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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
THE HOUSE JUDICIARY COMMITTEE

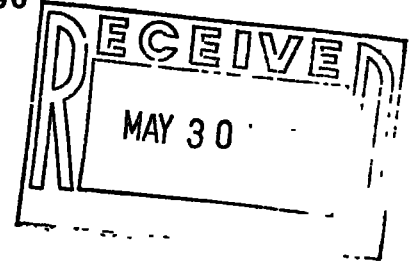
IN RE: PUBLIC HEARING ON HOUSE BILL 1928

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VERBATIM RECORD OF PUBLIC HEARING
HELD IN ROOM 418 MAIN CAPITOL
BUILDING, HARRISBURG, PENNSYLVANIA,
ON THURSDAY,

APRIL 26, 1990
10:00 A.M.

* * * *



BEFORE: THOMAS R. CALTAGIRONE, CHAIRMAN
NICHOLAS B. MOEHLMANN, MEMBER
JEFFREY PICCOLA, MEMBER
KAREN RITTER, MEMBER
MICHAEL VEON, MEMBER
CHRISTOPHER R. WOGAN, MEMBER

ALSO PRESENT:
HONORABLE RUTH B. HARPER
PAUL DUNKELBERGER, STAFF MEMBER

ANN MARIE SWEENEY
536 ORRS BRIDGE ROAD
CAMP HILL, PENNSYLVANIA 17011

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Charles Bolgiano, President, Unified Sportsmen of PA Representing: National Rifle Association PA Pistol and Rifle Association PA Federation of Sportsmen Clubs PA Sportsmen Coalition PA Federation of Black Powder Shooters PA Chapter of National Wild Turkey Federation	4
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APPENDIX

Report submitted by Carl Bogus, Esquire - "The Killing Seasons: A Study of When Unintentional Handgun Shootings Among Children Occur."	
Report submitted by Jerry L. Rothenberger, Director, Governmental Relations, "Reports of Council on Scientific Affairs"	

1 CHAIRMAN CALTAGIRONE: Good morning.
2 I am Representative Tom Caltagirone, Chairman of the
3 House Judiciary Committee, and we're here today to
4 hear testimony on House Bill 1928.

5 The prime sponsor of the Bill is here
6 with us, Representative Ruth Harper. And
7 Representative Jeff Piccola is also here with us,
8 and members of staff.

9 If you would like to start off Ruth,
10 with any opening comments on the Bill and then we'll
11 go to Charlie.

12 REPRESENTATIVE HARPER: Thank you,
13 Representative Caltagrione.

14 Excuse my voice, I have a little
15 summer cold.

16 I would just like to say that I feel
17 that this is a very good piece of legislation that
18 we need, but let me just say to begin with that I am
19 not against guns, having guns in the home.

20 I own a gun and I wouldn't be without
21 one in my home. In fact I have two. I have a
22 shotgun and a pistol.

23 My father was a hunter and he always
24 owned guns and there's nothing wrong with owning
25 guns. But I do believe in protecting children.

1 And I know from self experience; my
2 brother almost killed me. He was ten years of age
3 and I was five. And he reached up. My father
4 forgot to unload the gun. He reached up, got the
5 gun and pointed and the shots went right through my
6 hair.

7 So if my father would have unloaded
8 that gun. It's just by the grace of God, you know,
9 that I'm here today. Because he just missed me by
10 an inch.

11 So it's not good to have loaded guns
12 around children and I will say that and I really
13 believe it. I believe that we should protect
14 children, those that cannot protect themselves.

15 That's all I have to say. Thank you.

16 CHAIRMAN CALTAGIRONE: Thank you.

17 Charlie, would you please indicate who
18 you are and who you represent?

19 DR. BOLGIANO: Good morning. My name
20 is Dr. Charles Bolgiano. The statement which I'm
21 about to present is a joint statement by Dr. Alan S.
22 Krug, myself, Mr. Michael Banosky, Mr. Norman
23 Schlosser, Mr. H. Charles Thomas, and Mr. Gerard F.
24 Schutz on behalf of The National Rifle Association
25 of America, The Unified Sportsmen of Pennsylvania,

1 The Pennsylvania Rifle and Pistol
2 Association, The Pennsylvania State Chapter of The
3 National Wild Turkey Federation, The Pennsylvania
4 Federation of Black Powder Shooters, The
5 Pennsylvania Federation of Sportsmen's Clubs and The
6 Pennsylvania Sportsmen's Coalition.

7 My testimony on House Bill 1928 is a
8 joint statement on behalf of the above mentioned
9 organizations.

10 House Bill 1928 would impose criminal
11 penalties on the owner of a loaded firearm that was
12 not stored in compliance with the requirements of
13 the Act.

14 A gun owner could be sentenced to
15 prison for up to seven years and fined \$15,000 if a
16 loaded firearm were found and misused by a
17 juvenile.

18 The seven organizations which I
19 represent here today are opposed to this legislation
20 because:

21 1. It is not necessary. Persons who
22 negligently cause the death of or injury to another
23 are already subject to adequate civil and criminal
24 penalties under existing Pennsylvania law.

25 The legal tools with which to deal

1 with such negligence are already there if we wish to
2 use them.

3 2. There is nothing special about a
4 firearm when it comes to things that may be involved
5 in accidental death or injury.

6 There is no compelling need to have a
7 special law relating to firearms. We do not, for
8 example, have a specific statute to prosecute
9 persons who negligently leave poisonous household
10 cleaners accessible to minors.

11 We do not have a specific statute to
12 prosecute persons who leave matches accessible to
13 minors.

14 We do not have a specific statute to
15 prosecute persons who leave car keys accessible to
16 minors. And so on.

17 3. Accidental deaths from firearms
18 are not an increasing but a decreasing problem. The
19 firearm accidental death rate in the United States
20 is at its lowest point ever.

21 The rate, in terms of population, gun
22 owners and guns owned has steadily decreased ever
23 since the end of World War II.

24 In 1945 the rate of accidental firearm
25 deaths in the United States was 2.0 per

1 100,000 of population. In 1988 it was 0.6, less
2 than one-third of the 1945 rate.

3 During the twenty year period from
4 1967 to 1987, the number of accidental firearm
5 deaths decreased from 2,986 to 1,800. Meanwhile,
6 the U. S. population, the number of gun owners and
7 the number of firearms owned increased
8 substantially.

9 According to the National Safety
10 Council there were 1,400 accidental deaths involving
11 firearms last year. This represents a thirteen
12 percent decrease from the previous year.

13 4. The firearm accident problem is
14 being greatly overstated by anti-gun groups that are
15 attempting to utilize it as an emotional vehicle in
16 support of various anti-firearm proposals.

17 Their "child-a-day" that is "killed by
18 a gun" is pure fantasy. Of the 1,400 1988
19 accidental deaths, about 400 involved handguns, of
20 which about 100 involved children age sixteen or
21 under.

22 This is an average of about two per
23 state per year. Last year in Pennsylvania we had
24 three that we know of, something less than we would
25 expect based on our population.

1 5. Much of the steady decrease in the
2 rate of accidental firearm deaths is due to the
3 firearm safety programs of the National Rifle
4 Association of America and its state associations,
5 clubs and instructors throughout the United States.

6 Currently, about 750,000 American
7 citizens are receiving NRA firearm safety training
8 annually through hunter education, home firearm
9 training, basic firearm courses and other NRA
10 programs.

11 NRA has some 26,000 instructors
12 nationwide. Since its inception in 1940, the NRA
13 hunter education program has trained some 18 million
14 young Americans. This is a proven program, the
15 results of which are supported by forty-five years
16 of "hard data."

17 6. Firearm accidents are mostly just
18 that -- accidents. They usually are a result of
19 human error, not negligence per se.

20 Sending a distraught parent to jail
21 because they inadvertently left a firearm loaded in
22 their home is hardly just. In fact in those cases
23 where the parent has lost a child, it seems
24 vindictive, cruel and even inhuman.

25 It makes no more sense than sending a

1 car owner who absent-mindedly left his keys in his
2 car to jail because a child "borrowed" the car and
3 injured someone.

4 7. With three million Pennsylvania
5 gun owners and one or more firearms in at least
6 sixty-five percent of Pennsylvania homes, there will
7 always be an accident risk. The same is true for
8 any other activity in which so many people
9 participate.

10 The key to reducing this risk to its
11 lowest possible level is education. Continuing the
12 firearm safety programs that the NRA and its members
13 have worked so hard to promote and implement over
14 the years. These programs are not just a theory but
15 have been proven effective.

16 8. That House Bill 1928 would have
17 any effect on the firearm accident rate is nothing
18 more than speculation. Our speculation is that it
19 would have no statistically significant effect.

20 9. House Bill 1928 contains no
21 provision to enhance firearm safety education.

22 10. Instead of giving credence to
23 such mean-spirited legislation as House Bill 1928,
24 the Legislature should consider requiring firearm
25 safety training for all students in Pennsylvania

1 public schools.

2 With firearms in at least sixty-five
3 percent of all homes in the state, it is probable
4 that every child will at some time come in contact
5 with a firearm, whether or not there are firearms in
6 his or her home. Therefore, every child stands to
7 benefit greatly from some basic training in firearm
8 safety.

9 The seven organizations which I
10 represent here today hope to have legislation
11 providing for a mandatory basic firearm education
12 program in the public schools introduced in the near
13 future.

14 NRA instructors have just recently
15 completed teaching a basic firearm safety education
16 course to every elementary school student in the
17 Spring Grove School District in Blair County. Thus,
18 we know that this concept is an entirely practical
19 one.

20 Starting next month the National Rifle
21 Association and various county sheriffs will be
22 jointly co-sponsoring basic firearm safety education
23 public service announcements for children on
24 television throughout the Commonwealth.

25 In conclusion, our organizations

1 strongly support a continuation and expansion of
2 these proven educational programs to reduce firearm
3 accidents. We urge this committee to support these
4 efforts and to reject House Bill 1928.

5 By the way, Florida enacted a law
6 similar to House Bill 1928 sometime ago. The first
7 person who had to be prosecuted under the law was a
8 16-year-old, law-abiding grandfather whose
9 granddaughter accidentally shot herself in the thumb
10 with his .32 caliber handgun.

11 Suffice it to say that the popularity
12 of the district attorney who had to bring that case
13 to court because of the new law was not enhanced in
14 the least. It is not an example that we want to
15 follow here in Pennsylvania.

16 The seven organizations that have
17 joined in this statement on House Bill 1928 have,
18 after adjusting for overlapping memberships, an
19 estimated 350,000 members in the Commonwealth.

20 Thank you.

21 CHAIRMAN CALTAGIRONE: Questions.

22 Jeff.

23 REPRESENTATIVE PICCOLA: Doctor,
24 before I ask you a question on the Bill would you
25 explain something to me. What is the difference

1 or what is the organizational difference between The
2 Unified Sportsmen, The Pennsylvania Federation of
3 Sportsmen Clubs and The Pennsylvania Sportsmen
4 Coalition?

5 DR. BOLGIANO: The Unified Sportsmen
6 of Pennsylvania is a separate incorporated
7 sportsmen's organization in the State of
8 Pennsylvania, as is The Pennsylvania Federation of
9 Sportsmen Clubs.

10 The Pennsylvania Coalition is a
11 coalition of a number of clubs in the State of
12 Pennsylvania.

13 The Coalition has as its membership,
14 and they are reorganizing at the present time,
15 they're accepting national organizations into its
16 membership, they consist of The National Wild Turkey
17 Federation, The Pennsylvania Federation of Black
18 Powder Shooters, The Pennsylvania Federation of
19 Sportsmen Clubs and The National Rifle Association.

20 We had a meeting in State College on
21 Sunday for the reorganization of The Pennsylvania
22 State Coalition so that sportsmen can speak in unity
23 in Pennsylvania.

24 REPRESENTATIVE PICCOLA: So The
25 Unified Sportsmen of which you are president is

1 also a member of the Coalition?

2 DR. BOLGIANO: We are not a member of
3 the Coalition.

4 REPRESENTATIVE PICCOLA: That has
5 nothing to do with anything except my curiosity. I
6 keep hearing these names and I'd like to know who
7 the players are.

8 You indicate in paragraph one of your
9 statement that you believe that there are adequate
10 civil and criminal penalties under existing
11 Pennsylvania law.

12 Have you been able to identify those,
13 or would you be able to identify what you believe
14 those tools to be and provide those to us?

15 DR. BOLGIANO: Well I can give you an
16 example.

17 REPRESENTATIVE PICCOLA: Okay.

18 DR. BOLGIANO: Just recently I believe
19 in the State of Oregon - I'm going to Oregon now - a
20 housewife was found guilty of negligence and
21 committed to jail when she left matches in easy
22 reach of children left unattended at home.

23 And I don't think I need to tell you
24 about the details of this instance of these children
25 who played with matches. Suffice it to say the

1 details were gruesome.

2 The incident does prove that there are
3 laws on the books already that can be used in all
4 cases of criminal negligence.

5 All you have to do is prove criminal
6 negligence by child abuse, or whatever the instance
7 is. Those laws are on the books.

8 REPRESENTATIVE PICCOLA: I am familiar
9 with the law of negligence that you're referring to.
10 And I would presume that there would be a cause of
11 action, or there may be a cause of action in some of
12 these accidental shooting cases. Or there probably
13 would be a cause of action in many cases. There's
14 probably no one who wishes to take the action
15 because it's probably an inter-family situation in
16 many cases.

17 But in some of the more egregious
18 cases there may be some kind of criminal negligence
19 involved. And I'm wondering if your organizations
20 have researched what existing criminal penalties,
21 perhaps even violations of the Child Abuse Statutes
22 and that sort of thing.

23 If you could provide those to us. I'm
24 not suggesting you may have them with you today, but
25 you've cited criminal and civil penalties and I was

1 wondering if you might be able to provide us with
2 some more detail on that.

3 DR. BOLGIANO: Well I'd like to
4 perhaps address the issue of children playing with
5 matches.

6 I live in Lancaster, Pennsylvania, and
7 the statistics which I quote from Lancaster hold
8 pretty much true throughout most of the State.

9 Lancaster has had an ongoing ten year
10 program studying fires that have been set by
11 children. Sixty to seventy percent of the fires
12 that were known to be set were set by children
13 playing with matches ten years ago.

14 Forty-eight percent of the kids that
15 set the fires were counseled. With that counseling
16 and by Fire Department conducted education programs
17 in all schools on a monthly basis, the number of
18 fires set by children have decreased by sixty
19 percent.

20 This serves as a prime example of how
21 effective education is. Now this is not addressing
22 specifically your problem about criminal negligence
23 and exactly what instances have been used. But it
24 serves as a prime example of how effective education
25 is in reducing the misuse of a potentially dangerous

1 instrument, whether it be a match or whether it be a
2 firearm.

3 Legislation wouldn't have any affect
4 without the instruction requirements. And that is
5 what our planned legislation that we plan to
6 introduce would require, a firearm safety course in
7 all public schools, is all about.

8 In Pennsylvania last year alone 350
9 persons died in fires, and seventy percent of those
10 were kids who set the fire.

11 Now we're talking about more than 200
12 kids who died last year by fires that they set using
13 matches versus only three that died by firearm
14 accidents.

15 This is one reason why we claim that
16 House Bill 1928 is mean-spirited and is being used
17 as an emotional vehicle. In any one of those cases
18 if it could have been proved that those matches were
19 negligently left for children to play with after
20 they come home from school, or whenever, that is
21 criminal negligence and they could have been
22 prosecuted.

23 REPRESENTATIVE PICCOLA: The criminal
24 penalties that you're referring to then in your
25 paragraph one is the Criminal Negligence Statute?

1 DR. BOLGIANO: Yes.

2 REPRESENTATIVE PICCOLA: The three
3 cases that you indicated that you know about, can
4 you give us some details on those three cases, how
5 they occurred, who and the age of the children that
6 might have been injured, or if they were adults that
7 were injured.

8 DR. BOLGIANO: I don't have that
9 information right offhand.

10 REPRESENTATIVE PICCOLA: Do you know
11 where offhand they occurred?

12 DR. BOLGIANO: In Pennsylvania?

13 REPRESENTATIVE PICCOLA: Yes.

14 DR. BOLGIANO: No. Well there were
15 two in Blair County.

16 REPRESENTATIVE PICCOLA: Two in Blair
17 County?

18 DR. BOLGIANO: Two in Blair County.
19 That's in the Spring Grove School District.

20 REPRESENTATIVE PICCOLA: Is that why
21 they had the educational program?

22 DR. BOLGIANO: That's why they had the
23 education program there.

24 REPRESENTATIVE PICCOLA: And that was
25 in 1988?

1 DR. BOLGIANO: I think that was in
2 1988.

3 REPRESENTATIVE PICCOLA: So there were
4 three in Pennsylvania in 1988 that you're aware of?

5 DR. BOLGIANO: Yes. And incidentally,
6 in Blair County they have issued concealed weapon
7 permits on a very, very free and liberal basis for a
8 number of years. And Blair County has the lowest
9 crime rate of any area in the United States. And
10 it's just a coincidence, an accident, that those two
11 accidents happened in Blair County.

12 REPRESENTATIVE PICCOLA: Of the three
13 incidents that you cited in '88, do you know if any
14 of them were either prosecuted or some civil remedy
15 sought?

16 DR. BOLGIANO: I don't think there
17 was.

18 REPRESENTATIVE PICCOLA: Were they
19 family related incidents?

20 DR. BOLGIANO: I'm sure the two in
21 Blair County were. They were two brothers.

22 REPRESENTATIVE PICCOLA: Was that the
23 same incident?

24 DR. BOLGIANO: Yes.

25 REPRESENTATIVE PICCOLA: So one

1 incident, two victims?

2 DR. BOLGIANO: Yes.

3 REPRESENTATIVE PICCOLA: Thank you,
4 Mr. Chairman.

5 CHAIRMAN CALTAGIRONE: I would just
6 like to respond, Doctor, that I think contrary to
7 your thinking the Bill is mean-spirited, I think
8 from her opening statement, the Prime Sponsor of the
9 Bill had indicated that she in fact does in fact
10 possess firearms herself.

11 And the incident that occurred when
12 she was a young child I think also speaks to the
13 fact that she's concerned about the safety of
14 children, and whether or not there should be some
15 attempt to try to make sure that firearms are kept
16 away from children in a locked security facility, so
17 that children would not have easy access to such
18 firearms.

19 I don't want to speak for you, Ruth,
20 but if you have some comments to make you certainly
21 can.

22 DR. BOLGIANO: Well our opinion is
23 that House Bill 1928 would handcuff law abiding
24 citizens from their prompt and justifiable use of
25 firearms in self defense in the home.

1 Those who would practice the socially
2 unacceptable behavior of force, unlawful entry in a
3 home for the purpose of committing a crime would be
4 aware of and use to their provision of House Bill
5 1928.

6 A firearm that is locked up isn't very
7 effective the moment it's needed. We believe that
8 the education process is the best viably accepted
9 solution to increase firearm safety not only in the
10 home but outside of the home.

11 I don't mean that the legislation is
12 mean-spirited in the fact that it's attacking our
13 interest. I mean mean-spirited in that there are
14 better solutions to the problem than the legislative
15 route of firearm control in the home.

16 CHAIRMAN CALTAGIRONE: Could I pose a
17 question to you that I know you have examined the
18 legislation evidently and have come up with the
19 opinion that you are posing.

20 Would there be any way that you could
21 suggest any amendment or amendments to the
22 legislation that you could accept then the corrected
23 legislation with amendments?

24 DR. BOLGIANO: I cannot speak for the
25 organizations which I represent on that issue.

1 There are two or three more firearms bills which are
2 in process now and the one will be written on
3 firearms education.

4 And it's just like kids playing with
5 matches; I don't care how many pieces of legislation
6 you pass, it will not solve the problem of kids
7 playing with matches. It has to be an education
8 process and this is what we believe in.

9 CHAIRMAN CALTAGIRONE: I completely
10 agree with you. I'm not trying to prolong this.
11 The only thing that I was trying to get at was if
12 you could do us a favor and review the legislation
13 with your organizations, with the hope that possibly
14 they can come up with some suggested language or
15 some changes that they could find acceptable. If
16 that would be possible.

17 Now it may not be possible. They may
18 just completely oppose the whole concept. But I
19 think what Representative Harper is attempting to do
20 is to protect children from firearms that are easily
21 accessible in the home.

22 There are parents and there are people
23 that leave loaded weapons around. It happens.
24 Maybe it's just luck that more children or other
25 people haven't accidentally gotten injured with

1 loaded weapons around the home. And I think that's
2 the concern that she has.

3 It's not that she wants to restrict
4 anybody from owning or possessing a firearm. That's
5 not the point at all.

6 I think what she's trying to establish
7 is some type of control over the weapons when
8 they're in the home so that they're not easily
9 accessible to children so that they can get injured.

10 I think that's the whole point that
11 she's trying to make with the legislation.

12 I know where you're coming from and I
13 can appreciate the concern that's being raised and
14 you're saying, well what really should be done is
15 education in the schools for firearm safety.

16 That's all well and good if you have
17 children that are of school age. What about the
18 pre-school children?

19 I was a social worker with pre-
20 schoolers a number of years ago. I know that that
21 kind of a situation can and does happen where little
22 youngsters are left unattended, or even attended,
23 you're in the kitchen cooking and the children are
24 in the living room and there happens to be a loaded
25 gun on the top of the fireplace or something like

1 that, and little minds get inquiring fingers and off
2 they go trying to tamper with something.

3 Of course they see all this nonsense
4 on TV with shoot them up, bang, bang, and they think
5 it's all fun and games.

6 Maybe we've just been lucky that more
7 children haven't been injured. It's a concern that
8 I think she legitimately raises as a mother and as a
9 woman. And as a parent myself I can sympathize with
10 her on that.

11 DR. BOLGIANO: Mr. Chairman, our
12 suggestion addresses not only in the home but
13 outside of the home.

14 And I have something in common with
15 you Representative Harper. I too was a victim of an
16 accidental gun shot and not so long ago outside of
17 the home. And luckily I was very fortunate that it
18 was not that serious. But it was very frightening.

19 REPRESENTATIVE HARPER: Dr. Bolgiano,
20 I listened to you. You kept referring to matches
21 compared to guns. There's no comparison whatsoever
22 with matches and firearms.

23 I don't think it's a mean-spirited
24 piece of legislation at all. It's just the
25 legislation is for one purpose and that is to

1 protect children. And I do know, and people now
2 more than ever are requiring more guns. That's why
3 we should have this protection for children.

4 I'm not trying to eliminate or put a
5 restriction on people owning guns. I've always said
6 from the very beginning I'm certainly not against
7 owning guns.

8 We need guns for protection today
9 because we have more crimes than ever in our homes.
10 And so we feel even more comfortable. I do. I feel
11 comfortable with my gun at my bedside. But if I had
12 small children in my home I would certainly see that
13 that gun was locked up, or some safety measures were
14 taken to protect children.

15 And believe me when people know that
16 they're going to have to pay the penalty for their
17 actions they will be more careful. So that's why
18 we should put some penalty for carelessness.

19 People just now, hunters come in and
20 just throw the gun up on the mantle or what have
21 you, and it's not unloaded, with children in the
22 home. They will think twice when they know that
23 they're going to pay a penalty.

24 REPRESENTATIVE PICCOLA: Mr. Chairman.

25 CHAIRMAN CALTAGIRONE: Jeff.

1 REPRESENTATIVE PICCOLA: First of all
2 I want the record to be clear. I don't think the
3 Prime Sponsor was mean-spirited. In fact I don't
4 think any legislator introduces legislation because
5 they're mean-spirited about anything.

6 I think everybody introduces
7 legislation because they have an intention to solve
8 a problem. And I think that is what Mrs. Harper is
9 trying to do in this case.

10 However, I do not agree with the
11 approach. And I have remained unconvinced that
12 there is a major problem, and I guess the burden is
13 going to be on the Sponsor and the proponents of the
14 Bill to establish that, number one, there is a
15 significant problem out there.

16 And if there were only three incidents
17 in 1988 the question then has to arise, well will
18 House Bill 1928, or would it have eliminated those
19 three incidents.

20 If we are trying to pass a law to make
21 people not be careless, as Mrs. Harper said, I'd
22 love to find a law that can do that. But people are
23 careless in a whole range of human activities,
24 leaving loaded handguns, loaded guns, letting
25 children have the keys to an automobile, playing

1 with matches.

2 What we probably need is a course in
3 parenting, proper parenting, and maybe that is
4 something we should be looking at.

5 But in terms of the people that are
6 about to testify in favor of House Bill 1928, this
7 Member is going to have to be convinced that there
8 is, number one, a major problem out there. And
9 number two, this Bill is going to solve that problem
10 and change the attitudes of the people who are, I
11 think as Mrs. Harper said, basically careless. And
12 I don't know how any law along this line is going to
13 do that, but I'll try to be convinced if the facts
14 are there.

15 But I did want to make a comment that
16 I didn't think Mrs. Harper was mean-spirited, nor
17 did I think the Bill was mean-spirited. And I think
18 she's attempting to solve what she sees as a problem
19 in a particular sort of way, and perhaps there's a
20 better way to do it but I think we would like to
21 solve the problem even though it might be a small
22 one.

23 CHAIRMAN CALTAGIRONE: Thank you,
24 Doctor.

25 DR. BOLGIANO: Thank you.

1 CHAIRMAN CALTAGIRONE: At this time,
2 Dr. Boltz, if you wouldn't mind, Fred Engle has
3 another hearing to get to and he's going to be
4 speaking as the Legislative Representative from the
5 Fraternal Order of Police.

6 If you would like to make your
7 presentation, sir.

8 MR. ENGLE: The Pennsylvania State
9 Fraternal Order of Police does support this piece of
10 legislation Representative Harper has introduced.

11 We have an increased number of
12 population each year and we have an increased number
13 of guns in our communities each year. And I do
14 think that the answer is legislation such as this.
15 In addition I think education.

16 I have to agree with the gentleman,
17 the Doctor that just spoke, I think education is the
18 key here. But I think people have to understand
19 that they have to be held accountable for their
20 inactions.

21 And he spoke about educating the young
22 people and that's the first step. But I submit to
23 you that we should be also educating our adults.

24 We have accidents. That's what they
25 are; they're accidents. But they're preventable

1 accidents. And I think that the only way we're
2 going to put a dent in those types of accidents are
3 with education.

4 Certainly to have a grieving parent
5 after an accident occurs to be looking at \$15,000 in
6 fines and up to fifteen years in jail, I don't know
7 that I agree with that.

8 But that being held over their head
9 isn't going to totally be a deterrent and maybe we
10 should be looking at when accidents such as this
11 occur, maybe we don't look at such a stiff penalty
12 but we look at getting these people training.

13 What happened, happened because of
14 negligence on somebody's part and that's I think
15 what we have to look at.

16 But we do support the Bill and that's
17 all I have to say.

18 CHAIRMAN CALTAGIRONE: Questions.

19 Jeff.

20 REPRESENTATIVE PICCOLA: Mr. Engle,
21 you used the words that all apply to civil law,
22 accident, negligence, the grieving parent.

23 You used all the civil remedy kinds of
24 words, but the Bill is an amendment to the Crimes
25 Code and it's going to impose I think rather

1 significantly or potentially significantly on
2 Misdemeanor II penalties on what you described as
3 perhaps a grieving parent.

4 And I'd like to be able to change the
5 way people think, their attitude towards guns and
6 that sort of thing too, but I'm just not sure why
7 you believe a criminal penalty should be the answer
8 as opposed to maybe some other type of education or
9 civil remedy?

10 MR. ENGLE: Well I think people should
11 be educated, but if they're not accountable for
12 their inactions then what's it got us? We're
13 nowhere.

14 We go out and we educate people but
15 then they do it because the law says I have to take
16 this firearms training course. But then I go home
17 and I leave my loaded gun beside my bed and my five
18 year old daughter comes in in the middle of the
19 night, disoriented, or what have you, and for some
20 reason just picks it up, not even thinking what it
21 might be and accidentally discharges that weapon.
22 Then what good was the education?

23 Then we start looking at a penalty
24 because people are not being held accountable for
25 their actions or inactions. And to that light I

1 think she has some good ideas.

2 REPRESENTATIVE PICCOLA: Do you think
3 we should apply that across the board to all human
4 activity?

5 In other words let's take the matches
6 situation. I mean if children are playing with
7 matches and they burn down a house, causing death -
8 and that happens in the City of Harrisburg all the
9 time - do you think we should criminally prosecute
10 the person who happened to let those matches sit on
11 the kitchen table?

12 MR. ENGLE: I think we're talking
13 about something that is different. I mean we're
14 talking about weapons and now we're talking about
15 matches and cars.

16 REPRESENTATIVE PICCOLA: Cars?

17 MR. ENGLE: Cars; negligent operation
18 of motor vehicle. Absolutely.

19 I think people should be held
20 accountable. If somebody leaves their keys in the
21 car that's negligence.

22 REPRESENTATIVE PICCOLA: That's right.
23 And you're using the civil remedy. I'm not opposed
24 to prosecuting a civil cause of action and maybe
25 that's the way to go in this thing, is to maybe

1 create a civil cause of action for damages
2 specifically aimed at someone who does this
3 negligent act in leaving the firearm.

4 But there's a whole range of human
5 activity out there and you more or less
6 substantiated it, that it's negligence. It's
7 advertence. It's carelessness. But does it rise to
8 the level of criminal conduct?

9 These people are not intentionally
10 doing something and intended is part of the Criminal
11 Code. Intentionally doing something to cause
12 injury.

13 I don't think anyone wants to cause
14 the injury that's being caused, but it is
15 carelessness.

16 Now do you still want to impose a
17 criminal penalty for that?

18 MR. ENGLE: Yes I do. That same thing
19 applies in a driving under the influence. People
20 are negligent, and I use that term in prosecuting
21 criminal cases for DUI.

22 They're negligent when they start
23 drinking that alcohol knowing that they've got to
24 drive home. They're negligent there and they
25 commit a criminal act and they know.

1 People know. They're educated well
2 enough today to know that if you drink a substantial
3 amount of alcohol it's going to impair your ability
4 to operate a motor vehicle.

5 REPRESENTATIVE PICCOLA: I don't agree
6 with you. When someone intentionally lifts their
7 elbow and pours the drink down their throat, that's
8 an intentional act. That is not a negligent act.

9 MR. ENGLE: Okay. I disagree with
10 you, but.

11 REPRESENTATIVE PICCOLA: Maybe the
12 accident that they cause down the road, you may
13 argue whether that was accidental or negligent, but
14 that isn't the act that we're prosecuting.

15 The act that we're prosecuting is the
16 imbibing of the alcohol to such a degree that you
17 become intoxicated.

18 Criminal law always requires an
19 intent. Mens re I think. It teaches that in law
20 school, that you have to have a criminal intent.

21 And as obnoxious as this carelessness
22 is, does it rise to the level that we should be
23 prosecuting these people criminally? Now I guess
24 you say yes?

25 MR. ENGLE: Yes, we take that

1 position.

2 REPRESENTATIVE PICCOLA: Thank you,
3 Mr. Chairman.

4 CHAIRMAN CALTAGIRONE: Anymore
5 questions?

6 Paul.

7 MR. DUNKELBERGER: This is not really
8 a question. It's basically a note of observation.
9 Representative Harper and also Dr. Bolgiano used the
10 term firearms.

11 Now under our Uniform Firearms Act
12 that would not include a rifle or shotgun because of
13 the barrel lengths.

14 Now the intent of the Bill is to cover
15 all weapons, that being firearms or rifles or
16 shotguns, and I think that would have to be changed
17 in the Bill.

18 The same way with the programs that
19 the Doctor proposed, the educational programs, you
20 used the term firearms. Again, I think that should
21 be expanded to include rifles and shotguns.

22 CHAIRMAN CALTAGIRONE: Representative
23 Harper.

24 REPRESENTATIVE HARPER: I certainly
25 would be willing for the Committee to check the

1 legislation and come up - I can see that we probably
2 need a few amendments to the legislation. But I
3 still say it is a good piece of legislation and it
4 should be worked on.

5 CHAIRMAN CALTAGIRONE: Thank you,
6 Fred.

7 MR. ENGLE: Thank you.

8 CHAIRMAN CALTAGIRONE: Doctor.

9 DR. BALTZ: Good morning. My name is
10 Richard Baltz. I'm a pediatrician. I have the
11 nicety of practicing in the Harrisburg community,
12 Harrisburg and Camp Hill. And I just left a very
13 busy pediatric clinic at the Harrisburg Hospital to
14 come up here and to represent the Pennsylvania
15 Chapter of the American Academy of Pediatrics in
16 supporting House Bill 1928, which prohibits the
17 storage of firearms.

18 And I'm pleased to hear that the
19 definition includes a little bit more than what we
20 had been thinking about, within the easy reach of
21 children.

22 The House Bill 1928 is a necessary
23 first step towards our goal of changing society's
24 attitudes towards guns.

25 It must become socially unacceptable

1 for children and adolescents to have access to
2 deadly weapons if we hope to eliminate the needless
3 deaths of many of the 3,000 children and adolescents
4 under the age of twenty who die of gunshot wounds
5 each year in this country.

6 About nine U.S. children and
7 adolescents die every day from firearm injuries.
8 More are hurt. Of those killed each year
9 approximately 500 of the deaths are unintentional
10 injuries, accidents. And the majority of these are
11 under the age of fifteen.

12 Most of the accidents occur in the
13 home, perhaps involving young children who have
14 graduated from playing with toy guns to real ones.

15 The remaining 2500 deaths are divided
16 almost evenly between homicides and suicides, and
17 the majority of these are ages fifteen to nineteen.

18 The number of affected children,
19 significant though they may be, pale when compared
20 to the tremendous number of individuals, including
21 children, who suffer terrible grief and loss as
22 relatives of the more than 33,000 Americans who die
23 from firearm injuries each year.

24 This situation must stop. Separating
25 guns and children can help begin the process.

1 House Bill 1928 is a clear statement of a societal
2 expectation that gun owners will prevent their guns
3 from coming into the hands of young children.

4 For maximum impact, however, House
5 Bill 1928 must be backed up by a funded,
6 comprehensive education program on gun safety in the
7 home for our families and children, with an emphasis
8 on the pre-teen.

9 Injury prevention strategies which
10 rely principally on the behavioral change rather
11 than an environmental change are less likely to
12 succeed.

13 Since handguns kept in the home are
14 often perceived to be of need for personal self
15 protection, an education program is critically
16 important to foster compliance with House Bill 1928.

17 Our efforts must not stop with House
18 Bill 1928, however. Multiple approaches need to be
19 adopted simultaneously to reduce the availability,
20 and the lethality of deadly firearms in the
21 environments of children and adolescents.

22 We believe that Pennsylvanians will
23 ultimately see the value of restricting ownership of
24 handguns as the principal way of preventing handgun
25 injury and mortality. Intermediate steps we

1 believe include:

2 A. Increasing taxes on handgun
3 purchase since many discretionary purchases are
4 price sensitive;

5 B. Banning "assault weapons";
6 Which as already been adopted as AMA
7 policy.

8 C. Building "safety" into handguns by
9 decreasing muzzle velocity, increasing the trigger
10 pressure required to discharge the weapon, mandating
11 loading indicators on the weapon to enable an
12 individual handling a weapon to know if it was
13 loaded, and including automatic trigger safety locks
14 that make it impossible to fire a gun unless the
15 lock is actively overridden.

16 The goal, however, is not to build a
17 "safer handgun" as a consumer product. Handguns by
18 definition are deadly weapons and are dangerous
19 consumer products. They should be eliminated!!

20 House Bill 1928 is an important first
21 step. Pediatricians in Pennsylvania stand ready to
22 work in a public/private partnership with government
23 to increase societal awareness about the dangers of
24 handgun ownership and storage at home, and the ways
25 in which these weapons can be safely stored away

1 from the exploring hands of children and
2 adolescents.

3 Thank you.

4 CHAIRMAN CALTAGIRONE: Thank you,
5 Doctor.

6 Questions.

7 (Negative response.)

8 DR. BALTZ : Pediatricians like
9 consumers are user friendly.

10 CHAIRMAN CALTAGIRONE: You left no
11 doubt as to where you stand on this issue, Doctor.

12 Thank you, Doctor.

13 DR. BALTZ : Thank you.

14 CHAIRMAN CALTAGIRONE: Carl Bogus,
15 Handgun Control.

16 MR. BOGUS: Good morning. My name is
17 Carl Bogus. I'm an attorney in Philadelphia and a
18 member of the Board of Directors of the Center To
19 Prevent Handgun Violence. And a member of Handgun
20 Control, Incorporated.

21 Before I begin my remarks, if I may, I
22 would like to play about a three minute video tape
23 for the Members of the Committee if that would be
24 all right?

25 CHAIRMAN CALTAGIRONE: Sure.

1 (Video tape was shown to Members.)

2 MR. BOGUS: If you're moved by that;
3 you shouldn't be because it happens every day in the
4 United States. It's a common occurrence. It's
5 nothing special.

6 The only thing that is special is that
7 the kid called 911 and they recorded the call. But
8 every day in this country over 400 times a year a
9 child under fourteen finds a handgun in a parent's
10 night stand drawer or closet, or somewhere else, and
11 kills himself or herself, or his brother or sister,
12 or playmate with it every single day.

13 And for every child that dies that way
14 ten more are wounded. Some horribly maimed for
15 life. And reflect for a moment not just in this
16 case on the little girl who lost her life, but on
17 the shattered lives that are in the wake of that
18 incident. Her brother who killed her. Her parents
19 who left their handgun around. And what feelings do
20 they harbor for their son now and how does their son
21 feel about what feelings his parents harbor for him.

22 I'm sorry if I'm a little choked up.
23 It's an emotional issue. It's a very emotional
24 issue.

25 We know a lot about these things.

1 We've done studies. We know who the guns owners
2 are. We know that forty-seven percent of the time
3 it's the victim's parents. And twenty-eight percent
4 of the time it's the friend's parents. And thirteen
5 percent of the time it's the relative's parents.

6 And we know where the shootings take
7 place. They take place in the victim's home fifty
8 percent of the time. In the friend's home, thirty
9 percent of the time.

10 And we know who the victims are.
11 Eighty percent of them are little boys. Twenty
12 percent are little girls.

13 And just as an item of interest I can
14 tell you we know who the people are who are doing
15 the shooting, they're almost in all cases little
16 boys. It's just an interesting statistic.

17 We know that in two-thirds of the
18 occasions parents are not around. In fact there is
19 no adult in the home.

20 We do focus groups. We've done focus
21 groups in Florida with kids and we say, do you know
22 where your parents' handgun is? And they tell us
23 they do. They tell us their parents hide them from
24 them. They know where it is.

25 We've done two studies on this

1 which I've asked to have distributed to members of
2 the Committee. One's called the Killing Season. We
3 can tell you what the killing season is.

4 These happen in the late afternoon
5 when the kids are home from school and the parents
6 are working.

7 They happen on Saturdays. That's the
8 most popular day for the incident. They happen on
9 summer vacation, or on any vacation.

10 And those are just the kids who are
11 killing themselves and each other with handguns;
12 just that statistic.

13 Because every day in this country ten
14 youngsters are killed with firearms and thirty are
15 wounded.

16 Let me read to you what a physician
17 writing in an AMA Journal wrote. She wrote, "It is
18 clear we are dealing with a problem of epidemic
19 proportions. Any disease that produced such an
20 alarming number of deaths would receive prompt
21 attention from the medical profession and the
22 government, as did the recent outbreaks of toxic
23 shock syndrome, Legionnaires's disease, and acquired
24 immuno deficiency syndrome."

25 And it happens in Pennsylvania.

1 Clipping after clipping, Little boy, David Farely,
2 Gulf Mills, Pennsylvania, picks up his father's
3 handgun. His father's a pharmacist, carries a
4 handgun for protection. Kills himself with it.

5 Little boy in South Philadelphia -
6 this is just out of my local newspaper - three year
7 old boy shoots his five year old brother.

8 It's a common occurrence. But unlike
9 AIDS or Legionnaire's disease it's something the
10 General Assembly can do something about.

11 You can let the word go forth that
12 people should not, if there are children that can
13 get access to that gun, store it except in a safe
14 manner. You can send that word forth.

15 In Florida they had five kids kill
16 themselves in one Christmas vacation. They passed a
17 law against this with the NRA support. The NRA,
18 supported this in Florida. They supported this in
19 Wisconsin.

20 I understand that Dr. Krug was here
21 and told you that the NRA does not support it here.
22 I don't know why, but everybody's going to be
23 interested in the reversal of that position.

24 There is no reason not to have this
25 legislation.

1 Let me address for a moment
2 Representative Piccola's concerns about mens rea.
3 An adult intentionally decides how a handgun is
4 going to be stored. That isn't just negligence.
5 There's some intention involved.

6 Am I going to keep it loaded in the
7 night stand dresser drawer? Am I going to have a
8 trigger lock on it?

9 Clearly no mens rea problem here.
10 Absolutely not. And I don't think the matches
11 analogy is the right on point analogy.

12 Matches are everywhere. You can walk
13 around this Capitol. You can go into any
14 restaurant, there are matches everywhere. We can't
15 control matches, but handguns are not analogous to
16 matches. They are not left in ashtrays, in
17 restaurants and in hotels, and everywhere. And if
18 they are, they shouldn't be.

19 The better analogy to this is
20 refrigerators. There used to be a problem when
21 people disposed of refrigerators. You had
22 refrigerators in empty lots. Kids would play in the
23 refrigerators. They'd get caught in the
24 refrigerator. They couldn't get out and they would
25 suffocate.

1 And practically every state in this
2 country - and I should have looked up whether
3 Pennsylvania has such a law before I came here
4 today. Forgive me, I didn't. But practically every
5 state in this country has a law against storing a
6 refrigerator in an empty lot that doesn't have the
7 door taken off or that isn't locked up.

8 And my God, if we can pass such a law
9 with refrigerators why in the world can't we pass
10 such a law with guns which are meant to kill people,
11 and which are killing our children at alarming
12 rates.

13 I'd be happy for any questions.

14 CHAIRMAN CALTAGIRONE: Jeff.

15 REPRESENTATIVE PICCOLA: How many
16 people in Pennsylvania would have been prosecuted
17 last year under this Bill if it had been law?

18 MR. BOGUS: I don't know how many
19 would have been prosecuted. And obviously, like all
20 legislation, the goal of the legislation is not to
21 prosecute people. The goal of the legislation is to
22 save lives.

23 And I can't tell you. First of all I
24 don't have the statistics and I don't think there
25 are any statistics. I don't think anybody

1 compiled statistics as to if a child was killed with
2 a handgun, was the gun stored in a place where that
3 person could easily anticipate a child might gain
4 access, etcetera, etcetera, etcetera.

5 Nor can I tell you how prosecutors
6 would use their discretion in each of those cases.
7 We all know that prosecutors are not automons.
8 They're not robots. They exercise discretion. They
9 are not heartless.

10 But what is important is to let our
11 citizenry know that it is not acceptable anymore to
12 leave loaded guns lying around where a Sean can pick
13 it up and kill his sister with it.

14 And if some grief stricken people are
15 prosecuted but it saves lives and saves shattered
16 families, it will be worth it.

17 REPRESENTATIVE PICCOLA: That's the
18 point of my question. If you put a law on the books
19 but don't prosecute anyone under it, it doesn't
20 serve any purpose. It's a paper tiger.

21 And you're going to have to prosecute
22 people under the law if you're going to have other
23 people become aware of it.

24 How many were prosecuted in Wisconsin
25 or Florida in the first year after those laws were

1 in effect?

2 MR. BOGUS: I don't know the answer to
3 the question. But I do know in response to your--

4 REPRESENTATIVE PICCOLA: Well how can
5 you come here and advocate a deterrent, which is
6 what you're advocating, a criminal law as a
7 deterrent for certain human behavior, and not tell
8 us who's going to be prosecuted, how many people are
9 going to be prosecuted, or how many were prosecuted
10 in other states who have the same law? I don't
11 think you're very adequately prepared.

12 MR. BOGUS: Well, Representative, I
13 beg to differ with you. And let me go back to a
14 comment you made.

15 You said the law will have no affect
16 unless people are prosecuted. Let me tell you that
17 in the week after this law was passed in Florida
18 there was an enormous surge in purchasing of gun
19 locks.

20 In fact throughout the State they
21 couldn't keep them in stock. They had to ship in
22 hundreds and thousands of new gun locks in Florida.

23 And I cannot sit here and tell you how
24 many children's lives were saved as that result.
25 But I'll ask you, how many would it take to make

1 it worth it?

2 REPRESENTATIVE PICCOLA: If I knew we
3 were going to save one it might be worth it. But
4 what I'm saying is you can't even tell us how many
5 people were prosecuted in states that have this law.

6 And you can't tell us how many are
7 going to be prosecuted in Pennsylvania. I'd like to
8 know that before I'm going to be in favor of
9 something.

10 MR. BOGUS: Nobody could tell you
11 that, Representative. Nobody could tell you how
12 many people would be prosecuted in Pennsylvania.

13 REPRESENTATIVE PICCOLA: Okay.

14 MR. BOGUS: Because nobody can be
15 telepathic with the minds of all of the prosecutors
16 in Pennsylvania.

17 REPRESENTATIVE PICCOLA: All right.
18 Tell us then how many were prosecuted in Florida?
19 They've had it for some time.

20 MR. BOGUS: I don't know the answer.

21 REPRESENTATIVE PICCOLA: How many were
22 prosecuted in Wisconsin?

23 MR. BOGUS: I don't think Wisconsin
24 has passed the law. I think just Florida has.

25 REPRESENTATIVE PICCOLA: You indicated

1 it was passed in Wisconsin.

2 MR. BOGUS: No. I said the NRA
3 supported it in Wisconsin.

4 REPRESENTATIVE PICCOLA: Okay. I
5 thought you said it had passed with the support of
6 the NRA.

7 Well, I think that's important
8 information that we should have.

9 MR. BOGUS: I will find it out and get
10 it for you. If it's available I will find it out
11 and get it for you.

12 REPRESENTATIVE PICCOLA: Because
13 that's the whole purpose for a criminal statute, is
14 to prosecute people under it so that it acts as a
15 deterrent for whatever behavior you're trying to
16 change.

17 MR. BOGUS: That's one of the
18 purposes. Another purpose is to put a social
19 imprimatur on a automotive behavior. And I think
20 that legislation is frequently passed to let the
21 public know what standards are required of them.

22 I am not sitting here and telling you
23 that people should, if this law is passed should not
24 be prosecuted under it. I think they should. And I
25 think that that will support the deterrent effect of

1 the law. And I will try to find out how many
2 people have been prosecuted so far.

3 REPRESENTATIVE PICCOLA: I find your
4 attitude about what you perceive to be Pennsylvania
5 to be quite condescending, because I don't think
6 there's any Pennsylvanian who doesn't believe that
7 gun safety is something that they should be
8 concerned about and should practice.

9 And if you're saying that we have to
10 sit up here in Harrisburg and tell people by passing
11 criminal statutes that certain types of behavior
12 that they're engaged in should not be engaged in
13 because they're somehow too stupid to realize that,
14 that's a very condescending attitude on your part.

15 MR. BOGUS: No, I don't think that
16 that's so. And I think that, first of all what you
17 said by the way, I'm sure you meant the reverse of
18 what you said; what you said was you don't think
19 there's anybody in Pennsylvania who is concerned
20 about gun safety. And I'm sure you meant the
21 reverse.

22 REPRESENTATIVE PICCOLA: Who is not
23 concerned about gun safety.

24 MR. BOGUS: Okay. And I think that
25 that's right. I think that Pennsylvanians are

1 concerned about gun safety. And I think that
2 Floridians are concerned about gun safety. And I
3 think that Wisconsin's concerned about gun safety.
4 And I think that all good citizens are concerned
5 about gun safety. But our children are dying in all
6 of these states, including Pennsylvania.

7 REPRESENTATIVE HARPER: May I just say
8 this in support. I appreciate your comments and let
9 me tell you, after we pass that law-- You mentioned
10 Frigidaires, putting them on the lots and that sort
11 of thing with the doors on.

12 And since we passed the law in
13 Philadelphia that people will be prosecuted if they
14 put those Frigidaires out without the doors off -
15 every year about five or ten children suffocated in
16 those Frigidaires - but when we passed that law no
17 one has been prosecuted because people don't put
18 them out with the doors on anymore. So the law
19 made the difference.

20 MR. BOGUS: Ladies and gentlemen,
21 don't underestimate the power that you hold in your
22 hands by simply passing a law and letting the word
23 go forth that there is a serious problem and what is
24 expected of citizens in dealing with it.

25 CHAIRMAN CALTAGIRONE: Anymore

1 questions?

2 (Negative response.)

3 CHAIRMAN CALTAGIRONE: I don't believe
4 there's any other presenters to testify today, so
5 we'll adjourn the hearing.

6 Thank you very much.

7 (Whereupon at 11:20 a.m. the
8 hearing was concluded.)

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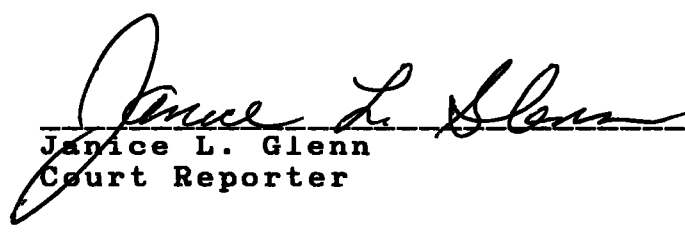
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