to children and families if
5 we provide a bill that does not give workers some parameters
6 about which they can feel comfortable and effective in
7 implementing the law.

8 Q But as I understand your testimony, you say
9 you want to bring it into compliance with the federal law.
10 To bring it into compliance with federal law threatened
11 abuse, threatened serious abuse, threatened abuse has
12 to be in there.

13 A Threatened harm, maltreatment, it says neglect
14 and/or maltreatment cases is what needs to be in the
15 federal law. It is not the concept in the general terms
16 of 1569 is the issue, but it is the interweaving with the
17 criminal aspects that must be looked at and looked at
18 closely. Because we currently have an Act 33 that could
19 be very detrimental to a wide population of our Commonwealth,
20 unfairly so. If we do not look at this law to see what
21 would be the impact on families and individuals overall,
22 where do we find that parameter that safely protects our
23 children in a way that it should and at the same time
24 does not overly and unfairly encroach on parents.

25 Q You don't see any cases where criminal prosecution

1 or the law enforcement agency should be brought in?

2 A Oh, on the contrary. There are certainly cases
3 where it is more than appropriate where the criminal law
4 should be brought into it. It has been very helpful
5 in the child protective services arena as related to
6 reporting sexual abuse cases, as related to reporting
7 serious physical abuse cases because the law has been
8 instrumental many times in getting the families to finally
9 acquiesce to some form of treatment. But I think we have
10 to be careful that we don't take a family law and turn
11 it into a criminal law. And that is one of the things.
12 For instance, in some of the components we have been
13 presented in the task force where there was a desire to
14 report all cases of sexual abuse to a child to our system
15 and to the police, you have criminal laws already that
16 can provide some of those pieces. Let's not blend the two.
17 Let's keep the two separate.

18 Q As I read the bill, what it says right now
19 law enforcement gets any child abuse cases that involve
20 death, serious bodily injury, sex abuse or abuse by a
21 non-family member, they go to law enforcement. As I read
22 the bill, it says that they will now get not only death,
23 but someone who threatens to kill. Not only serious bodily
24 injury but an act that would threaten serious bodily injury.
25 Not only sexual abuse, but the threat of sexual abuse and

1 not only abuse by a non-family member but also the threat
2 of abuse by a non-family member. They would be, am I
3 correct, the only cases that would go to law enforcement?

4 A Which if I am correct and what you are saying
5 is add parallel pieces to each part that is already
6 referred. It says, not only would you have committed the
7 act now, but those of you, through some action that could
8 have committed the act, would also be referred. Again
9 I say we have to make sure we define where those parameters
10 are. I think in the dialogue I have had with the Attorney
11 General's staff, there is some agreement where we do want
12 to work together to find where is a comfortable middle line,
13 because it is not their intent also to open up a system
14 that does unfairly pull people into the criminal system.

15 Moreover, I think we all know right now our
16 police departments are in themselves overwhelmed. And
17 should we get into a situation where we are referring cases
18 only to find that that police department will not be able
19 to make any meaningful impact because of constraints in
20 our current laws, what we are going to have is a mockery
21 on our hands and then evidence to that community that we
22 have enacted something that we really cannot enforce.

23 CHAIRMAN BLAUM: I just don't reconcile the
24 testimony because you mentioned the words threatened in
25 there and bringing them into play. Under this bill, it

1 only deals with going to law enforcement under the
2 threatened death, serious bodily injury, sexual abuse or
3 abuse by a non-family member be reported to a law enforcement
4 agency. To me, I don't care who the parents are, if
5 they attempt to kill, you know, we used the example this
6 morning the knife that missed, attempted serious bodily
7 injury for some reason failed, I believe law enforcement
8 should be made aware of that. I would hope that the
9 Department would come to that conclusion before this is
10 all over.

11 Are there any other questions? Representative
12 Hagarty.

13 BY REPRESENTATIVE HAGARTY:

14 Q I am somewhat confused at your obvious overall
15 belief that we must do more to prevent child abuse and
16 not wait until the injury actually happens and what seems
17 to be somewhat of a tone of not supportive of the language
18 in the bill. From what I take it, what you have said is
19 we need to provide more specific language to caseworkers
20 so that they may determine what conduct is reportable.
21 Is that your main objection, the specific language?

22 A It is one. The ambiguity in terms of what
23 will be a threat of harm, serious harm. What will be the
24 latitudes in terms of the police department?

25 Q We are not going to the police department for
a moment.

1 A But I cannot ignore that.

2 Q Well Representative Blaum clearly outlined
3 for you, as I did with the prior witness this morning,
4 what is reportable to the police authorities is very clearly
5 defined. It is only an attempt to cause serious bodily
6 injury which is clearly defined under the code. So I
7 don't understand that problem. I mean, that is clearly
8 defined.

9 Going back to the other issue that you raise,
10 I take it then that you want the language laid out to
11 caseworkers of the type of conduct that you want reported?

12 A Of the type of attempted act that matches
13 a category that would say this one was an attempted serious
14 harm, this is one that definitely threatened a serious
15 harm to a child.

16 Q Can't you do that by regulation?

17 A Yes.

18 Q As the Legislature, it seems to me that our
19 responsibility is to clearly and articulately set forth
20 policy and a prescribed conduct. This is a specific
21 conduct as I have ever seen prescribed. It says attempt
22 to cause serious injury but for happenstance or intervention
23 would have occurred. Why can't the department then, it
24 seems to me embrace this effort in preventing child abuse
25 and set forth, as you are well prepared to do, specific

1 conduct? Instead of coming today to try in some way to suggest
2 that you are just starting a new group and we should
3 just begin looking at this problem.

4 A It is not just starting a group to look at this
5 problem. I guess I really do hold very dearly to the peace
6 that child abuse is a family issue, that it is in the social
7 services arena and that the criminal arena is the one
8 who we turn to for certain aspects of that. But then I
9 have questions in terms of developing a law for the family
10 within the framework of a criminal piece.

11 Q I understand your objection to that. My
12 question is do you object to the new definition of child
13 abuse? It has a definition that is going to have a
14 significant play within the child protective services system.
15 Forget law enforcement. I mean, don't you embrace that
16 definition? Don't you believe that our caseworkers need
17 to be intervening before children are seriously harmed?
18 Why am I noting some doubting of that and expression by
19 this Department of the Commonwealth?

20 A I do believe they should intervene more
21 appropriately and sooner. But I also believe that a law
22 or my commitment to a law with which I still have some
23 ambivalent feelings about in terms of how are we going to
24 safeguard from the criminal and family protective piece,
25 that it would be less than responsible of me, because I

1 like segments of it, to embrace the whole until I have
2 found a level of comfort with it.

3 Q You are telling us you don't like reporting
4 these instances to law enforcement, but you do embrace
5 the definition embodied in 1569?

6 A I embrace the concept in 1569.

7 REPRESENTATIVE HAGARTY: Thank you.

8 CHAIRMAN BLAUM: Representative Kosinski?

9 REPRESENTATIVE KOSINSKI: No questions.

10 BY CHAIRMAN BLAUM:

11 Q How about the people, the caretakers who are
12 going to have to report, the additional people that we
13 would be asking to report, do you have any comments on
14 that?

15 A Oh, in terms of the broader arena of persons
16 we are asking to report such as caretakers, persons of
17 children who are in a position of --

18 Q Yes.

19 A I fully support that. I feel that a grievous
20 wrong was done when teachers were made exempt from the law
21 because they have the most fundamental impact on our
22 children and they spend the greater percentage of their
23 time in their care. So I do believe that that is a very
24 good segment.

25 Q We had a gentleman here from the Luzerne County

1 agency and we talked about the cost and he talked about
2 his concern that, because now we are going to be dealing
3 with threatened serious injury, that he was concerned about
4 the cost and how would that add to it. Has the Department
5 figured out or thought about how much more this particular
6 bill or even possibly the recommendations that you develop
7 yourself, how much more that may cost? What dollars that
8 might be required to come up with?

9 A That is a part of the task force charge to
10 also look at and come up with what are some responsible
11 and realistic fiscal needs in order to accommodate this.
12 But I can say to you fiscal increases would be needed
13 if we were to enlarge the boundaries.

14 Q I got from your testimony the idea that your
15 concern is with the present definition of the law centered
16 around the word serious. That the Department would be
17 thinking about dropping serious?

18 A Yes.

19 Q So it would be any injury then?

20 A In the act of physical or sexual abuse or
21 looking at -- I think there is a definite validity in
22 consideration of repeated instances of neglect and mal-
23 treatment. Because the emotional abuse that abounds in
24 those arenas, sometimes is much more devastating than
25 the actual act of physical abuse.

1 Q So by dropping the word serious, that would
2 enlarge the number of cases that would possibly be
3 considered by our child protective services agencies?

4 A Exactly, yes.

5 Q That was something perhaps I think we can
6 look into. I think the one approach is to keep the word
7 serious and the word threatened and get maybe the opposite
8 from your direction. I think as you are developing these
9 guidelines, if you would at least from my standpoint,
10 probably Representative Hagarty's, that you take back,
11 that presently looking at law enforcement gets involved
12 in the only four areas; death, serious bodily injury,
13 sex abuse or abuse by a non-family member. What these
14 bills recommend is that they also get involved in areas
15 that threaten the death of a child, that threaten serious
16 bodily injury to a child, threaten sex abuse to a child,
17 threaten abuse by a non-family member to a child. I don't
18 believe that that is too broad a parameter for law
19 enforcement to get involved in and to look into. Some
20 kid who has been threatened with serious bodily injury,
21 that is, in my opinion, something for the police to look
22 into. Threatened sex abuse, and that somebody stumbles
23 upon it, so therefore it doesn't happen. The next time
24 somebody may not stumble upon it and it will happen. That
25 person should not only be counseled with services provided

1 but should look into whether or not that person, even if
2 he is (inaudible), whether or not that person is a criminal.
3 May not be. My understanding is people are not prosecuted.
4 They are more often than not even as the definition stands
5 today they are taken and given services rather than
6 prosecute. I would hope you would keep that in mind.
7 We would like to see that included because I believe it
8 is limited to only those four categories. All we are
9 doing is adding the word threatened to those categories.
10 That is something the police should look into. Not that
11 somebody is going to be found guilty. That is something
12 that is just serious enough that the police should be
13 called into to investigate.

14 A I agree with that.

15 Q When do you think the Department's recommenda-
16 tions might be coming down? Can you take a guess?

17 A It is my hope that within possibly about a
18 month and a half from the point we have started already
19 that we should have some consensus on recommendations,
20 which I think is critical, when we are involving
21 practitioners to really look at. Because they are the
22 ones who are going to have to be able to facilitate this
23 or any law so that it makes and it reaches the goals and
24 objectives which was the intent of its being passed.

25 Q Will the Department be considering funding

1 sources? That is something I hope this Committee does
2 as it goes along in developing these bills. I think if
3 we are going to ask our child protective services agencies
4 to do this, I think the Committee should recommend where
5 we will get this money. Hopefully, some imaginative way
6 of raising the money without simply just relying on taxes.

7 A Yes.

8 Q Some way of coming up with some of the dollars
9 necessary to fund this.

10 A I would hope, too, that our leaders will be
11 responsible and that when they legislate, they will also
12 appropriate and not to try to have us find ways within our
13 current budget to accommodate an increased requirement.

14 Q I think if this Committee and the larger
15 Judiciary Committee and draw on members of the House,
16 if it wants this legislation, I think and I hope that
17 you would put them on the spot to come up with the bucks
18 to do it.

19 A Good.

20 CHAIRMAN BLAUM: Thank you very much, Madam
21 Secretary.

22 MS. DANZY: Thank you.

23 CHAIRMAN BLAUM: Ms. Toni Siedl. I hope I
24 pronounced that right.

25 MS. SIEDL: Fine.

1 CHAIRMAN BLAUM: Social Work Department,
2 Children's Hospital, Philadelphia.

3 MS. SIEDL: I am the one person who is glad
4 you are running late because I would not have been here
5 on time. Mr. Chairman, members of the Judiciary Sub-
6 committee on Crime and Corrections, good afternoon. It is
7 a pleasure to be here and a privilege also to address
8 House Bill 1569 amending the Child Protective Services Law.

9 I come to you today as a social worker at
10 The Children's Hospital of Philadelphia, as a former nurse,
11 and as the co-chair of Secretary White's recent Multi-
12 disciplinary Team charged with evaluating practices of the
13 Philadelphia County Children and Youth Agency. At The
14 Children's Hospital I function as the chair of our Child
15 Protection Team and the coordinator of services to children
16 who are suspected to be victims of physical or sexual abuse.
17 I have worked with abused children at CHOP for more than
18 ten years. In the first six months of the current fiscal
19 year our social workers, physicians and nurses provided
20 medical and psychosocial services to approximately 240
21 abused children and families. Abused children and their
22 families, parenthetically, about half of those cases are
23 reported to law enforcement reporting abuse or sexual
24 abuse which is a mandate that we followed for many, many
25 years as per the Crimes Code. Seven of those children died.

1 This death rate is twice the number seen in previous years.
2 Child abuse and the concurrent socio-political problems
3 are escalating nationally as well as locally. This
4 challenges our civil and criminal systems to be informed
5 by the most relevant and current thinking in legal as
6 well as clinical arenas.

7 I have reviewed House Bill 1569 with our team
8 at The Children's Hospital. For purposes of this testimony
9 I will concentrate on the portions of the bill which most
10 closely apply to our work, expertise and experience.

11 First, we appreciate the extension of the term
12 caregiver to include household members, paramours and
13 other child care providers (page 2, line 30ff) but, would
14 also recommend the addition of teachers. As you know
15 all too well, our children spend many hours away from home
16 entrusted to the wisdom and care of teachers. Sadly, at
17 times this trust is violated and children are physically
18 and sexually abused by those to whom we have entrusted them.
19 If day care staff and residential child care staff are
20 included, teachers too should be covered. This can no
21 longer be ignored by those charged with child protection.

22 A second area at issue is the inclusion of
23 "non-accidental act or omission of a caregiver that could
24 have caused a child serious injury but, because of
25 intervention by others or happenstance, did not." (page 3,

1 line 21ff). I realize this is a very controversial point.
2 Surely, these are children at risk and families that need
3 speedy and expert professional intervention. But these
4 are not abused children. By definition they are children
5 at serious risk; you used threatened harm, and county
6 agents have, at the present, the Juvenile Act and the
7 general protective services system which provides very
8 adequately the legal means for entree into the lives of
9 those children in order to promote their safety. When a
10 weapon is involved or a threat with a weapon, law
11 enforcement is mandated to act at this point also.

12 We run a great risk by categorizing every child
13 an abused child in that we tempt an already ambivalent
14 society to become even more desensitized than ever to
15 the words "child abuse". The language used in this present
16 draft is far too open to interpretation to be consistently
17 applied in a nondiscriminatory manner.

18 Regarding the proposed cumulative complaint
19 file (page 9, line 13ff), I again must take issue. When
20 in fact you have, as we do in Pennsylvania, a reporting
21 system that includes mandated as well as non-mandated
22 reporters and where mandated reporters are required to
23 report a suspicion of child abuse, a large number of
24 unfounded reports are both predictable and necessary. We
25 are treading on dangerous ground when we authorize the

1 state to keep records on unfounded cases for two years,
2 especially when the largest number of cases are generated
3 by non-medical and non-mandated reporters and risk factors
4 usually show themselves sooner rather than later after the
5 initial report. When we intrude into the life of a
6 family we must do it not only with good cause, but with
7 meaning. If a county child protective services worker
8 unfounds a case, but perceives risk to the indexed child
9 or another child in that family, it behooves him or her
10 to attempt to engage that family at risk and to offer them
11 services designed to improve family function. Keeping a
12 file without intervention is meaningless to a child at
13 risk for abuse or neglect. One possible solution may be to
14 expand our determining categories from solely "founded,"
15 "indicated" and "unfounded" to an additional group where
16 insufficient information stands in the way of the
17 substantiation of abuse. This is very different from
18 "unfounded" which by definition indicates that no abuse
19 was found. In fact, the maintenance of a pending complaint
20 file if legislated must have specific criteria built in
21 in order to assure that just cause has been demonstrated
22 by selected child protective services personnel to gain
23 access to such files. Another possible safety may be to
24 increase the time allowed to investigate a case from 30
25 to 60 days.

1 Lastly, we appreciate the revised definition
2 of "injury" (page 5, line 25ff). A child injured by
3 inflicted means is just that, an injured child whose
4 psychic and physical pain is his or hers alone and cannot
5 be measured by others. To this point, we have had cases
6 of children suffering from severe whippings with lacerations,
7 requiring suturing whose suspected abuse reports were
8 unfounded because the children's protective service worker
9 saw them hours or even days later smiling and therefore
10 concluded that they were not suffering from a serious
11 injury and had not experienced serious or severe pain.

12 There are several areas significant that our
13 team at The Children's Hospital of Philadelphia would like
14 the Subcommittee to consider for inclusion in this revision
15 of the Child Protective Services Act. They are: (1)
16 sexually transmitted diseases in prepubescent children
17 where the perpetrator is unclear or unknown, (2) serious
18 life threatening injury to a child where the perpetrator
19 is unclear, and (3) infants born demonstrating symptoms
20 of drug withdrawal.

21 The Center for Disease Control has addressed
22 the problem of sexually transmitted diseases with the
23 recommendation to health care providers, "that the
24 diagnosis of any sexually transmitted infection in a
25 prepubertal child should be considered evidence of sexual

1 abuse until proven otherwise."

2 Regarding life threatening injuries which most
3 frequently occur in very young infants who are absolutely
4 dependent on a parent or caretaker. Surely the person
5 responsible for the infant can be and should be accountable
6 for that within the CPS system.

7 And regarding those infants who are experiencing
8 the stressful symptoms of drug withdrawal we would suggest
9 to you that they are indeed injured infants.

10 I urge you to continue with your work on
11 behalf of children bringing full meaning to our society's
12 often recited lip service to children as being our most
13 vital resource by not only passing innovative and
14 thoughtful legislation designed to protect children and
15 enhance family life but also to encourage you to go the
16 full nine yards and allocate sufficient dollars to the
17 Office of Children and Youth and Families in order to do
18 that job in its broadest sense as every nuance and
19 problem of family life cannot be addressed by legislation
20 alone.

21 When a just society identifies children as
22 being at risk, or abused and families as abusive or
23 neglectful it must offer them the opportunity for change.
24 Reporting must be equated with the provision of services
25 that create an environment for constructive change within

1 the family. This requires a great deal of money. It
2 is an expenditure that promotes the humanity and the
3 well-being of children and families. In the long run it
4 will conserve public funds and protect all of our children.
5 Thank you.

6 And I have here for your reference from the
7 red book of the Center for Disease Control for communicable
8 diseases that gives that reference to sexually transmitted
9 diseases. Should I just give it to the reporter?

10 CHAIRMAN BLAUM: A staff member will pick it
11 up.

12 MS. SEIDL: Thank you.

13 BY CHAIRMAN BLAUM:

14 Q On page 2 of your testimony, the last
15 paragraph, a second area at issue is the inclusion of
16 non-accidental act or omission of a caregiver that
17 could have caused a child serious injury, but because of
18 the intervention by others or happenstance did not. Surely,
19 these are children at risk in families that need speedy
20 and expert professional intervention. But these are not
21 abused children.

22 Is that true, they are not abused even though
23 they know, they might be old enough to figure out what
24 was attempted was not successful?

25 A I don't think anybody has figured out how to

1 measure psychological abuse and know that that is the
2 hardest one ever to indicate. And the only people that
3 can really testify to that, and whose testimony is given
4 a whole lot of validity, is a pediatrician or a psychiatrist.
5 It is very hard to measure. We all know that family
6 styles are very different. I can't say that I approve of
7 it and it doesn't do, it cannot be denied. Let's put it
8 that way. But I don't know that it is abuse. And I am
9 real worried about calling everything abuse. I think they
10 are children at risk, because we know that abuse escalates
11 and it gets worse.

12 Q I asked that question, that is the first
13 reason and the second reason is if it is determined that
14 a child is actually at risk should there be somewhere
15 in case the person who puts the child at risk wants to
16 go and work for a day care center? Should there be somewhere
17 where they do these background checks where the person
18 that put one child at risk, should that information be
19 known in case that person applies for certain kinds of
20 jobs involving taking care of children? That to me
21 would be one advantage to calling it abuse. That person
22 is going to be on file somewhere if in fact what is said
23 to occur actually did occur.

24 A I guess what we need is good practice to
25 explore what that behavior means. It is a symptom. If I

1 lock my child out at the door and something could have
2 happened to them, you know, that is potentially dangerous
3 behavior. I think it is a symptom that the protective
4 services system needs to get involved and watch. Now,
5 that may be an isolated incident and it may never go
6 anyplace, but also may go someplace. We have to remember
7 that the people who investigate are also mandated reporters.
8 And when they get in there and see abuse, they can report
9 it themselves and trigger that system.

10 I am just really worried that it is just too
11 big a box to put too many kind of behaviors and it is
12 just too subjective.

13 Q Do you perceive or see the risk out there to
14 children of Pennsylvania that would make it worthwhile
15 to have that big box?

16 A Well I think we have the Juvenile Act and
17 the general protective services system. Whether those
18 files get kept forever is another thing. But I think we
19 have a means right now for getting services to that
20 family. What we need is good risk assessment and
21 meaningful service.

22 CHAIRMAN BLAUM: Representative Hagarty.

23 REPRESENTATIVE HAGARTY: Thank you.

24 BY REPRESENTATIVE HAGARTY:

25 Q On that point, since I understand you have

1 looked into the Philadelphia situation and as a suburban
2 legislator I have shared reading those horrifying stories
3 of what goes on in Philadelphia. My concern is, and I
4 don't know whether it is best where the only thing that
5 we can do is to call threatened harm abuse. My concern is
6 though, I think all of our concern is, are those children
7 at risk when you say that something occurred? And my
8 understanding, and tell me if you think something is
9 occurring in Philadelphia, is that under general protective
10 services, there is really not action being taken to
11 prevent those children from being at greater risk. So
12 I am wondering how do we ensure that they are protected
13 against greater risk?

14 A I agree with you. I don't think enough has
15 been done. The child deaths were very remarkable because
16 most of those deaths, and I don't have the exact number,
17 came into the system as GPS cases. It is what you do
18 with it when you get in there. It was not effective case
19 work. I don't think it was a problem with the law. I
20 think it was a practice problem and is. And there are
21 lots of reasons for that and I am not excusing them,
22 but they are practice issues. It is not legislative ones.
23 How you make the system respond the way it is supposed to.
24 I don't have a real good handle on that.

25 Q I was interested in and I am also interested in

1 the problem which has only recently come to my attention of
2 babies who are born drug addicted or are born to drug
3 addicted mothers, who may not in fact themselves be
4 drug addicted. And I am wondering would a system to deal
5 with this, it seems to me one way you might manage this
6 is that hospitals have to report or what now do hospitals
7 and doctors do to ensure that babies that are leaving
8 hospitals with known addictive mothers are going to be
9 supervised in some way?

10 A They are making general protective services
11 referrals. And I think we need a system that says there
12 are emergency general protective services referrals.
13 Because if that baby is not demonstrating symptoms,
14 that baby is going to go home in two or three days. That
15 is an emergency assessment and that family needs to be
16 seen in the hospital by the child protective system.
17 You can't wait till they go home because these people
18 are not going home, and I hate, these people, I hate when
19 that comes out of my mouth. Many times the children go
20 home to places that really aren't there and the parents
21 are elusive because as defined by their problem.

22 Q I think my whole concern is this is another
23 example under general protective services, I suppose
24 because lack of a mandate, that that is not being given
25 first priority. My obstetrician, who also has a clinic

1 practice has shared with me the fact that he does report
2 to general protective services and his belief is that
3 absolutely nothing is done.

4 A I think it is another one of those areas that
5 need a special team and a special response. We need to
6 see a lot more specialization within children's protective
7 services unit. We need to see special sexual abuse units.
8 We need to see special units who may respond to hospitals
9 with high risk babies. They take a different kind of
10 time response and they take a different kind of expertise.
11 And we need a system to plug these people into.

12 CHAIRMAN BLAUM: It will never happen. We
13 may just barely get enough money to do what --

14 BY REPRESENTATIVE HAGARTY:

15 Q I guess --

16 A I want to say the cost to society is so
17 extraordinary because babies are at incredible risk for
18 learning disabilities, other kinds of health care problems.
19 We have to track not giving kids services is extraordinarily
20 expensive. It depends whose pocket it is coming out of.
21 So I think one of the recommendations we made in the past
22 is to have an office of children that deals with the
23 health issue so that everything can mesh together and
24 comes out of one pocket. I'm going to go off on my wish
25 list.

1 Q My other question, on this issue, I understand
2 some of your concerns with calling threatened conduct,
3 although I don't entirely agree, I agree with you it's
4 response and not the term that we want. Do you think
5 by creating a new category, but by dealing with it as an
6 abuse that that might be a way? I am concerned that it
7 be given the priority that occurred. You are not going
8 to see those children, obviously, in a hospital before
9 their intervention. Should we call it something else
10 but still cover threatened conduct in a more serious way
11 than under general protective services is covered?

12 A I don't know or do we just bolster the GPS
13 system and maybe mandate a different kind of response
14 to those by county protective services. Bob Schwartz is
15 two speakers down from me. He and I had a long discussion
16 and went over the GPS system on the train. I think he
17 certainly has a very good handle on it.

18 REPRESENTATIVE HAGARTY: Thank you.

19 MS. SEIDL: Thank you.

20 CHAIRMAN BLAUM: Representative Kosinski.

21 REPRESENTATIVE KOSINSKI: Nothing.

22 CHAIRMAN BLAUM: Thank you very much. Captain
23 Roger Peacock and Trooper Jacob Ruth, Missing Persons Unit,
24 Pennsylvania State Police.

25 CAPTAIN PEACOCK: Mr. Chairman, Committee Members,

1 the Pennsylvania State Police welcome the opportunity to
2 address this House Judiciary Subcommittee concerning these
3 important bills. We will briefly touch upon each of the
4 bills before the Committee for testimony.

5 House Bill 1565

6 The State Police have always been concerned
7 about missing persons, conducting investigations in our
8 primary jurisdiction, preparing circulars for dissemination
9 to other jurisdictions, and making manual comparisons of
10 information received from other police agencies. While
11 we have continually been involved in the investigation of
12 missing persons in our jurisdictional area, we have not,
13 nor has anyone else in the Commonwealth properly addressed
14 the problem on a statewide or interstate basis. Subsequently,
15 the absence of any correlation of the information available
16 concerning missing persons and unidentified persons leaves
17 a void in the system through which much valuable information
18 falls that would be extremely useful in the location and
19 identification of missing persons.

20 Recognizing this problem, along with the growing
21 public concern, the State Police established the "Missing
22 Persons Unit" within the Bureau of Criminal Investigation
23 in October 1985.

24 Coordination and technical support functions
25 are performed by this unit. We provide technical and

1 investigative assistance and coordination to agencies
2 involved in the investigation of missing persons, upon
3 request.

4 One of the first things we discovered after
5 establishing the unit was that the subject of missing
6 persons, particularly missing children, is fraught with
7 confusion and controversy. Statistics cited to describe
8 the problem of missing children have been all too often
9 inflated by conjecture and inappropriate extrapolation
10 from limited data. We found that existing data sources are
11 insufficient to permit or facilitate either a direct
12 count or a statistically valid estimate of the number of
13 missing children. The Missing Persons Unit, working in
14 conjunction with the Bureau of Records and Information
15 Services, have restructured the Commonwealth Law Enforcement
16 Assistance Network (CLEAN) Missing Person File to address
17 the deficiencies in reporting and data entry. This system
18 has been designed to correlate the data entry categories
19 with the categories generally recognized as appropriate
20 for the identification and description of missing children.
21 When the plan is fully implemented we will be able to
22 report not only the number of children missing in each of
23 the five NCIC categories, but also such other data
24 necessary to report accurate statistics. The system will
25 also house a "history file" of habitual runaways, which

1 should prove most useful to investigators. As an adjunct
2 to the CLEAN Missing Person File, we have developed the
3 "Missing Person Report." This form was designed with a
4 twofold purpose. First, to ameliorate the "initial
5 response phase" of a missing person case; and second, to
6 facilitate the CLEAN Missing Person File entry, in that,
7 the first 36 blocks of the report mirror the preformatted
8 CLEAN screen. We have encouraged the law enforcement
9 community to adopt a "Missing Person Report" similar to
10 ours; however, this has met with limited success.

11 Members of the unit conduct seminars for law
12 enforcement and other agencies concerned with missing
13 persons, particularly missing children and the crimes
14 committed against children.

15 The unit publishes a quarterly missing/wanted/
16 unidentified person bulletin, which is distributed to every
17 law enforcement agency in the Commonwealth as well as
18 every State Police department in the United States. The
19 bulletin contains flyers on missing/wanted/unidentified
20 persons, an "information section" which addresses issues
21 concerning missing children and the crimes committed
22 against them, investigative tips, and serial crimes as
23 described and contributed to the State Police by the law
24 enforcement community.

25 The unit has published and distributed two

1 brochures; the first - "Protect Your Child" which lists
2 body safety tips and techniques; and, the second -
3 "Preventing Child Abduction and Child Runaway" which
4 lists measures to be taken by a parent to prevent an
5 abduction, what to do if your child has been abducted,
6 a guide for parents to spot a potential runaway and what
7 to do if your child has run away.

8 Section 301.1, Paragraph (I) is especially
9 important to the operation of the Missing Persons Unit.

10 Presently, we are not permitted to computerize
11 or otherwise automate investigative and intelligence
12 information regarding missing, sexually abused or sexually
13 exploited children. The preclusion of the use of computer
14 technology in this area also precludes the efficient sharing
15 of information throughout the criminal justice community.
16 The current options available to investigating agencies
17 in Pennsylvania to request and disseminate information on
18 missing or abused children is limited to:

19 1) Uniscope messages (with the hope interested
20 investigators will see it);

21 2) Police Information Flyers (of which
22 contents and dissemination is limited); and,

23 3) Media and Newspaper Coverage (which
24 valuable investigative information is, of course, not
25 included).

1 Information is an investigator's stock and trade. In
2 today's highly transient society, serial crimes frequently
3 transcend jurisdictional boundaries and an automated or
4 electronic criminal justice information system can play an
5 effective role in identification of relationships between
6 these crimes that may otherwise be perceived as isolated
7 incidents.

8 We sincerely believe that the implementation
9 of a legislatively mandated "Missing Persons Unit," and
10 an extension of the Pennsylvania State Police investigative
11 activities already in place, will provide the citizens of
12 Pennsylvania, law enforcement in general, and state
13 government with a means for a realistic approach to a
14 serious problem of great public concern.

15 House Bill 1566, Section 2908, Missing Children, Paragraph
16 (A.1) - Unidentified Deceased Children

17 It is of obvious value to the investigation
18 of a missing child case to be able to check the child's
19 description not only against the descriptions of other
20 missing children, but also against the description of
21 unidentified children. The CLEAN/NCIC systems include an
22 Unidentified Persons File, and the State Police have
23 encouraged local law enforcement agencies and coroners to
24 enter into the file descriptive information on
25 unidentified persons.

1 There is no law, however, that requires such
2 entries, and the response to State Police encouragement
3 has been inconsistent. During the recent past, the most
4 entries in the CLEAN/NCIC Unidentified Persons File has
5 been 21. There are not any children entered as of this
6 date.

7 Consideration should be given to amend the
8 bill and delete the word "deceased". Any unidentified
9 person, whether an adult or a child, living or dead,
10 should be entered into the system immediately.

11 Section 2909. Concealment of Whereabouts of a
12 Child. This amendment to the Crimes Code is intended
13 principally to address the problem of parental abduction
14 in situations where no court order adjudicating the
15 relative custody rights of the child's parents or legal
16 guardians. Currently, parental abduction implicates the
17 crime of "Interference with Custody of Children," but
18 only if the parent or guardian from whom the child is taken
19 has custody of the child pursuant to a court order.

20 In many situations, parents are living apart
21 and handling matters of custody and visitation by agreement,
22 oral or written, without the involvement of a court.
23 When these situations break down and one parent takes and
24 conceals the child from the other, the parent deprived of
25 contact and left without knowledge of the child's

1 whereabouts can get no help in locating the child from
2 local, state, or federal law enforcement authorities
3 because the other parent has committed no crime.

4 Relative custody rights are irrelevant to the
5 prohibition against concealment, which is based on the
6 premise that both parents are entitled, at least, to know
7 the whereabouts of their child. The two exceptions will
8 protect a custodial parent from harassment by the non-
9 custodial parent. To enact this separate crime that
10 prohibits not the taking of the child from the other parent,
11 but rather the concealment of the child's whereabouts from
12 the other parent is a viable solution to the problem of
13 eliminating the requirement of a court order from the
14 "Interference with Custody" statute. Enacting this statute
15 will keep law enforcement out of the impossible position
16 of having to ascertain, without the guidance of a court order,
17 whether the parent who took the child was acting legally.

18 Section 2910. Luring a Child into a Motor
19 Vehicle. Luring a child into a motor vehicle may be the
20 initial step in a kidnapping. If, however, the act is
21 promptly interdicted, it may be very difficult to convict
22 the perpetrator of kidnapping or even attempted kidnapping,
23 since both crimes require proof that the perpetrator
24 intended specifically to kidnap the child. Even an
25 unsuccessful attempt to lure a child into a motor vehicle

1 can terrorize a family or a community. It is important
2 to deter and punish such conduct.

3 Section 3101. Definitions. (Adding a
4 definition of "Sexual Molestation".)

5 A serious gap in the Pennsylvania Crimes Code
6 is the absence of a provision that adequately protects
7 young children from penetration of the vagina or rectum
8 by hand, finger, or foreign object, from "dry" intercourse
9 where the perpetrator rubs his or her genitals against
10 the child's genitals or genital area, and from sexual
11 fondling of the genitals. Such acts are common forms of
12 child molestation and are often preparatory to actual
13 intercourse with the child. Such acts, moreover, may be
14 as traumatic to the child physically and emotionally
15 as completed intercourse.

16 Section 3122. Offenses Against Children.
17 This amendment enacts the crime of "child molestation,"
18 defined in Section 3101 (definitions) as amended by this
19 bill. Currently, a person accused of sexual crimes against
20 children may be charged with indecent assault or corruption
21 of a minor. Both crimes are misdemeanors (second and first
22 degree respectively), while indecent assault, in particular
23 requires proof that the child did not consent.

24 This amendment also establishes 14 as the age
25 at which consent becomes pertinent and parallels the crime

1 of statutory rape. Establishing the crime of "child
2 molestation" as a third degree felony underscores the
3 seriousness of the prohibited acts, while at the same time
4 affording the trial judge ample discretion in sentencing
5 to account for the age of the victim, the extent of the
6 molestation, and the circumstances of the offense.

7 Section 5902(E). Patronizing Prostitutes.

8 The treatment of child prostitutes and those who patronize
9 child prostitutes has stood as an obstacle, both symbolic
10 and real, to the positively directed efforts of some
11 police departments to help children involved in prostitution.
12 Symbolically, the harsher treatment of the child reinforces
13 the child's likely negative attitudes toward police and
14 others concerned for the child's welfare. Realistically,
15 the weakness of the prohibition against patronizing makes
16 it difficult for police to justify the commitment of
17 resources to the intelligence and surveillance efforts
18 necessary to attack child prostitution.

19 The law recognizes the sexual exploitation
20 in the promotion of child prostitution since the Crimes
21 Code renders promoting the prostitution of a child under 16
22 a third degree felony. The law, however, gives minimal
23 recognition to the exploitation involved in patronizing
24 a child prostitute since the act of "hiring" a prostitute,
25 under the Crimes Code, is a summary offense regardless of

1 the prostitute's age.

2 I'll address Section 6312 (Sexual Abuse of
3 Children) in House Bill 1669.

4 House Bills 1567 and 1568

5 Many children missing from their home and
6 community are enrolled in schools, day care facilities
7 and boarding homes in other communities. This is
8 particularly true of children who have been abducted by
9 a parent. Most of these children, experts believe, are
10 enrolled under their legal names. The enrollment records
11 of schools, day care facilities and boarding homes are
12 particularly valuable resources in the search of missing
13 children.

14 The State Police are able to perform CLEAN/NCIC
15 checks at a rate in excess of 100 per hour and that,
16 within existing resources, we can perform reasonably
17 timely checks of all children enrolled for the first time
18 on a new or transfer basis in schools, day care centers
19 and boarding homes throughout Pennsylvania.

20 These House Bills are also compatible with
21 House Bill 1565, Section 3.1, which would require
22 establishment of procedures to submit to the Pennsylvania
23 State Police the names and dates of birth of children
24 entering schools or other facilities as is required by law,
25 to check the names and dates of birth submitted against

1 the missing persons file.

2 The Pennsylvania State Police urge the passage
3 of these bills.

4 House Bill 1669

5 Described dispassionately, child pornography
6 is the record of an act of a child's sexual abuse. The
7 Crimes Code currently prohibits the possession of child
8 pornography, but only if it can be proven that such
9 possession is "for the purpose of sale, display for sale
10 or transfer". The homemade production and barter exchange
11 that characterize the industry of child pornography, however,
12 render the distinction between possessor and purveyor
13 elusive and proof of intent to sell, display for sale, or
14 transfer extremely difficult.

15 The interest in child pornography is generated
16 by individuals who are sexually stimulated by depictions
17 of sexual activity with children. Some of these individuals
18 are categorized as "pedophiles," a person whose sexual
19 interest, fantasies and arousal focus on children.
20 Pedophiles may use child pornography for their own stimula-
21 tion and justification, and will also use this material
22 to break down the inhibitions of children who are intended
23 victims. Some of these individuals will take photographs
24 of their sexual victimization of a child not only as a
25 reminder of the event, but these photos, films or videotapes

1 may eventually be processed into commercial pornography.

2 These children not only have to live with the
3 victimization they have experienced but the possibility
4 of the photographs and/or films surfacing later will haunt
5 them for the rest of their lives.

6 It should be the goal of law enforcement to
7 eradicate child pornography. The Supreme Court of the
8 United States has held clearly that child pornography
9 is not protected by the First Amendment of the United
10 States Constitution.

11 The Pennsylvania State Police is in favor
12 of this bill. It would give law enforcement an added
13 weapon in the battle against child molestation and would
14 recognize that the perpetuation of child pornography is
15 as much a form of child sexual abuse as its production
16 and distribution.

17 That concludes our testimony. Again, I
18 would like to thank this Committee for the opportunity
19 to testify in behalf of these important bills.

20 CHAIRMAN BLAUM: Thank you for the detailed
21 testimony.

22 BY CHAIRMAN BLAUM: (To Captain Peacock)

23 Q Two questions I have. What do you think about
24 the ages of 14 for molestation and under 16 being the
25 child prostitute? What do you think about those ages?

1 A To reduce them or to increase them?

2 Q Are they high enough?

3 A Are they high enough, I believe so. Most of
4 your child prostitutes are those that are brought in
5 for prostitution initially are under the age of 16.
6 So it would suffice.

7 Q How about a 17 year old girl?

8 A It would fall under the other statutes of
9 statutory rape.

10 Q I understand. What do you think about upping
11 the age from 16 to 17?

12 A I don't think it would make it clearer. I
13 don't think it would make any difference in the enforcement
14 of the act, because of the fact when people enter into
15 prostitution, they are below the age of 16 anyway. If we
16 are going to arrest a subject who is patronizing an
17 individual --

18 Q A 17 year old.

19 A A 17 year old would fall within the statutes
20 as they are written anyway.

21 Q A summary offense?

22 A Right.

23 Q That is what I am saying. Here it is a third
24 degree felony if the prostitute is 15 years of age, 11
25 months. Why in your opinion should it not be a third

1 degree felony if the prostitute is 17 years, 11 months?

2 A It would be a good forum to change it and we
3 would have to change the Juvenile Act also to coincide
4 with this. Basically that is it. Taking into consideration
5 the other acts.

6 Q And the age of 14 for child molestation. What
7 about the 15 year old child?

8 A Basically, the age --

9 Q Any reason?

10 A There is no reason. I mean, you could make
11 it 15, you could make it 16. Whoever is writing the
12 bill. We will enforce the law no matter how it is written.

13 Q I thought there were reasons why --

14 A Well, 14 was picked out for the reason being
15 the Juvenile Act. We were just paralleling that right
16 now. You could change that any time.

17 REPRESENTATIVE KOSINSKI: Two comments. I
18 just want to comment that most of the ages were picked
19 at to these other references in the law to where we
20 protect juveniles. That is why it may seem like arbitrary
21 to you, but certainly ages were picked.

22 Two comments. First of all, I am trying to
23 alter a bill right now based on the California statute
24 that would make photo processors and tape processors
25 report to law enforcement agencies whenever they get child

1 pornography across their operations. Right now there is
2 no reporting requirements on such people to go to the police.
3 There even may be somewhat of a civil liability if they do that.
4 So we are basing our legislation, it should be out soon,
5 based upon the California statute.

6 Also, as far as soliciting a prostitute,
7 the House Judiciary Committee last week unanimously passed
8 a bill that would make these solicitations of a prostitute,
9 given the same criminal penalties for that as would
10 prostitution, which would be a third degree misdemeanor,
11 maximum one year in jail, maximum \$2500 fine. I am proud
12 to say it was my bill, due to a number of problems that
13 were happening in my neighborhood, not just with prostitutes
14 but with juvenile prostitutes. So I think we might as well
15 go out there and get the johns as well as the prostitutes.

16 CAPTAIN PEACOCK: It goes a long way in helping
17 the enforcement aspects if you can justify the means.

18 CHAIRMAN BLAUM: No further questions. Thanks
19 for coming. Robert Schwartz, Juvenile Law Center.

20 MR. SCHWARTZ: Thank you for giving me an
21 opportunity to comment on proposed amendments to the Child
22 Protective Services Law and other proposals that respond
23 to the Attorney General's Task Force on Violence Against
24 Children. As an attorney with the Juvenile Law Center,
25 I have spent almost 13 years representing children who are

1 dependent, delinquent or emotionally disturbed. I have
2 also had the chance to travel throughout the Commonwealth
3 and compare how children are served elsewhere. The JLC
4 staff has written extensively on child abuse, and I offer
5 for the Committee's use copies of our publication, "Child
6 Abuse and the Law." (free of charge)

7 I have no major disagreement with House Bills
8 1669, 1565, 1566, 1567, or 1568. My comments this afternoon
9 deal with House Bill 1569, which proposes changes to the
10 Child Protective Services Law (CPSL). I submit that the
11 bill's proposed changes in legal definitions will not
12 improve child protective services because inadequate
13 practice is the root of the problem. Instead of focusing
14 on definitions, legislative initiatives should focus on
15 expansion of service delivery.

16 Most of my child abuse representation takes
17 place in Philadelphia. I know of your interest in the
18 response of Philadelphia Department of Human Services (DHS)
19 to reports of child abuse. The shortcomings of DHS and
20 its child protective service are well documented--I'm
21 sure that you have seen Secretary White's Multi-Disciplinary
22 Team report. To the extent that DHS shortcomings have led
23 to additional harm to children, I suggest that those short-
24 comings will not be cured by changing the law. In the end,
25 these are issues of practice, not issues of law. They are

1 questions of risk assessment and risk management. They
2 are questions of well-trained workers with adequate
3 supervision, with manageable caseloads, with services that
4 enable them to respond to families in distress, and with a
5 knowledgeable, well-staffed court. House Bill 1569 does
6 not address these issues.

7 Let me suggest a context for analyzing amendments
8 to child protection legislation. First, legislation should
9 address the problems it is intended to address. Second,
10 legislation should be part of a comprehensive solution to
11 those problems. Third, legislative solutions should be
12 fair and efficient, and they should limit the likelihood
13 of unintended consequences. House Bill 1569 falls short
14 in all three areas, and may do more harm than good.

15 1. Legislation should address the problems it is intended
16 to address.

17 The task force recommendations for changing the
18 CPSL have as their main goal providing better protection
19 for children. The question is, what about the present law
20 fails to protect children adequately, and how would these
21 recommendations change that?

22 The law is embodied in the statute -- the CPSL --
23 and in Pennsylvania Department of Public Welfare regulations
24 which implement the CPSL. The regulations governing general
25 protective services and those governing child abuse have

1 the force of law.

2 The current general protective service
3 regulations require the children and youth agency "to
4 promptly investigate and evaluate every report of neglect,
5 abuse and exploitation..." The agency "shall accept
6 all referrals for prompt exploration. Decision to continue
7 casework help, to initiate court action, to make a
8 referral to another agency, or to withdraw, shall be based
9 on the intake study." The agency shall initiate court
10 action if parents are unwilling or unable to remedy the
11 conditions leading to the intervention.

12 The child protective services regulations are
13 quite detailed, and in all material respects are as
14 demanding as the proposed amendments to the CPSL. The
15 current regulations define "person responsible for the
16 child's welfare" to include a babysitter, step-parent,
17 day care staff person -- in short, any person who has
18 "permanent or temporary care, supervision, or control of
19 a child in lieu of parental care, supervision, and control
20 either by legal authorization or consent of the parent."
21 Serious physical injury currently includes a non-serious
22 injury which "is accompanied by physical evidence of a
23 continuous pattern of separate, unexplained injuries to the
24 child." Serious physical neglect includes a physical
25 condition caused by acts or omissions which impairs the

1 child's functioning, or endangers the child's life or
2 development, as a result of "prolonged or repeated lack
3 of supervision" or "failure to provide essentials of life..."

4 House Bill 1569 would amend the definition
5 of child abuse to include an act or omission that could
6 have caused serious injury, but didn't because of third-
7 party intervention, and repeated acts that, if repeated,
8 "would more likely than not cause serious injury." The
9 latter does not do more than current regulations already
10 do. The former is inexplicable. Any mandated reporter
11 has the right to report such incidents, and any professional
12 would report such incidents. The task force report refers
13 to the shaken baby, or the baby hurled against a wall,
14 but escapes injury, as examples of the former. The
15 question is not whether such incidents would be reported,
16 but whether they would be acted upon. The general
17 protective regulations require action in those cases now.

18 Thus, it strikes me that this is really a
19 practice issue, rather than a matter of law. If county
20 agencies are not now responding to such incidents, despite
21 their legal responsibilities, then I would look to why not,
22 and address that question, because the same reasons
23 are likely to undermine any new legislative efforts.

24 Having said this, I believe that there is room
25 for a minor expansion of the law. I suggest that you look

1 at the "Guidelines for a Model System of Protective
2 Services..." published by the National Association of
3 Public Child Welfare Administrators. These guidelines
4 have a definition of child abuse that includes "serious
5 harm" to the child and includes in the definition a recent
6 act or omission that "presents an imminent risk of serious
7 harm..." This slight expansion of present law should cover
8 the cases missed by current law and regulations.

9 2. Legislation should be part of a comprehensive solution.

10 When practice is the problem, it is necessary
11 to address service delivery. Rather than altering legal
12 definitions, it would be sounder to promote better use
13 of existing services. You might link enhanced child
14 protection with enhanced family preservation efforts,
15 like those proposed in a bill now resting in the Senate.
16 That bill, S.B. 1385, is aimed at responsibly protecting
17 children in their own homes in order to reduce the human
18 and fiscal costs of separating a child from parent. You
19 might also target a percentage of Act 148 money for service
20 delivery from several systems, including mental health/
21 mental retardation. This would be augmenting the model
22 of the Child and Adolescent Social Service Program (CASSP),
23 which doesn't create new services, but which mandates
24 efficient interagency cooperation for dependent or
25 delinquent children with emotional problems. Intake would

1 still be done by the children and youth agency, but it
2 would have more than one system to draw upon for service.
3 Integrated services have long-term payoffs, and are part
4 of the solution to our current practice problems.

5 3. Solutions should work fairly and efficiently.

6 Perhaps because it is a Task Force of the
7 Attorney General, "Violence Against Children" has a
8 decided law enforcement bent. We have to ask under what
9 circumstances it is appropriate to allocate child protection
10 to law enforcement.

11 Law enforcement is based on a punishment model
12 that deters illegal conduct through incapacitation,
13 deterrence and rehabilitation. Law enforcement targets
14 non-family members and family members alike. The child
15 protective service protects the child through family-based
16 intervention or placement, and is aimed at intervening
17 in abuse by members of the household. There must be an
18 allocation of responsibility between the two systems.

19 The present CPSL allocates responsibility
20 sensibly. In serious cases of abuse there is reporting
21 to law enforcement, which vindicates society's interest
22 in deterring similar conduct, and in incapacitating the
23 serious offender. In this area law enforcement overlaps
24 with child protective services, but that is inevitable.

25 (I agree with the task force's recommendation for an

1 interagency protocol.) There is no need, however, to
2 require reporting to law enforcement of "acts or omissions
3 that...could have caused serious bodily injury," or of
4 "cumulative acts or omissions that, if continued or
5 repeated, would more likely than not cause serious bodily
6 injury..." What is law enforcement to do with that
7 information? Why burden police with those cases, which can
8 just as easily be handled by child protective services?
9 This is unnecessary work, with no increase in child
10 protection. Moreover, it has been my experience that
11 bringing law enforcement into borderline cases, where risk
12 can be managed in the home, may have the unintended
13 consequence of undermining the goal of protecting the child
14 in the home where possible.

15 Similarly, the cumulative complaint file, as
16 proposed, has potential for great mischief, opens this
17 area to enormous discretion, and has the potential of
18 permitting intervention into children's lives for cases
19 of unfounded abuse.

20 There seems to be a sense that bad social work
21 practice is a function of inadequacies in the law. I hear
22 that child protective services workers refuse to accept
23 complaints, using a self-declared triage to avoid taking
24 on new work. We hear of deaths of children who are known
25 to children and youth agencies. But those deaths occurred

1 after cases were opened, when cases were accepted. The
2 problem was in the delivery of services after the cases
3 were already in the system.

4 So, pass the missing persons and crimes code
5 legislation but give protective services another look.
6 Address the real issue of service delivery. Do this
7 through initiatives which follow the overall philosophy
8 of Act 148 funding, and which recognize the importance
9 of family preservation services. Demand that DPW enforce
10 current law, and allocate funds to enable counties to
11 provide required services. My staff and I would be happy
12 to join you as you look at these issues. Thank you.

13 CHAIRMAN BLAUM: Thank you.

14 BY CHAIRMAN BLAUM:

15 Q What about just for the sake of coming in
16 compliance with federal law to obtain maybe \$300,000 as
17 a reason to adopt the changes in the law?

18 A My guess is that your cumulative complaint
19 file alone would cost more than that in terms of implementa-
20 tion.

21 Q But if what you are saying is that which is
22 contained in the recommendations already have the force
23 of law anyway, why not do it just for the sake of coming
24 into compliance with the federal law to get the money?

25 A That is a good question. I guess the question

1 is really one of the impact on the registry, on required
2 investigations of cases that are not serious, within 24
3 hours and whether or not funding will actually follow to
4 counties to enable them to protect those children in a
5 timely way.

6 Q You are an expert in this and I am just learning
7 about this over the last few months in preparation for
8 these hearings.

9 A Let me say that we are all struggling with
10 this. I hear what Representative Hagarty said, her
11 position, and I hear what Representatives have said.
12 In terms of how we make the systems work, I don't have any
13 easy answers. I am not convinced that this is the way to
14 make them work, but I am happy to engage this.

15 Q First of all, when I see us losing \$300,000,
16 then I read that 49 states call threatened serious harm
17 abuse and Pennsylvania doesn't, to me that means, you know --

18 A I would have no problem with that, Mr. Chairman.
19 I think that that is similar to imminent risk. If that
20 would get us money, I think we can do it. But I think
21 that, thinking that that will solve our problems of
22 child protection won't do it.

23 Q I agree.

24 A I think that is where we are arguing.

25 Q I think we're talking about two different things.

1 I'm concerned by what you say that much of this already
2 has the force of law in regulation and perhaps may not be
3 being done. That concerns me first of all.

4 A It is very, very common. We hear this throughout
5 the Commonwealth. We particularly hear it in the City
6 of Philadelphia but we do hear it from other counties as
7 well. That workers hang up the phone if it doesn't fit
8 into the CPS definition, which to me, is astounding. I
9 mean the regulations are very, very clear.

10 Q That may be part of the push behind the
11 recommendations is to realize when it goes into general
12 protection not a heck of a lot happens. So darn it, let's
13 make a law that it has to go into CP.

14 A I am convinced that it is the intent behind
15 the proposals and I think that that intent is laudible
16 and I don't disagree with that. I am not convinced though
17 that that will accomplish the task in and of itself.

18 Q I am not saying it will.

19 A Right. Our efforts ought to be examined,
20 what about the systems in terms of intersystem communications,
21 relationships between CPS law enforcement, GPS, staff
22 training, definition of abuse, prevent counties now from
23 responding to GPS cases. I think that is the hard question.

24 Q I'm beginning to wonder why we have the two
25 in the first place. And I don't know what one does

1 differently than the other except, you know, there is a
2 slight difference of the level of seriousness I guess.
3 Why not all go to CPS and let CPS handle them differently?

4 A Well it is partly a question of what goes into
5 the registry, what goes into the 24-hour investigation.
6 It is, the level of testimony under the CPS is a little
7 bit different in terms of requirements. You have fewer
8 privileges. Their difference is in the CPS element of
9 what a court is supposed to operate under the Juvenile Act.
10 If you had sound risk management tools to begin with, you
11 wouldn't need a CPSL charged with separating the most
12 serious out and saying you have to treat these differently.
13 But what we have seen, by and large, especially with the
14 very, very high turnover at county agencies with supervision
15 that is less than tutorial in terms of this area, we see
16 a risk assessment that has not done very well. Add that
17 is the reason why you have the CPSL. We are making
18 crystal clear, no matter what else you have to do, there
19 is a certain kind of case you have to investigate and
20 those are the most serious. But even those, you know,
21 with respect to law enforcement, we have rape cases,
22 we have represented kids, that have to wait years in
23 Philadelphia because of the backlog. If the defendant
24 is out on bail, somebody could get hurt.

25 The notion that creating in the Law Enforcement

1 Act isn't giving the police more to do somehow will make
2 a difference, isn't addressing what we, as practitioners,
3 see every day as obstacles to serving our client.

4 Q What are the obstacles?

5 A The obstacles are, in one sense, worker
6 training and accountability within the agencies. The
7 MDT report laid out the obstacles in Philadelphia. And
8 I think some of those are reputable in other counties.
9 Although there are certainly varying scales of service
10 delivery within county agencies. The variables are
11 crystal. We have a fragmented service delivery system.
12 And there was a suggestion earlier about office of children.
13 I think that is important. I think it is crystal clear
14 that we cannot serve fragmented families with fragmented
15 services and yet we try to. The children and youth system
16 is a catchall for all things. And maybe that is the door
17 it should enter, but we don't have entitlements out of
18 MH/MR. We don't have specialized foster care. We don't
19 have statewide incentives for foster care recruiting.
20 We have major problems in terms of resource allocations.
21 So the problems are many. And I can list a hundred more,
22 but I know that there are other people to testify. I
23 would be happy to do that and see if together we could
24 try^{to} achieve the goals that this is trying to do in a
25 way it won't have people saying that all of these are the

1 same in some sense. Which I think, if we allow the workers
2 to do that, let's say threat is the same as serious harm,
3 that is what the statute now requires, then we might be
4 worse off. If we had competent workers, competent
5 supervisors, competent system, we might be able to --

6 Q I don't think anybody is saying that the threat
7 is as bad as somebody who actually does it. But I think the
8 motive behind the recommendation is to kick in the services
9 when the threat occurs. So hopefully, you won't have, you
10 know, it is mentioned by the Deputy Secretary about preven-
11 tion, being able to kick in all the services that it can
12 provide on a threat of harm. I look at that as preventing.

13 A If I could get services now for clients under
14 serious harm, then I would be supportive of that. But
15 it is very, very hard to get services for kids where the
16 injury is visible.

17 Q That is a separate question.

18 A Right.

19 Q If you had the money would you agree with
20 changing the definition?

21 A If I had the money.

22 Q Is it a good idea?

23 A If there are some other refinements, then I'd
24 say, yes, I think it would be a good idea. And the
25 refinements deal with intersystem coordination, risk

1 assessment and training protocols. Maybe a statewide
2 training center for CPS workers and a number of other pieces
3 that would make the law effective in practice as it is in
4 concept.

5 Q My last question deals with the law enforcement
6 end of it. Being that law enforcement under the bill would
7 bring them in on threats of death, threats of serious
8 bodily injury, threats of sex abuse or threats of abuse by
9 a non-family member. In your testimony you questioned as
10 to what law enforcement, if they showed up knocking on the
11 door because they have had a report of serious bodily in-
12 jury. If somebody threatens my life, certainly the police
13 are going to go knocking on that person's door. Somebody
14 threatened Jesse Jackson's life and those people are incar-
15 cerated right now. Why not, if somebody is a threat, and
16 again, we are going to investigate it to make sure so that
17 if somebody is reported as threatening somebody's life and
18 that somebody is only two and a half years old, why not call
19 the cops in?

20 A I guess there are two parts. One, I think
21 reporting to law enforcement goes a little bit farther than
22 that. And my testimony spoke to what I thought were some of
23 the vague aspects of those referrals. Maybe it is a question
24 that in first instance, when you have a parent who, pick up
25 that milk or I'm going to kill you in a fit of rage.

1 Q Is that included?

2 REPRESENTATIVE HAGARTY: No.

3 CHAIRMAN BLAUM: I mean, they could lock me
4 up.

5 REPRESENTATIVE HAGARTY: It wouldn't have
6 occurred.

7 CHAIRMAN BLAUM: That is not what we are
8 talking about. I don't think --

9 MR. SCHWARTZ: If I have misread that --

10 CHAIRMAN BLAUM: It is an action which threatens
11 bodily injury, but for some reason it did not occur.

12 MR. SCHWARTZ: Then I have no problem with that
13 definition for referral to law enforcement. The others,
14 I think, as I testified, are extremely expansive. I think
15 that our police in Philadelphia are extremely burdened
16 right now. As I say, it is a question of what we want
17 them to do.

18 BY CHAIRMAN BLAUM:

19 Q I think what this is is they may get involved
20 you know, besides sending someone to the door for five
21 minutes and they leave. They may get involved in only
22 ten percent of the calls that they make. But isn't it
23 good that they get involved in those ten percent where
24 they really should be. And right now there is no way to
25 get them involved where threatened serious harm exists.

1 A I think that is an interesting cost benefit question.

2 Q Of whether or not the law enforcement
3 addition to that part of the system, you know, 100 percent
4 of the cases in which ten percent might reach prosecution
5 is worth the cost to law enforcement when you mandate
6 CPS investigating 100 percent of those cases.

7 CHAIRMAN BLAUM: Representative Hagarty.

8 BY REPRESENTATIVE HAGARTY:

9 Q I am just curious. What is the attorney's
10 function from the Juvenile Law Center in a case, in a
11 CPS case?

12 A We are appointed by the Juvenile Court. We
13 would be what the Child Protective Services Law refers to
14 as a guardian. We are the attorney for the child. So we
15 represent the child through the Juvenile Act proceedings
16 any time there is a court involvement.

17 Q There is always a guardian?

18 A Appointed under the Juvenile Act.

19 Q That is mandated?

20 A That is mandated. I mean, there is also a
21 shortage of attorneys and the Children's Rights Committee
22 of the Philadelphia BAR Association, as we investigate, is
23 discovering that there are probably hundreds if not
24 thousands of kids unrepresented in Philadelphia alone.
25 But the children are represented primarily by the Defender

1 Association Child Advocate Unit in Philadelphia or by the
2 Support Center for Child Advocates or by the Juvenile
3 Law Center. In other counties they are usually court
4 appointed. In Montgomery County, I think, for example.

5 Q In any case then in which a child is removed
6 from the home there is an attorney for the child?

7 A Supposed to be under the law. It doesn't
8 always happen, but there is supposed to be under the law,
9 yes, absolutely.

10 Q What philosophy do you bring with that?
11 Obviously, you are not an advocate of that situation.

12 A We try to see first, well, we are an advocate.
13 We have represented and worked very hard to find adequate
14 placement, specialized homes for children who can't be
15 protected in the home. We work very hard to free our
16 clients for adoption, to find permanent homes for them.
17 But we also try to see in the first instance whether or
18 not a risk can be managed in the home for our clients.
19 We see whether -- the question --

20 Q I guess my question is you are taking an
21 independent view. You are not just confirming the view
22 of the children and youth agency?

23 A Oh, no, we can't.

24 Q You are taking an independent view of what
25 you believe is best for that child.

1 A What we try to do is be faithful to the law
2 on behalf of the child, that is statutory fidelity, which
3 every one of our statutes says if a risk can be managed
4 in the home, then it ought to be. And what we push the
5 agency to do, and this is in response to one of your
6 earlier questions, of Representative Hagarty I think,
7 to the people from the Parents of Poverty, I'm not sure
8 of the exact organization, whether kids are removed
9 unnecessarily or not unnecessarily. What we try to do
10 is promote a refinement to the process so that kids who
11 are at risk or would be at risk, if left in the home, are
12 removed and kids who can be kept safely and protected in
13 the home are.

14 Now once, many of these cases, it is very,
15 very clear, in most of the cases in which we are appointed
16 for a variety of reasons, the children end up being removed
17 from the home. And we have no disagreement with that
18 and we support it and we work on promoting service
19 delivery. We have a very comprehensive set of regulations
20 and statute that Mary Wooley described about six month
21 reviews, the amendment to the disposition statute in the
22 Juvenile Act that involve us. Sometimes for years, in
23 trying to get services to that family, even to promote
24 reunification, I want to make it clear that that child
25 can never be protected in the home in which case we are

1 pushing very hard for our client to be adopted or favor
2 adoption or placed in a permanent foster home.

3 Q Who are you funded by?

4 A We are funded primarily through foundation
5 support and private contributions. We have a small contract
6 with the City of Philadelphia to represent the peace and
7 neglect that comes into family court.

8 Q I just wanted to make one other point on the
9 threatened issue. I think perhaps the way I view this is
10 from my perspective of the criminal justice system. It
11 seems to me that what we are doing by looking at threatened
12 conduct and not only as we have indicated threatened
13 very serious conduct is looking at the perpetrator. In
14 looking at a criminal essentially, it doesn't seem to me
15 to make any sense to distinguish whether a harm has occurred
16 because it is the perpetrator of that conduct that
17 requires intervention. So it surprises me that everyone
18 seems to keep feeling somehow that whether the harm has
19 actually occurred because these are cases in which it is
20 clear that harm would have occurred but for intervention.
21 That perpetrator has the same state of mind regardless of
22 whether harm occurred. I'm wondering why, I am assuming
23 you have a different philosophy because I am more used
24 to the criminal justice system.

25 A I don't disagree with your philosophy. I guess

1 where I come down is trying to allocate responsibility
2 of resources between systems when I see both systems
3 now that I am dealing with struggling to do their jobs.
4 I agree with the imminent risk of harm on the child
5 protection side and I think that law enforcement should be
6 involved to a certain degree. On the threatened bodily
7 harm, if it could be kept narrowed, if the police support
8 was adequate, if the prosecution support was adequate,
9 if jail space was adequate, then I would say let's go
10 with it. I see right now I have clients that are not
11 protected in particular by the law enforcement system
12 very, very serious cases. So I share that concern.

13 REPRESENTATIVE HAGARTY: Thank you.

14 CHAIRMAN BLAUM: No further questions. Thanks
15 so much for coming.

16 MR. SCHWARTZ: Thank you.

17 CHAIRMAN BLAUM: I am impressed with the
18 different points of view we get from all the professionals
19 who have come before us. Barbara Tremitiere. Did I
20 pronounce that correctly?

21 MS. TREMITIERE: You got it right. It is
22 not spelled right, but you got it right, Tremitiere..

23 CHAIRMAN BLAUM: From VOCAL. You might explain
24 to everybody what V-O-C-A-L is.

25 MS. TREMITIERE: Yes, I would like to do that.

1 Actually, we thought it was kind of interesting that we
2 were last because of the fact that probably we have one
3 of the few groups that has actual people who have been
4 affected by these laws here in this room today. And
5 perhaps that gives us some real strength in being able
6 to speak to this.

7 I am really here speaking on behalf of a number
8 of things. I am a professional social worker who is very
9 embarrassed by my profession, and the way I've heard it
10 talked about today, and I think that is one place I would
11 like to make some distinctions that perhaps you aren't
12 aware of. And that is, there is a difference between
13 a professional social worker and a case worker that is
14 at the present time providing the children and youth
15 services. Most of these people are untrained workers.
16 This has been recognized by the National Association and
17 also by the group of NASW in Pennsylvania, who has been
18 trying to license social workers in Pennsylvania. The
19 only group we have not been able to get into licensing
20 is the public child welfare workers because of funding.
21 Because of the fact we can't afford professionals, this
22 is the group that falls outside the professional guidelines.
23 I spent a lot of time getting my training and am very
24 proud of it and I really have a problem with the practice
25 as it is being done in the child welfare agencies today.

1 That is going to come into the testimony later.

2 CHAIRMAN BLAUM: I was told this morning
3 Representative Kukovich has a bill in the Health and
4 Welfare Committee that will provide for licensing.

5 MS. TREMITIERE: Well, my hope is that this
6 will be true, because we also think that it is one of
7 the problems and is one that got me into this actual area.
8 I am an adoption worker by trade. And what was happening,
9 many of my cases were coming into the false abuse case
10 realm. This is becoming very costly both for our agency,
11 for the system, for our clients and for the children that
12 we represent. I have placed over 2,000 children for
13 adoption. I have been in the field for 20 years and I
14 have never seen anything like what has happened in the last
15 two or three years. And this also will be a part of the
16 testimony.

17 The group that I represent today I happen
18 to be President of because of my concern in this area,
19 and that is the VOCAL group, which is Victims of Child
20 Abuse Laws. These are the abuse cases that were not abuse
21 cases. The 80 percent or whatever it is in our county,
22 York County, 80 percent of the cases last year were
23 unfounded cases. These are the dead bodies, so to speak,
24 of the families that were ruined, whose lives were ruined
25 because of some of the things that are in our child abuse

1 laws and the ways that they are carried out in many of
2 our counties. I personally have sat in on many of these
3 cases and many of these hearings. I know of many far
4 beyond just the 26 counties in which I work. I also am
5 the parent of 15 children, 12 of whom are adopted children
6 who came out of abusive situations in the system. So I
7 am actually parenting the children as well as working with
8 them. And I have a grave concern for the families and
9 children whose lives have been shattered by the child
10 abuse laws and the system that we have in Pennsylvania today,
11 many of whom are with me in court, in the hearing.

12 So what I would like to do is speak to our
13 concerns with this particular bill and then to open both to
14 my areas of expertise to where we are coming from as
15 far as your questioning would come. This is, by the way,
16 a national organization of which we are very small part.
17 And so in some places in my testimony I will refer to
18 what other states are doing. We just got back from a
19 national conference in Washington, D.C. where we met with
20 many people on a national level on these very concerns.

21 Thousands of Pennsylvania children are deprived
22 of affection and discipline for fear of false allegations
23 of child abuse while 6,696 lost their homes in 1986 alone
24 due to charges of child abuse. Irreparable damage is
25 being done to families. The cost of foster care is

1 staggering. The cost paid by the state for attorney fees
2 fighting appeals of innocent people who have received
3 "indicated" reports on the statewide register is
4 unconscionable.

5 It is noteworthy that in 1986 21.2 percent of
6 the applicants for jobs who failed the childline verification
7 (had abuse reports on record) filed for expungement or
8 amendment and that 15.1 percent of those were granted
9 expungement or amendment. I don't know if you are aware
10 of that process. At the time of the 1986 report, 25.8
11 percent of those cases were still under consideration. These
12 are only a few of the falsely charged. There are many
13 false charges of child abuse and the costs to families and
14 state are staggering.

15 By the Department of Welfare's own 1986 Report
16 of Child Abuse, less than one-third of child abuse complaints
17 in our state are "substantiated". More than one-half of
18 the so-called substantiated reports are in fact unproven
19 "indicated" reports which would not pass the test for
20 evidence in a court of law.

21 When persons are considered guilty and black-
22 balled on a statewide register without hearings or the
23 opportunity to defend themselves, which these families
24 do not have. Many of them are never even interviewed,
25 the families, in these cases. It is a violation of our

1 democratic system. When houses are entered, and children
2 pulled out of bed in the middle of the night and stripped
3 naked and searched without warrants and court orders,
4 which is happening in our state, as they now are, all
5 honorable persons must object to this legalized abuse
6 conducted by child protective services workers.

7 At the same time as these horrors are occurring,
8 several hundred children die annually in our state through
9 abuse and neglect. We (Victims of Child Abuse Laws) are
10 equally concerned that many child abuse situations go
11 undetected until a child dies. We are concerned that
12 many of those cases detected are further abused by the
13 system.

14 House Bill 1569 we feel makes these problems worse.

15 We urge you to vote against House Bill 1569.

16 The deficiencies of the bill are:

17 1. Establishing of cumulative records of
18 unfounded reports, we believe, is a severe disregard for
19 civil rights. Unscreened, malicious reports could simply
20 be accumulated against persons. The bill is more concerned
21 with record keeping that can be used to statistically
22 obtain more monies than it is in eliminating child abuse.
23 Cumulative records of unfounded reports, under this bill,
24 would be kept for two years to assist in making "founded
25 reports." Cumulative files are simply an easy way for

1 investigators to avoid doing the hard, thorough interviewing
2 they should be doing. A simple look at a record that
3 contains two unfounded reports fulfills their "investigation"
4 requirements which it should not.

5 2. Broadening the definition of child abuse
6 by making it more vague creates confusion and the wasting
7 of CPS workers' time and energy and a larger body of
8 persons falsely accused of abuse. Child abuse is defined
9 so poorly that it is impossible for any rational parent
10 to know what is considered abusive. And we have some things
11 that we have attached here that will help on that. I
12 want to refer to that again later.

13 3. It retains the conflict of interest that
14 now exists for children and youth agencies in child abuse
15 situations. The same agency cannot be expected to play
16 the role of investigator, prosecutor, judge on the one
17 hand and therapist, teacher, and social worker on the other.
18 We believe law enforcement officers should conduct
19 investigations enabling children and youth services
20 agencies to get back to the business of helping.

21 4. While establishing cumulative records of
22 "unfounded" reports, Bill 1569 fails to establish any
23 records of who is turning in reports. Thus, several
24 unfounded reports made by the same person count up against
25 the accused while the fact that the same person continues

1 to make false reports goes unnoticed. We believe that
2 there must be accountability for malicious reporting.
3 Deliberate, false allegations are now criminal offenses
4 in Illinois, Tennessee, and North Dakota and proposed
5 legislation exists in Washington, Florida, and Kansas.
6 (Proves there is a problem.) I thought it was very
7 interesting listening to people who talked about intelligence,
8 anybody's intelligence would know these things.

9 5. It fails to set standards of training,
10 experience, and education for investigators. Hence, entry
11 level persons (there are no minimum standards for CPS
12 workers in Pennsylvania) would still hold the awesome
13 fate of children and families in their inexperienced hands.
14 And we can give you a thousand examples of this. One
15 would think that intelligence would tell you the difference
16 between something that is happening and something that
17 is not. Well, my idea of intelligence and theirs must
18 be very different.

19 6. The Department of Welfare is not charged
20 with any responsibility to educate the public about how
21 to avoid abuse or what is considered abusive. This is
22 something that boggles our minds. Very few people in the
23 Commonwealth have the slightest idea of what they could
24 get arrested for. One of those things is smacking their
25 kid across the mouth if the kid swears or talks abusively

1 to them which most of our parents did to us. We have
2 families that have been arrested for this. Another is the
3 threat of spanking a child. Saying I'm going to spank
4 you if you do that. A family was threatened with having
5 their child removed because of this. This somehow to
6 us, you know, really means that people don't have the
7 slightest idea of what is or is not considered to be
8 abuse and why. Nor do they have, and the other part of
9 the law is very interesting on this, which speaks to the
10 fact that if they would like to know more about how to
11 handle their children, they should contact their local
12 children and youth agency who will provide them with this
13 information. I have not yet talked to a child and youth
14 agency person who felt they had the credentials and
15 qualifications to give this kind of help to the families
16 that call them.

17 7. No criteria is established for investigations.
18 We believe this is especially critical and urge that
19 child abuse investigations include, and we think these
20 are very important:

21 a. Taping or video-recording all interviews.
22 Taping standardized, therapeutic interviews conducted by a
23 qualified person protects the child from multiple interviews
24 with various agencies, gives defense a chance to see if
25 the child is being asked leading questions, protects the

1 alleged perpetrator from harassment, controls honesty,
2 and prevents hearsay. Now there is nothing but a case
3 worker's record on which an entire case is based and we
4 had some cases where we have had as many as 28 different
5 people interviewing a three and four-year old child.

6 b. Interviews with persons related to the
7 victim or having knowledge of the victim such as the alleged
8 perpetrator, teachers, neighbors, and all siblings. Most
9 of the investigations now being conducted have none of
10 these in them. They are called investigations but they
11 don't even talk to the alleged perpetrator.

12 c. Corroborating evidence or second,
13 independent opinion on all reports of abuse, including
14 medical reports, for findings of "indicated" or "founded."
15 We have not been, in many cases even allowed to have
16 such things as an independent psychologist or an independent
17 therapist see a family if, "the agency's person" has seen
18 them in order to provide a balanced viewpoint.

19 d. Removal of the alleged perpetrator from
20 the home instead of the victims during the "investigations."
21 We think that is only cost effective and people effective.
22 To take out the perpetrator instead of taking everybody out.
23 In many cases, even people who weren't involved in the
24 whole allegation at all. And we have this in our attachments.

25 8. Finally the focus of this bill is to blame

1 not change. Its purpose is not to prevent or cut down
2 child abuse. Not a single line suggests any preventative
3 measures or even healing measures. Its function is to
4 put names on a statewide register and create paper work
5 making the child abuse problem seem worse than it is.

6 We urge you to think seriously about the
7 costly consequences of passing Bill 1569. We appeal to you
8 on behalf of children that have lost their homes, parents
9 who have lost their jobs, and families that are broken
10 by incarceration. Reject this legislation which provides
11 for accumulating unfounded reports while failing to require
12 court room standards for evidence used in making "founded"
13 and "indicated" findings. Bill 1569 does not move us
14 forward in protecting innocent, abused children. It gets
15 us further lost in a maze of records and legal battles.

16 Defeat Bill 1569. But, don't forget to fight
17 for the needs of abused children. We would propose a
18 substitute bill which would: (1) provide for a four-county
19 pilot project utilizing the investigative procedures we
20 have suggested. We have seen Julia Danzy about this and
21 this was one of her suggestions to us, (2) study how to
22 resolve the conflict of interest that exists for children
23 and youth agencies charged with setting up CPS investigative
24 units, and (3) establish a child abuse legislation
25 development task force which would study the efforts being

1 made in other states such as Washington, California,
2 Arizona, and Florida developing a new set of concepts by
3 which the function of child abuse legislation could be
4 changed from blame and record keeping to change, healing,
5 and preventing abuse. We volunteer to assist to be a
6 part of such a task force.

7 Thank you.

8 And we have several enclosures we have given
9 you here that we feel would be very helpful to the
10 Committee.

11 BY CHAIRMAN BLAUM:

12 Q I share your concern that the percentage
13 of founded reports is so low which means, obviously,
14 that there is an awful lot of unfounded and false alarms
15 that are being signaled throughout the Commonwealth.
16 You state in number eight that this bill would create a
17 lot of paper work and make the child abuse problems
18 seem worse than what it is. Do we do that right now?
19 I mean, right now in the current law is the child abuse
20 problem much less serious in Pennsylvania than we have
21 been led to believe here today?

22 A My feelings and thoughts from my experience
23 in the families I have worked with is if we could get
24 some good investigation done and report on the results
25 of that investigation by the child welfare agencies we

1 would find that, yes, it is. There are many things that
2 are right now being used as child abuse that are not.
3 What we need to do is concentrate. In York County last
4 year, 80 percent were unfounded reports. Twenty percent
5 were founded. Okay, that is where we need to be. This
6 needs to be a process of educating the public as to what
7 is and is not abuse. Of not making it more possible for
8 people to make malicious calls against people, to make
9 even the reporting of it something that you have to think
10 about before you do it. You know, this could be your
11 life and my life and that is what keeps me involved in
12 this. I have seen people on my street, Representative
13 Bortner lives on my street. He knows my family. I
14 could watch his kids and I could call in a report, if
15 his children are outside and unsupervised, and cause
16 problems to him. These are the kinds of things that are
17 happening to people.

18 Q Give us an example. I mean, we had somebody
19 earlier giving us examples in one direction. Give us
20 examples.

21 A I understand that and I could give you --

22 Q How some people's lives are --

23 A I could give you equal number of horrible
24 examples. None of us are saying this doesn't exist.

25 Let me just give you an example on something that I think

1 is rather interesting. This is an example I got just the
2 other day. This isn't something that is old. A mother,
3 whose child came home from kindergarten, and the child
4 had some testing done in kindergarten because of the fact
5 that she wasn't as outgoing as some of the other children.
6 So they imagined this might be a good idea and the lady
7 had it done. A lady came to the door. The lady thought
8 it was a census taker. She let her in. The lady said,
9 I don't think we are going to let your child come home today.
10 This was a five-year old child. She said, what? She
11 said, well, the results of our testing show that this
12 child is afraid of physical discipline and so we are not
13 going to let her come home today because she is afraid
14 you are going to spank her. And the woman said, now wait
15 a minute, I can't even remember when I spanked her last.
16 I might have said I am going to spank you, but she said,
17 isn't that the whole point of saying it to a child is
18 that she is afraid and then she doesn't do the thing?
19 And the lady said, well we can't have a child, this is
20 what her major problem is. She is terribly afraid that
21 you are going to physically discipline her.

22 This lady called me up and she said, is this
23 for real or am I in the twilight zone. And I said,
24 unfortunately, it is for real. The lady is a social
25 worker. She just doesn't happen to be employed at present.

1 She absolutely could not believe that she had to get a
2 lawyer to fight her child's nursery school who was saying
3 that the tests showed that because she said to her child,
4 I might spank you, that the child was then in some way
5 warped.

6 The child comes home from school and says,
7 mommy, my teacher told me if you ever say you are going
8 to spank me again, I am supposed to call the police.

9 Q This is alarming.

10 A Now this is the kind of thing -- well, yes.
11 One of the things I think is extremely interesting is
12 any group of people I go into, even social workers,
13 what I actually tell them what the law says and ask them
14 if anybody, dropping into their house, could ever have
15 thought at any time they were abusing their children,
16 well 98 percent of them say yes. I said, guys, let's
17 get some good investigations done here. We definitely
18 don't want our kids abused. But can you imagine on the
19 other hand the detriment to a family who has been pulled
20 apart by a false abuse case where investigation has not
21 been done well.

22 Q I want to know how does that happen? What
23 is that like? Where the county agency came in.

24 A Okay I have mentioned this one that was a very
25 severe one that I went all the way through with the family.

1 The SWAT team came into a neighborhood that this family
2 lived in. The man happened to be a school custodian,
3 and took the man off in handcuffs to jail because his
4 daughter had said she was sexually abused. Now one-third,
5 let me preface this by saying, one-third of the cases
6 we see in VOCAL are involving children in foster care
7 adoption, who are unbonded children, who come into homes
8 and many times have learned to use these kinds of
9 accusations against parents. This is one of those cases.

10 Another one-third are divorce cases where
11 the spouse that wants to hurt the other one, prompts the
12 kids to say things against the other spouse so that they
13 will get custody of the children. The other third are
14 just people who are stupid enough that think that what
15 their parents did to them they can do to their kids,
16 like smack them across the face. Or culturally, they
17 live in a culture that spanks kids and they spank kids
18 and this is seen as abuse. So that is the way it breaks
19 down with our people.

20 This case happened to be a child that had
21 been placed for adoption. The SWAT team came in and
22 took the man out. Took the brother out. He wasn't even
23 involved in the case.

24 Q That was reported to the county agency?

25 A Yes, it was reported. They came in, the county

1 people came in and took out the child and her brother.
2 They were taken into foster care where they remained for
3 nine months until they got around to holding the hearing.
4 Now these were kids who already had problems. Now they
5 had a lot more problems because they were moved into
6 two or three foster homes during that period.

7 When we got into court, and nobody had ever
8 asked me for my records, which I had on the kids, nobody
9 ever interviewed the father. When we finally got into
10 court, fortunately we had a good attorney who turned the
11 thing around and it was a judge hearing that was held
12 and the judge said, I find absolutely no evidence of
13 abuse in this case. They had gone in and investigated the
14 home. It couldn't possibly have happened. This kid was a child
15 that had other problems which could have been pointed out
16 if anybody would have done an investigation and the whole
17 thing could have been totally avoided.

18 As a result, the judge said to the man, this
19 is unfounded. He said, I know your life has already been
20 destroyed and there is nothing else I can do to put it
21 back together. Because of the fact it was in foster care,
22 as long as they were living, just let me mention to you
23 what happened.

24 Q Is that all confidential, the hearing?

25 A Excuse me?

1 Q Is that all confidential, the hearing? I
2 guess if your case is out for nine months all the neighbor-
3 hood knows?

4 A It isn't confidential. It is in the newspaper
5 when this happens. You are in the newspaper. This has
6 already ruined your job, your life and everything else.

7 I have a family that this happened to this
8 morning in one of our counties here in Pennsylvania that
9 was just destroyed in the newspaper on a false abuse case.
10 So that I know very well how this happens and how it works
11 for families. And once you are headlines in the newspaper,
12 when it is discovered to be an unfounded case, they don't
13 make that headlines. You know, that is on the bottom of
14 page 563 under Classified Ads so the person's life is
15 ruined. In this particular case the two children stayed
16 in foster care because they were so damaged at that point
17 that they couldn't go back into the family and this is
18 not an unusual case.

19 Q I just thought it was supposed to all be
20 confidential?

21 A No, no. Once the paper gets a hold of it,
22 it is supposed to say allegedly, but it is not confidential.
23 And so what happens is it doesn't matter whether a person
24 has been already tried and found guilty, the press finds
25 them guilty.

1 REPRESENTATIVE HAGARTY: Someone is violating
2 the law. You keep talking about the papers getting a hold
3 of this in the first place.

4 MS. TREMTIERE: Well, they are.

5 BY REPRESENTATIVE HAGARTY:

6 Q I am just curious, because you keep talking
7 about this conduct that we probably all as parents are
8 guilty of. Can you explain to me what conduct you think
9 is child abuse that I would find surprising?

10 A I am talking, our definition of the law in
11 Pennsylvania says that anything other than smacking a
12 kid, and there is a number of times that you can do it
13 on the outside of their clothing on their rear, is child
14 abuse.

15 Q I don't know where it says that. My
16 understanding is that the law says you must cause serious
17 bodily injury. I can't imagine any instance of causing
18 serious bodily injury that falls within appropriate
19 discipline.

20 A No, I can't either. But appropriate discipline
21 is what is the problem here. Because this is what is being
22 so misinterpreted.

23 Q What is the conduct? That is my question.

24 A Okay, the conduct people are having children
25 removed for?

1 Q Yes.

2 A The families here could tell you. Hugging a
3 teenager in public, the threat of smacking a kid, maybe
4 even smacking a kid, which some of us have been guilty of
5 from time to time. Surely I have. Nothing I would see
6 in any of the families that I deal with is anywhere beyond
7 what would be considered normal discipline.

8 Q How many instances are there in Pennsylvania
9 of these children being taken away for instances that are
10 not child abuse?

11 A Well, the only ones we know are the ones we
12 hear about and they are constantly coming into us. That's
13 because people have to find out about us and then they
14 come to us trying to get help to fight to get their kids
15 back.

16 Q Do you have an opportunity to review the
17 records of the child protective services or are you only
18 hearing the side of parents?

19 A It is both. Because of the fact that I am
20 also a social worker, I also know firsthand the cases
21 in which I am in hearings. The only time that we --

22 Q My question is how are you getting to see
23 the child protective services allegations against a person
24 that is coming to you?

25 A Because they are against families that I have

1 that are adoptive families. I see the allegations. I
2 know the allegations. I know what has happened in these
3 cases. I testify in these cases and I know them from
4 beginning to end.

5 Q So you hear the allegations in court?

6 A Oh, yes. I sit on the preliminary hearings.
7 I hear the children. I know who has been interviewed and
8 who has not.

9 Q In those instances where you have heard child
10 protective services allege conduct, you are claiming that
11 that conduct does not rise to the level of child abuse?

12 A Excuse me, would you rephrase the question?

13 Q You are saying in a case in which you are
14 representing someone that comes to your organization,
15 and you have had the opportunity to be in court and have
16 heard the allegation of child protective services, that
17 you are seeing children being taken away in instances
18 for conduct that is not child abuse?

19 A Yes. And the most interesting part of it is
20 that it is done before investigation. Now our law does
21 state you're supposed to have clear and present danger
22 here.

23 Q How can you take a child away without
24 investigation?

25 A Well, many people have sat here and told you

1 that this is impossible. We sit here to tell you that
2 this is not impossible. We sit here to tell you this is
3 done. We sit here to tell you there are children that
4 don't come home on school buses. That parents don't
5 even know where they disappeared to.

6 Q The only thing I can say is that there is
7 every possible protection written into the law. If that
8 is not being practiced, I don't understand it. We heard
9 that there is to be an attorney that is to be appointed
10 in every instance. There is a judge who has to carry it
11 out. We have tremendously underfunded child protective
12 service agencies who don't even have the ability or the
13 wherewithal to intervene in cases that they should. The
14 instances you have given us are not instances that have
15 come out of child protective services. One was a nursery
16 school assistant and one was a SWAT team.

17 A The SWAT team came out of the child protective
18 services. One of the problems that we have here as we
19 are sitting here today is that the people that are
20 speaking, many of the people that are speaking, are not
21 people who have experienced this. So it is very easy to
22 say that the protections of the law are there. They are
23 not there in child abuse cases. They don't even read
24 your rights in child abuse cases. They can come in and
25 take your child out of your home without your knowledge

1 in child abuse cases. These are things that are done.
2 They can come into your home and strip search your child.

3 Q Do you have records documenting this?

4 A Yes.

5 Q I would think it would be important for this
6 Committee to give these allegations credence to be able
7 to review those records because it defies my imagination
8 that these things are occurring.

9 A It defies ours too. That is the reason we
10 made an appointment to speak to Julia Danzy and we have
11 spoken to many different groups in this city and that is
12 why, and also to you. That is why we wanted very much to
13 make our voice heard today. We are very hopeful that
14 somebody will come to us and say what is actually happening
15 here. And that is the reason why we want to let you
16 know that we certainly can document what we are saying.

17 Q I guess what we need is documentation of
18 a county case in which this occurred.

19 A We could do that very easily. And we had
20 offered to do that because we were hoping to get a county
21 who would work as a model county where it didn't occur.
22 And that is one thing that Julia Danzy has suggested also,
23 which I am assuming her task force will come out with too,
24 because of the fact that we can document what is happening.

25 Q Your feeling is then that that is being

1 investigated as part of this task force and so that we
2 will be hearing --

3 A No, no. I wish I could think that. Today
4 was the first I heard of that task force.

5 REPRESENTATIVE HAGARTY: Thank you.

6 BY CHAIRMAN BLAUM:

7 Q You would like people who report what they
8 think is child abuse to have to give their name?

9 A I think they should have to give it to somebody.
10 If I write a letter to the paper, you know, a letter to
11 the editor, they may publish my letter to the editor saying
12 name unpublished. But they make me put my name on it
13 to send it into them and I think we should do the same
14 thing with the child abuse allegations. Because not that
15 people have to know who it is, but somebody should know
16 who it is.

17 Q You don't think it would have a chilling effect
18 on --

19 A Not if the people didn't know who it was,
20 but somebody should be able to see a pattern. Like if there
21 is a certain person who is calling in, you know, a million
22 complaints on you and this has happened on some people.
23 It has been some people who didn't like them that day and
24 had something in for them who their kid had called names
25 or something. And the problem is how do you fight it when

1 you get that call. Like one lady said, you got to be
2 kidding on a Friday afternoon in a nearby county here.
3 She said, you got to be kidding. I'll come right in and
4 talk to you. A nice middle-class lady, her 15-year old
5 son has now been removed from her home for months on
6 nothing. It was an allegation that she had threatened
7 him that she was going to hit him over the head with a
8 frying pan, which she never had. And he has been out of
9 her home for months. She even went into the child welfare
10 agency and everything else and was told that they were
11 closing and she had to go home and she couldn't find
12 anything out about her son until Monday morning. We can
13 document these cases for you.

14 Q You know, just so, we might want to call up
15 a case worker, what was your side of the story.

16 A I wish somebody would do that.

17 Q It is not clear --

18 A I wish somebody would do that. This is what
19 we are hoping for. Instead of treating, you know, the
20 people that we represent as always being in the wrong
21 because they aren't always in the wrong. And the things
22 that are happening to them right here in America are
23 things that shouldn't be happening to anybody right here
24 in America.

25 Q You can tell us about these, but I guess the

1 CPS people, they probably can't talk about the case. They
2 can't give their side if we called for it.

3 A I don't know what they can do and I don't know
4 what your powers are. I just hope that perhaps they are
5 to the point where they need to -- I will tell you one
6 thing though. Our families are fearful. They are fearful
7 that more power will be brought down on them and that is
8 a very scary thing, too. Protections need to be put into
9 place.

10 CHAIRMAN BLAUM: Thank you.

11 MS. TREMITIERE: We certainly hold ready at
12 any time to speak with you.

13 CHAIRMAN BLAUM: That is it. That concludes
14 our testimony today. I want to thank all the members
15 for coming under difficult circumstances, coming back
16 to Harrisburg for this hearing. This Subcommittee will
17 take all the testimony under advisement and begin dealing
18 with the bills. We'll try to come up with a workable
19 solution to the definition of child abuse in Pennsylvania
20 and decide if any changes are necessary. If they are,
21 what those changes will be. Thank you very much.

22 (Whereupon at 3:45 p.m. the hearing was
23 adjourned.)
24
25

1 I hereby certify that the proceedings and evidence
2 taken by me in the within matter are fully and accurately
3 indicated in my notes and that this is a true and correct
4 transcript of the same.

5 *Dorothy M. Malone*

Dorothy M. Malone
Registered Professional Reporter
135 S. Landis Street
Hummelstown, Pennsylvania 17036

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