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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON JUDICIARY

In re: Domestic Relations Injustices in the  
Legal System

\* \* \* \* \*

Stenographic report of hearing held  
in Room 140, Majority Caucus Room,  
Main Capitol, Harrisburg, Pennsylvania

Thursday,  
September 12, 1991  
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN  
Hon. Kevin Blaum, Subcommittee Chairman on Crime  
and Corrections

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Frank Dermody	Hon. David J. Mayernik
Hon. Gregory C. Fajt	Hon. Jeffrey E. Piccola
Hon. Michael C. Gruitza	Hon. Robert D. Reber
Hon. Lois S. Hagarty	Hon. Karen A. Ritter
Hon. David W. Heckler	

Also Present:

Galina Milahov, Research Analyst  
Katherine Manucci, Committee Staff  
Mary Woolley, Republican Counsel  
Paul Dunkleberger, Republican Research Analyst  
Mary Beth Marschik, Republican Research Analyst

Reported by:  
Ann-Marie P. Sweeney, Reporter

ANN-MARIE P. SWEENEY  
3606 Horsham Drive  
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APPENDIX

1                   CHAIRMAN CALTAGIRONE: I think in order  
2 to stick to the time schedule because of the number of  
3 witnesses that will be testifying, there will be  
4 members that will be appearing, but what's more  
5 important is having the official record recorded here,  
6 which will be made available when it's transcribed.

7                   MS. BOGART: All right.

8                   CHAIRMAN CALTAGIRONE: So what I'd like  
9 to do is get started with the domestic relations  
10 hearings dealing with the injustices in the legal  
11 system that's sponsored by the House Judiciary  
12 Committee. I'm State Representative Tom Caltagirone,  
13 Chairman of the House Judiciary Committee, and this is  
14 the second day of three days of hearings that we're  
15 conducting on this issue.

16                   Joining us on the panel this morning is  
17 Representative Gruitza, who will also be participating  
18 in the questions today. There will be other members  
19 and staff that will be joining us, but Charlotte, if  
20 you don't mind, if you'd like to, we'll start the  
21 proceedings.

22                   MS. BOGART: Okay. Thank you for the  
23 opportunity to speak regarding domestic relations  
24 injustices in the Pennsylvania legal system. I've  
25 waited many, many years to relieve this frustration,

1 and I thank you very much.

2 My name is Charlotte Bogart from  
3 Mechanicsburg, PA. Was born in this State over 68  
4 years ago, married in 1946 to an engineer, have one  
5 son, a graduate engineer from Penn State University.  
6 My husband changed jobs quite often, so we lived and  
7 traveled in many of the continental States, living in  
8 hotels and motels for four years after our son was  
9 born. Also lived in the West Indies where it was  
10 necessary for me to teach our son school for two years,  
11 and returned to Pennsylvania in 1960.

12 Being a victim of the legal system and  
13 attempting to obtain support, alimony, and/or an  
14 equitable distribution divorce settlement has made me  
15 very much aware that the legal judicial system in this  
16 State is not based on justice and laws but on an  
17 individual's pocketbook and the individual whims of  
18 some judges and attorneys. For many years, I have  
19 listened to horrible stories in York, Lancaster, Main  
20 Line Philadelphia, and western Pennsylvania, and many  
21 people have contacted me by phone and letter relating  
22 their own details of the cruel and at times sadistic  
23 treatment by the legal judicial system which decent,  
24 law-abiding citizens are receiving in the courts of  
25 Pennsylvania. Their stories sound more like the Dark

1 Ages, not a supposedly civilized State.

2 Following is a chronology of events and  
3 exhibits regarding my problems. And the exhibits are  
4 numbered according to date on the side, if there is an  
5 exhibit.

6 (See Appendix for exhibits.)

7 MS. BOGART: In March 1970, my husband  
8 asked for a divorce and moved out of the marital home  
9 in Mechanicsburg.

10 In 7/70, I had major surgery at the  
11 Geisinger Medical Center.

12 12/70. Support through Cumberland County  
13 court, but not enough to live on and maintain two  
14 apartments in the building in which we lived. Waited  
15 seven months to get support. My husband had always  
16 taken care of the maintenance. •

17 1/71. I started working temporary,  
18 part-time wherever I could find work. I had a small  
19 gift shop in my home and he was demanding his half of  
20 anything I would sell. He gave me money to buy  
21 merchandise after he asked for the divorce and insisted  
22 that I open the shop three weeks after I came home from  
23 the hospital. He was telling me what to do and  
24 insisting I could work. He had me go to his attorney.  
25 I trusted him. My generation was taught to obey our

1 husbands.

2 3/71. Now he wanted to return to our  
3 marriage. Since he was an engineer and had a good job  
4 with the Commonwealth of Pennsylvania and I had very  
5 little money, I agreed to having him back. He insisted  
6 that I have the support order lifted and that there  
7 would be no more need for that.

8 9/71. I really wanted the marriage to  
9 work and I still loved him, so I had the support order  
10 lifted.

11 5/72, and there is an exhibit, aggravated  
12 assault and battery charge, No. 133 September Term,  
13 1972. Caught him coming out of the home of his  
14 girlfriend in Harrisburg. He followed me home in his  
15 car. He was really a mad man. The things he did were  
16 so frightening and have left an indelible scar with me.  
17 My right arm and shoulder still have pain. I had  
18 therapy for many months and take expensive medication  
19 to control the pain. I was losing the use of my right  
20 arm.

21 9/72, and there is an exhibit, Cumberland  
22 County Court for aggravated assault charge. Then  
23 Assistant District Attorney Bayley, now Judge Bayley,  
24 talked and with action talked me out of pursuing the  
25 case. He made me feel that I was so wrong and that I

1 was wasting everyone's time. I could not afford an  
2 attorney. He did not even keep his promises, a court  
3 order to insist that my husband pay my medical bills.  
4 He would not do anything about my husband harassing me.  
5 The only medical bills that were paid on my shoulder  
6 were the ones that my husband's Blue Cross and Shield  
7 paid. Therapy and so forth were not paid, and I paid  
8 those bills a few dollars every few weeks as I could  
9 get enough money. I was having trouble establishing  
10 credit. Copy of letter regarding my treatment in the  
11 court which I wrote to Judge Shughart but not mailed on  
12 the advice of my divorce attorney is included in the  
13 exhibit.

14 Beckley and Groves, attorneys for  
15 divorce, asked Attorney Kusic and Bayley many times to  
16 have my husband pay my medical bills.

17 1/73. Again he wanted to return,  
18 showered me with gifts, and after all the hell and no  
19 help or assistance or protection, figured it would be  
20 easier to try to deal with him directly. Of course, I  
21 was told I was not sticking to one course. A person  
22 reaches a point that we do whatever we can to just  
23 survive, and I had reached that point. I had had to  
24 put up with house break-ins, car windows being broken,  
25 gloves under the hood of my car. I service my own car

1 and they were not mine. He had also purchased a rifle  
2 with a telescopic sight, making a point that I see it,  
3 and he did not hunt. I carried important papers in the  
4 trunk of my car, and I could go on and on.

5 10/73, and I have an exhibit, second  
6 aggravated assault, broken leg. aggravated assault  
7 charge, No. 54 February Term, 1974. Many times he said  
8 he had to go away on business to Avalon, New Jersey,  
9 where we have rental properties. Never knew for sure  
10 whether he would be home. On this particular evening,  
11 I had invited the wife of a couple who were friends of  
12 ours for dinner, not expecting him to come home. He  
13 called and insisted I go with him to dinner. My  
14 refusal so infuriated him that he came to the house,  
15 threatened to throw my guest's plate of food at her and  
16 ordered her out of the house. He was obviously  
17 intoxicated, and I was afraid of him. Again, he was a  
18 mad man, pushed and knocked me against the doors and  
19 dragged me to go with him. I resisted and that is when  
20 he broke my leg. He took me to the hospital. I wanted  
21 to be left alone, but he insisted on staying. I called  
22 the police and cab several times to the hospital to  
23 take me home after the cast was on my leg, but he sent  
24 them away. I was hurting so badly that I finally gave  
25 up and let him bring me home, even though I was very



1 frightened. A few days passed before I could even get  
2 to where I could file charges.

3 He insisted on having sex many times  
4 right after this. I was on crutches and could not  
5 manipulate very well. He would drop me off at work and  
6 pick me up at the door. I was not able to do very much  
7 for myself, and all my friends were afraid of him and  
8 did not wish to get involved in the mess, and I did not  
9 blame them. I finally filed a criminal complaint  
10 against him on November 12, 1973. After this assault,  
11 I was ordered by the court, as per my attorney, to have  
12 a psychiatric examination.

13 He was found guilty by Judge Weidner, not  
14 a jury, in February 1974 and sentenced July 30, 1974.  
15 I remember he was not even present in the courtroom.  
16 We had to wait quite a while for him to appear. His  
17 sentence was pay costs, and at that time was to be  
18 imprisoned in Cumberland County Prison for 30 days,  
19 effective one week from that date. However, on August  
20 8, 1974, that order was amended and vacated and  
21 sentence was suspended for a period of 12 months with  
22 no supervision.

23 3/74. Letter dated March 26, 1974,  
24 fourth paragraph, addressed to my husband at his Post  
25 Office Box in Harrisburg from Attorney Harry L. Bricker

1 -- and there's an exhibit -- Harry L. Bricker, Jr., of  
2 Dauphin County. My husband kept that address even  
3 though he was living with me. Attorney Richard  
4 Snelbaker was representing my husband in Cumberland  
5 County. Letter recommends, quote, "buying out,"  
6 unquote, of litigation in Cumberland County as follows,  
7 and I quote that paragraph:

8 "However, and in view of my recent  
9 conversations, it may be advisable to consider 'buying  
10 out' from the litigation in Cumberland County and then  
11 allowing us to proceed here in Dauphin County  
12 separately. If these matters can be concluded  
13 properly, certainly I believe it is the thing to do,"  
14 the end of the quote, the end of that paragraph.

15 I have not found anyone in the legal  
16 profession who can or will explain to me what, quote,  
17 unquote, "buying out" means. It appears he wanted me  
18 out of this property so that he can have the income.  
19 All the times he was or had come back he did very  
20 little maintenance. I had to pay all the mortgage  
21 payments, insurance, taxes, whatever had to be done  
22 came from the rent and/or my income. And the rentals  
23 did not support the building under such circumstances.  
24 I did not have enough money for an attorney so did not  
25 pursue divorce, knowing his attitude was to outspend

1 and he seemed to have an "in" with the court.

2 In 1966, we purchased property in both  
3 names in Avalon, New Jersey, to be used as rental  
4 property and we would also have the use when not  
5 rented. At that time, the Cape May County Bank would  
6 not give me particulars on the mortgage because they  
7 had been given instructions that no information was to  
8 be given out, even though my name was on the mortgage.  
9 More harassment. My husband made those mortgage  
10 payments. I only had access to the house when he was  
11 living with me. He would change the locks.

12 8/74. Again, I had no protection. At  
13 this point I wrote several letters to the disciplinary  
14 board and so forth, which were acknowledged, but I  
15 sensed that was an exercise in futility. Also wrote to  
16 the Attorney General's Office, but there was no  
17 concern.

18 11/74, and there's an exhibit. Again, he  
19 made overtures and wanted to return. It was easier to  
20 know where he was. He would break into the house when  
21 I was away, hide my jewelry, take my clothes, much  
22 more. By this time, I was very leery but my options  
23 were few, and I already was aware of the harassment I  
24 could expect from my husband. I did insist upon an  
25 agreement. He wrote most of it and I insisted on

1 having it notarized, and only he signed it. My  
2 attorney drew up another agreement later that was to be  
3 recorded in the courthouse, but he would not sign that.  
4 He even took me to Barbados early in 1975. It seemed  
5 as though things were at last going to be okay.  
6 However, he would not agree to counseling. Later  
7 realized he had accomplished his mission of getting  
8 back into the house.

9                   The situation reverted back to the same  
10 way it was, except now there was very little physical  
11 abuse. Just locked me out of the house and many other  
12 ways of financial, mental, and emotional harassment. I  
13 was still paying practically all the mortgage payments,  
14 taxes and utility bills from 1971 on. He made many  
15 promises which were never kept. I had to accept it, no  
16 place to turn. He stayed, came and went from the  
17 marital residence whenever he chose. We had marital  
18 relations up until June 1980, even though he was in the  
19 house after that.

20                   2-81. He would harass the tenants. One  
21 incident, there were notes left on the apartment door  
22 and steering wheel of the husband's truck of the young  
23 married couple. The husband sometimes worked nights.  
24 The notes threatened to sexually molest and kill the  
25 young woman. Every time they took out the garbage they

1 took along a gun. The couple put wiretaps on their  
2 phone, unknown to me, and shortly after they saw a man  
3 go into the garage. They did not know who he was.  
4 They called the police and they caught my husband. I  
5 was called out of bed to identify him. Since his name  
6 is on the property, he had a right to be in the garage,  
7 and I have reason to believe he was tampering with my  
8 car. After that, he threatened to sue the young couple  
9 and harassed them in other ways for a week or so, but  
10 the threatening phone calls and notes stopped abruptly  
11 after he was caught.

12 Reported all this to the district  
13 attorney's office, but no one would believe me, and  
14 said so. I feel I had been threatened and intimidated  
15 with phone calls and many other ways by his attorney  
16 and courts since then.

17 10/81. Filed for divorce. A policeman  
18 recommended an attorney. I just did not know whom to  
19 trust. Most of all, I did not have any money. For  
20 several years I borrowed clothes from my mother to wear  
21 to work. Attorney Jane Alexander filed my divorce in  
22 Dauphin County. My husband was living and working  
23 there. I attempted to get support, but my attorney  
24 advised I was working and I would not get anything and  
25 should not spend money which I did not have on legal

1 fees.

2 No consideration was given to the amount  
3 of moneys I had spent to maintain the marital property  
4 - 20 room, full basement with attic versus what my  
5 husband maintained at the shore - 7 rooms rented  
6 approximately 3 months out of the year, plus two other  
7 duplex in his name only. He did not maintain the  
8 house, just siphoned the money and put into his name.

9 Exhibit 5/84. Attorney Jane Alexander  
10 was busy and explained she had problems and illness in  
11 her family, so she had Rob Krug of York County doing  
12 some work for her while she was trying to get some of  
13 her personal problems solved. My case was one of them.  
14 I tried to be patient, but I did not feel I should  
15 continually have to be prodding to see what the next  
16 step was and then was it done. My phone calls were not  
17 returned. I often wondered whose side he was on.  
18 Again, who does one trust? I requested that if she  
19 could not handle my case personally to find someone  
20 else whom I could trust.

21 5/84, approximately. My husband retired,  
22 took his retirement from the Commonwealth of  
23 Pennsylvania. Retirement Board would not hold up lump  
24 payment until settlement. He is less than a year older  
25 than I am.

1                   12/84. Received word one day before the  
2 scheduled Master's hearing that my husband and Howett  
3 were going to file a motion challenging the  
4 constitutionality of the part of the Divorce Code re  
5 marital property in one name only. He was siphoning  
6 money from the marital property and putting it into his  
7 name.

8                   On December 1985, Judge Herbert A.  
9 Schaffner dismissed the motion.

10                   8/85. Jane and I met with Ruby Weeks and  
11 she became my attorney. I do trust her.

12                   9/85. Filed for support through  
13 Cumberland County Domestic Relations Office. URESA was  
14 sent to New Jersey, there are exhibits, to two  
15 different counties - Atlantic and Cape May. I had to  
16 pay another attorney in New Jersey. Howett, by letter,  
17 stated that my husband was not a resident of New  
18 Jersey. He was not required to give his address until  
19 after much time and money had been expended, so I went  
20 to New Jersey and then later learned his residence was  
21 Florida. The beneficiary on his insurance policies  
22 were changed, and he was living with someone in  
23 Atlantic City. I cooperated with the support office in  
24 Cape May County. That is where he was served papers.  
25 A hearing was held before a judge, and he was still

1 receiving his Social Security check at the address in  
2 Atlantic City. Col. Dougherty of Cumberland County  
3 wanted Ruby to do the paperwork, so I had to pay her,  
4 and I understood the support procedure was the  
5 responsibility of the county. One time I reminded him  
6 he was really orchestrating the moves back and forth  
7 among several States and counties very well, and he  
8 became very angry but later apologized. I guess I had  
9 hit a raw spot.

10 When I sent to Florida for information,  
11 was informed a spousal support did not exist down  
12 there, only if I obtained another attorney to do the  
13 work there. The mess had already been made in  
14 Pennsylvania and New Jersey. Florida would only add to  
15 the confusion. A person could be starving and no one  
16 would care in this State.

17 1/86, with exhibit. Letter from Jane  
18 Alexander to Ruby Weeks which states that Howett told  
19 her at least 50 times that, quote, "they would appeal  
20 every single ruling as high as they could and delay the  
21 ultimate settlement for years," unquote. Is this our  
22 form of justice in Pennsylvania?

23 4/86, with exhibit. Letters from Ruby  
24 regarding the delays and items that are being held up  
25 with no actions in Dauphin County courts.



1                   4/88, Exhibit A. Mr. Howett was finally  
2 ordered to reveal my husband's address in Florida by  
3 Judge Bayley. Only if there is a problem in Florida  
4 will Judge Bayley reconsider. Why was that not done  
5 initially? I could not afford the Florida attorney. A  
6 real fiasco.

7                   4/88, with exhibit. Letter from Ruby to  
8 Judge Bayley regarding Howett's statements of accusing  
9 her of being, quote, "inaccurate and intentionally  
10 misleading," unquote. The saying is when you can't  
11 shoot the rider, shoot the horse.

12                   8/88. Letter from Ruby to Judge Natale  
13 re injunctive relief and other issues that have been  
14 before his court for a long time.

15                   9/88, with exhibit. Bifurcated divorce  
16 decree issued by Judge Natale. Injunctive relief  
17 denied. Not shown immediate irreparable harm. Interim  
18 counsel fees are not to be addressed, and Howett wishes  
19 to put a mortgage lien against the marital property in  
20 which I live, and I will be the one who will be  
21 responsible for the total mortgage based on all past  
22 experiences and knowledge of other cases in this State,  
23 the spouse with the least resources is left, taxes are  
24 not paid by the other spouse even though there was a  
25 court order. It has happened so often.

1                   10/88, with an exhibit. Additional  
2 correspondence re my support action and who has  
3 jurisdiction. Again, if my husband's address would  
4 have been obtained from Howett in the first place, all  
5 of the morass could have been eliminated. The paper  
6 dances boggle my mind.

7                   10/88, with an exhibit. Letter to me  
8 from Ruby re divorce decree. Also confirms that I will  
9 not participate in the Kathy Unruh television program,  
10 Channel 27. The reporter called Howett for my  
11 husband's side of the story and he called Ruby and  
12 threatened to sue me for defamation of character if I  
13 appeared on the program. I did not appear. Based on  
14 how I have been treated in the courts, what would your  
15 decision have been?

16                   Again, on August 7, 1991, WGAL-TV 8  
17 Lancaster had a half-hour program. I had made the  
18 initial contact with the station, had given them the  
19 names of the victims to call so they could make a  
20 choice, gave them the names of Representative Pesci and  
21 Representative Saurman who have been working on this  
22 issue. Some attorneys had declined to appear because  
23 of a conflict of interest. One-half hour before air  
24 time I learned that Mr. Howett was the attorney who  
25 would be appearing. He assured the producer and

1 moderator he would only be addressing the costs of the  
2 Master's hearing and court costs. The first thing Mr.  
3 Howett did on his segment was attack me and say that  
4 all my problems were my own fault. I had the option of  
5 not appearing, but it was not my place to back out.  
6 However, I did feel intimidated and threatened, which  
7 was the whole idea. I have already included a copy of  
8 that tape for the committee's viewing at your leisure.

9 11/88, with exhibit. Another request  
10 from Ruby to Howett for my husband's income. He also  
11 had a realtor's license in New Jersey. Also tax  
12 returns from 1985 to the present. We have never had a  
13 complete return since I filed for a divorce. A total  
14 disregard for laws.

15 1/88, with exhibit. Judge Bayley's court  
16 order transfers spousal support case to Dauphin County.  
17 Please recall I initially requested support in  
18 Cumberland County, September 1985.

19 1/90. Letter to Judge Natale from Ruby  
20 Weeks re interrogatories and other motions so that  
21 something of substance can be done.

22 2/90, with exhibit. Hearing by Judge  
23 Natale re the many motions and so forth before his  
24 court which pertained to my case scheduled 3-14-90.

25 3/90. My testimony before the

1 Pennsylvania Bar Association Task Force, Keller  
2 Conference Center, State College, PA.

3 4/90. Order by Judge Natale re several  
4 motions regarding discovery which has been in his court  
5 for some time.

6 6/90, with exhibit. Letter to Howett  
7 from Ruby re information not furnished in answer to  
8 interrogatories and Howett's reply. Note: I requested  
9 that Ruby send a copy to Judge Natale. How else does  
10 one know all the games being played at our expense?  
11 All should be informed.

12 5/90, with exhibit. Two letters from  
13 Ruby Weeks to Attorney Lieberman, Master, and Attorney  
14 Howett attempting to have Howett agree to a date for  
15 separation hearings. On July 24, 1991, I personally  
16 wrote to Judge Swope requesting assistance in having  
17 Howett available for hearings.

18 3/91, and there's an exhibit. After four  
19 days of hearings re the separation date from October  
20 1990 to January 1991, Ruby had my summary to the Master  
21 March 7, 1991, on schedule. Howett was supposed to  
22 have his answer to the Master by April 7, 1991;  
23 however, approximately one week before that date Howett  
24 requested an extension. His answer was received May  
25 28, 1991. Re the separation date after 10 years, two

1 of my best witnesses were too old to testify that my  
2 husband was living with me during 1970 to 1980. As of  
3 the date of this hearing, I have not had a decision  
4 from the Master, nor have I had a Master's hearing re  
5 assets and property.

6 5/91. I goofed there. There should be  
7 an exhibit under that. Copy of docket entries from  
8 Dauphin County Court updated as of 5-28-91. However,  
9 when the title search was done by Attorney Madule for  
10 Harrisburg Redevelopment Authority, they did not find  
11 the lien which I had placed against 1508 Green Street,  
12 which the Redevelopment Authority is claiming because  
13 of blight and disrepair. The property is in my  
14 husband's name only. He purchased in early 1970's. I  
15 have since had word that somebody is cleaning up down  
16 there and, you know, I don't know whether money is  
17 being paid behind the scenes or not.

18 If you desire or need further  
19 documentation, I will be glad to furnish it.

20 I am not condemning all in the legal  
21 system. However, for many of us, our rights are  
22 blatantly being violated every day by those who are  
23 supposed to uphold the law. Sadly, there are too many  
24 robbers and thieves in the legal profession  
25 masquerading behind the guise of justice. They will

1     snare an unsuspecting, trusting person during one of  
2     the most traumatic, stressful times of life. Hundreds  
3     of dollars must be paid upfront. After that, we become  
4     victims who are called crazy, ridiculed, intimidated,  
5     and threatened. The action can only be described as  
6     rather barbarous, inhuman, cruel, and the law is  
7     disregarded. Not a good feeling when we are  
8     desperately attempting to survive in this society and  
9     maintain some semblance of dignity in our lives.

10             We are consumers of justice in this  
11     State, and this is misrepresentation and fraud by many  
12     in the legal profession. I find it ironic that we must  
13     pay so dearly for such justice and we are being held  
14     hostage by those same people.

15             Mediation can be the answer, but I hope  
16     we can trust the mediator. I would prefer to see  
17     panels established in counties or groups of counties  
18     consisting of an accountant, a layperson, human  
19     services person, and an attorney. There would be very  
20     little room for collusion among those people.  
21     Timeframes definitely established so that assets could  
22     not be dissipated or siphoned away.

23             Steps should be taken immediately, not --  
24     and I repeat -- not four or five years from now. I  
25     become aware of more victims every week and the State

1 will have to subsidize many of them because the legal  
2 profession is siphoning funds while they hold them  
3 hostage.

4 I am suggesting that attorneys and judges  
5 pay a percentage of their income into a fund to help  
6 the victims held hostage who have been consistently  
7 denied their fundamental rights under the Constitution.  
8 Their colleagues would be more apt to police the  
9 unethical ones and take necessary action when clients  
10 return to the fund for more assistance. Admittedly,  
11 the solution may be oversimplified, but someone must  
12 pay for all the transgressions, and it should not be  
13 the victims.

14 At this point, I would like to insert a  
15 personal note that when we lived down in Haiti, I had  
16 to teach my son school, and the first thing that I did  
17 whenever we were in the islands and moved was to get  
18 the American Flag unpacked and put it up on the wall  
19 and before we started school each morning we saluted  
20 the American Flag because I was so afraid that he would  
21 forget he was an American citizen and I didn't want him  
22 to forget that. And now then, I am the one who cannot  
23 salute that flag because it doesn't mean anything to  
24 me.

25 Again, thank you. I appreciate this

1 opportunity to speak out. If you have any questions, I  
2 will attempt to answer them.

3 CHAIRMAN CALTAGIRONE: Thank you,  
4 Charlotte.

5 Questions?

6 (No response.)

7 CHAIRMAN CALTAGIRONE: Thank you.

8 MS. BOGART: Thank you.

9 CHAIRMAN CALTAGIRONE: Margarete  
10 Hockenberry.

11 MS. HOCKENBERRY: I never did anything  
12 like this, so I may need some help.

13 CHAIRMAN CALTAGIRONE: Just feel at ease.

14 MS. HOCKENBERRY: That's hard to do.

15 CHAIRMAN CALTAGIRONE: If you would  
16 identify yourself for the record.

17 MS. HOCKENBERRY: My name is Margarete  
18 Hockenberry, and I'm from Lititz, Pennsylvania.

19 I was in this room yesterday and listened  
20 to some of the testimony. First of all, I was  
21 horrified to hear about all the judges and about all  
22 the lawyers, so you will be glad to hear that I have a  
23 good lawyer. She's been doing all right by me so far,  
24 and I really can't complain.

25 The thing that horrified me was several



1 of the men saying that all at once women are getting  
2 too many rights. I would like to share with you what  
3 my 36 years of marriage was like when I had no rights,  
4 when my husband thought it was his right to do whatever  
5 he wanted to do to me behind closed doors, and he  
6 taught me never, ever to tell anybody what went on  
7 behind closed doors because he said that he would kill  
8 me, and I heard that from the very first day I got  
9 married.

10           The marital problems between Hockenberry  
11 and myself began when I was in the United States for  
12 only three months, and we were living in Rapid City,  
13 South Dakota. We were a military family, had very  
14 little money, and I was terribly homesick for my home  
15 in Germany. I thought if I got a job it would help out  
16 money wise and also help my homesickness. I was very  
17 proud to tell Hockenberry I had found a job, even  
18 though my English was so poor. He beat me. He said I  
19 had shamed him and that no wife of his was going to  
20 tell the world that he could not provide for her. I  
21 kept the job, but Mr. Hockenberry told me that I was  
22 not to mention to people that he knew that I had a job.  
23 I felt awful.

24           When I told Hockenberry that I wanted to  
25 go back to Germany, he told me he would pay GIs to say

1 that I had sex with them for money and I would be a  
2 arrested as a prostitute and deported to Germany.

3 Hockenberry was extremely jealous. He  
4 would beat me every day while I was working at an  
5 officer's club in New York. I was also pregnant with  
6 our first child, Terri, at that time, but he didn't  
7 care, he beat me anyhow.

8 Hockenberry has had numerous affairs  
9 throughout our marriage. The first affair that I know  
10 of was in Riverside, California. When he told me about  
11 this affair, he gave me two days to get over it. When  
12 I talked about it afterwards, he beat me. I was at the  
13 time pregnant with our second child, Eddie. As we were  
14 in the service, I called Military Police and also  
15 talked to the chaplain about the beatings. The  
16 chaplain told me to keep trying. The base commander  
17 saw to it that we were transferred to Washington, D.C.

18 We were then transferred to France by the  
19 Air Force and the beatings continued. Hockenberry told  
20 me that there were all these women that he could have  
21 and that could take my place. I went to a Baptist  
22 chaplain about this problem and the chaplain urged me  
23 to stay with Hockenberry because of the children.

24 Approximately six months prior to  
25 Hockenberry's retirement from the Air Force we bought a

1 house in Lancaster, Pennsylvania, and the children and  
2 I came there to stay. When Hockenberry joined us, he  
3 started beating me again, causing me to turn to alcohol  
4 to relieve the pain and shame incurred by him. Even  
5 though I had three back operations and was totally  
6 disabled for four or five years, Hockenberry insisted  
7 that I do heavy work, including but not limited to  
8 mowing the lawn. Pilots have the same problem that you  
9 did and they do just fine, he said.

10 Additionally, throughout my back problems  
11 he continued to beat me. I was thrown against a wall,  
12 pushed, tripped, verbally abused. I went to doctors,  
13 pastors, and to social service agencies on Janet Avenue  
14 in Lancaster and tried to get help, but I was afraid of  
15 Hockenberry, and I turned more and more to alcohol.

16 In June of 1972, I had a breakdown  
17 induced by my drinking. I was in the hospital for  
18 approximately 10 days. My doctor told me that I had a  
19 dependency problem. I underwent therapy, went to  
20 Alcoholics Anonymous for help. That was 18 years ago.  
21 I have not had a drink since.

22 In the early 1980's, I had a complete  
23 breakdown. Hockenberry would not even take me to the  
24 hospital. I called a taxi. I gave the taxi driver \$20  
25 and told him to keep the change. I told the taxi

1 driver that I no longer needed any money because I was  
2 going to die in the hospital. I wanted to believe I  
3 was going to die because I could no longer take the  
4 pain. I was in the hospital for five weeks.

5 Hockenberry had wanted to take me to  
6 pornographic movies for years. I never wanted to go.  
7 However, he took the opportunity to take me to one when  
8 he was asked to take me out of the hospital to dinner  
9 on a pass. I became hysterical and could not  
10 understand why he did something so evil to me when I  
11 was so sick. I was eventually released from the  
12 hospital, but four weeks later I was back. This time,  
13 however, I was determined to get better.

14 I was released from the hospital again  
15 but stayed in therapy for two years. I was, however,  
16 constantly in fear for my safety and that of my  
17 children. One time Hockenberry shoved me to the  
18 kitchen floor, made me crawl on the floor and apologize  
19 for World War II. He had our daughter, Terri, on the  
20 floor making her say that she was nothing. He banged  
21 our son Eddie's head against a kitchen wall until I  
22 stopped him. He would march around the kitchen saying  
23 "Seig Heil. Seig Heil." He called my family and me  
24 Nazis. He told me if I divorced him, he would take my  
25 children and I would never see them again.

1                   At other times Hockenberry would say that  
2 he would leave me and the kids and not support us, and  
3 for years and years when I came home and into the house  
4 I would go directly to the closet to see if his  
5 clothing was still there. I was scared all the time  
6 for the well-being of myself and my children.

7                   Hockenberry put his fists through the  
8 doors and through the garage wall at our address at  
9 1661 Colonial Manor Drive, Lancaster, Pennsylvania, and  
10 he told me that I would be next. He ripped the phone  
11 out of the wall when I wanted to call for help. He  
12 pushed me and kicked me while I was in the basement,  
13 put big dents in the dryer. He came home one day and  
14 told me that a Jew had cheated him. I told him that I  
15 didn't think all Jews were like that. This made him so  
16 angry he picked up a heavy chair and tried to hit me  
17 with it, but I moved and it just grazed me and put a  
18 large dent in the kitchen counter.

19                   Hockenberry would become depressed almost  
20 every winter. He would stay in a small room of the  
21 house and would not eat, drink, or sleep much, or  
22 associate with me. He would tell me that it was my  
23 fault that he was depressed. He said it was my duty to  
24 make him happy and that I was failing in this duty.  
25 Then he would beat me. He asked me to take him to a

1 doctor. I took him to my doctor, Dr. Weston. He went  
2 one time. He never went back.

3           Knowing I was recovering from alcohol  
4 addiction, Hockenberry would offer me beer, putting it  
5 under my nose so that I could smell it.

6           I was very severely beaten by Hockenberry  
7 on our boat on the Chesapeake Bay. My legs were black  
8 and blue, my back was hurt, and my chest ached. After  
9 it was over, he denied he ever hit me and told me to  
10 see a doctor because he said I was going crazy by  
11 imagining things.

12           Hockenberry threatened that if I would  
13 divorce him, he would mentally and physically destroy  
14 me. When Hockenberry hit me, he always told me to  
15 behave, not talk back. Then he would tell me to be  
16 quiet and asked me, "When will you learn? I don't want  
17 to hit you but you make me hit you. When I hit you I  
18 really feel bad." He would hit me again because he  
19 said I made him feel bad. I never did understand all  
20 that.

21           At Disney World one time, for no reason  
22 whatsoever, he kicked me so hard under the table that  
23 my leg was black and blue for weeks. I still don't  
24 know why. All Hockenberry always said it was his  
25 house, his money, his everything. He said I was on a

1 free ride. This hurt me deeply because I also worked  
2 part-time for 30 years, but that never counted.

3 Hockenberry would come home from work and  
4 hit me because he said I needed a lesson again. One  
5 instance half of my face was black, so I went once  
6 again to the Social Service Agencies on Janet Avenue.  
7 I was so humiliated that I could not bring myself to  
8 tell the doctor what had actually happened, and instead  
9 I lied and told him I tripped over a vacuum cleaner  
10 cord and hit a dresser.

11 Hockenberry started a real reign of  
12 terror by telling me that I had been drinking coffee  
13 for months that he had urinated in. I never drank  
14 coffee in my house again. He would tell me I needed a  
15 bath, that I smelled of urine. This hurt me greatly,  
16 and I told him I was a very clean person and did not  
17 reek of urine.

18 When I learned from a friend that  
19 Hockenberry was having an affair, I moved into a  
20 separate room because I did not want to get a disease.  
21 For 38 years Hockenberry told me that if I would  
22 divorce him and shame him, he would kill me. He said  
23 it over and over, and I believed him. He also said we  
24 would both die if I left him. I firmly believed what  
25 he was saying.

1                   Hockenberry would humiliate and degrade  
2 me because of my weight. He would be standing in the  
3 doorway looking at me and pretending that he was  
4 throwing up. Hockenberry caused me emotional and  
5 physical turmoil by stopping at the hospital the  
6 evening before I was due to have major surgery to tell  
7 me that I could now have a divorce. I was extremely  
8 upset by these actions. Our minister came to calm me  
9 down.

10                   Hockenberry staged telephone  
11 conversations to make me believe that he was talking to  
12 other women, and there were lots of women that he could  
13 have, he said. Hockenberry was always dishonest and  
14 implied that he did not trust me, by locking his  
15 briefcase and chaining it every night to a large chair.

16                   I was afraid of Hockenberry all of my  
17 married life, and that's how he wanted it. He told me  
18 many times that people who worked for him in the Air  
19 Force and later in civilian life were easier to control  
20 if they were afraid. He used the same method on the  
21 children and me.

22                   In January of '89 came the turning point.  
23 Hockenberry was drinking and we got into an argument.  
24 I left the house to go for a drive and calm down. He  
25 came out into the driveway and tried to stop the car.



1 When I pulled out, he broke the handle off the car. I  
2 was gone for two hours and I was hoping he would calm  
3 down. I went into the house and into my room to change  
4 my clothing. I was in a slip and blouse when he came  
5 into my room and closed the door. I had seen him angry  
6 before, but nothing like this. He ripped the glasses  
7 off my face and broke them. He told me I no longer  
8 needed them because I would not leave this room alive.  
9 There was never even a second that I did not believe  
10 that I was going to die. My thoughts were, so this is  
11 the way it's going to end.

12 He ripped pictures off the wall, breaking  
13 keepsakes, smashing things, hitting, shoving me until I  
14 was in the corner by the door. I was huddled in the  
15 corner with hands over my head fending off blows. He  
16 kept saying, "We will both die today." He had a piece  
17 of glass in his hand. I was terrified. I threw myself  
18 against him with all my might. Lucky I had extra  
19 weight. And somehow I ran through the garage to the  
20 patio. Remember, this was the 26th of January. I was  
21 on the patio in my blouse and slip and no slippers, and  
22 he locked all the doors. I was out there 20 minutes.  
23 I was ashamed, but I started to scream for help. When  
24 he heard me, he opened the door and told me I was  
25 acting melodramatic. I asked him to call our children,

1 and he did. He first called Terri and told her that if  
2 she wanted to see her mother alive, she better get  
3 home. He then called my son and told him the same  
4 thing. I stayed in the garage close to the outside  
5 door. The children were there very soon. They calmed  
6 him down and my son told him he should not abuse me.  
7 He said, "You make mom feel just like you made me feel  
8 when I was 9 years old and could not fight back." My  
9 son then told him he should have left instead of  
10 hitting me.

11 Things were getting so bad that I decided  
12 I had to do something. My health was suffering, I was  
13 losing sleep because again and again he told me he  
14 would kill me if I shamed him with a divorce and that I  
15 would not get his hard-earned money.

16 In June of 1989, I told him that he  
17 should file for a divorce because it would look better  
18 for him. I knew his ego. As I went down the hallway  
19 after him to talk, he suddenly turned and slammed the  
20 basement door toward me. I was lucky to get my arm up  
21 or it would have hit my face. It ripped open my elbow  
22 and arm. My arm was sore and bruised for weeks. I  
23 knew this had to end, so I tried to convince him to  
24 file for divorce. He went into the bedroom and took  
25 the alarm clock off the dresser and started setting it.

1 I grabbed for the clock to get his attention. He  
2 ripped it back out of my hand and fell backwards on the  
3 bed and hit his face. He came out of the bedroom with  
4 blood all over his face. He was smiling and he said,  
5 "I have you now."

6 I ran out of the house and drove to the  
7 Manor Township Police station to report what happened.  
8 The police advised me not to go near the house. I went  
9 to my best friend's house. She offered to put me up,  
10 but I was afraid for her and her family's safety, so I  
11 called the Hampton Inn. I went there. It's funny, I  
12 was prepared because for the last 10 years I had a  
13 packed suitcase in my car just in case. I never could  
14 have slept in the same house with Hockenberry again.

15 In June of 1989, a Protection From Abuse  
16 Order was delivered to Hockenberry at my son's business  
17 with my daughter's help. I really do feel that I did  
18 my best, but my best almost got me killed. Twenty  
19 years ago I couldn't have gotten a Protection From  
20 Abuse Order, so I think that agency really helped me,  
21 and I'm so happy for it.

22 Now, after I said some good things about  
23 my lawyer, I have some bad things to say about a lawyer  
24 and a judge in Kansas.

25 We're both retired, and when I filed for

1 the Protection From Abuse Order, we could not find Mr.  
2 Hockenberry for about seven weeks. He moved from motel  
3 to motel. What I didn't even think of was that during  
4 the seven weeks he moved all our finances from selling  
5 the business, from the retirement account, everything  
6 into his name. Everything that he could put in his  
7 name, what he did is even dividend checks and things  
8 that would come he would put in a joint account where  
9 he left a few dollars in and then put in back of the  
10 check "For Deposit Only," then write himself a big  
11 check to his own private account, that way putting all  
12 the money in his name.

13           The first abuse hearing was postponed.  
14 From then on every hearing, every meeting, every  
15 conference was postponed by Mr. Hockenberry and his  
16 lawyer. When I questioned how come he could get so  
17 many postponements, I was told it was his right. Many  
18 times I wanted to scream, what are my rights? I  
19 haven't done that yet, but I'm close to it.

20           Also, the Lancaster County Court, which  
21 is not their fault, months and months go by before you  
22 can get a hearing a lot of times because they're so  
23 busy. When you go in front of the court and they have  
24 criminal court in session, no civil, it just comes to a  
25 standstill. All this time, of course, is really

1 helpful to Mr. Hockenberry. My good lawyer was able to  
2 freeze some assets. She's pretty sharp.

3 He asked for a deposition to be called to  
4 question me. I was so scared to be in the same room  
5 but I finally agreed to it. The day the deposition was  
6 to take place, and of course we prepared for it -- this  
7 is what's putting legal fees; this is what's costing a  
8 lot of money. It took my lawyer, Susan, I don't know  
9 how long to work for this deposition to get ready for  
10 the deposition. It was called off that day because Mr.  
11 Hockenberry's lawyer said Mr. Hockenberry was in Kansas  
12 sick with the severe flu. My daughter called me and  
13 told me that he was in town. We have pictures that he  
14 was in town. He was not in Kansas. The deposition was  
15 called off. The hundreds and hundreds of dollars that  
16 I have to pay Susan to get ready for this deposition  
17 was never used. This is what's putting legal fees up.  
18 And she earns every penny. She works hard for me.  
19 All the time Mr. Hockenberry has been in the process in  
20 Lancaster participating in the process.

21 I'm not going to go into all the things  
22 because you heard enough of dates and I'm not that good  
23 at dates anyhow. But he participated in everything.  
24 Not he, he didn't show up for anything, but his lawyer.  
25 All the while he has been consulting an attorney in

1 Kansas, knowing that if he drag things out long enough  
2 that they have a no-fault law there also.

3 I was served with divorce papers from  
4 Kansas. He requested an emergency divorce in Kansas  
5 because of emotional problems caused by me in  
6 Lancaster. I didn't even know there was such a thing  
7 as an emergency divorce. I don't know if we have one  
8 here in Pennsylvania or not. I had not the slightest  
9 idea what it meant. I thought he was terribly hurt. I  
10 thought maybe he was dying. I had no idea what it was.

11 I had to find an attorney in Kansas. I  
12 was lucky, I found another good one. I had three weeks  
13 to get a file to Kansas for a divorce hearing.  
14 Criminal court was in session in Lancaster. The files  
15 all had to be authenticated by a judge. We couldn't  
16 even talk to a judge for four weeks to get all these  
17 files. In the meantime, the divorce hearing was held  
18 in Kansas. The judge said he did not need to see the  
19 file, he saw enough. This poor man was obviously in  
20 distress. He had seen a psychiatrist three or four  
21 times by his own testimony. You have the transcript.

22 The transcript is funny. Read it. It's  
23 funny, because I could have been in a coma here in  
24 Lancaster and nobody cared in Kansas, because they  
25 didn't even let my attorney talk. They also didn't

1 give him 30 days to get the records there. That very  
2 same day, within half an hour, Mr. Hockenberry got an  
3 emergency divorce. The two years were not up. He got  
4 the 60 days waived because he looked so pitiful, my  
5 attorney told me. My attorney thought he should  
6 nominate him for an Emmy, he was that good on the  
7 stand.

8 After 36 years of marriage, this judge  
9 gave Mr. Hockenberry a divorce, and my attorney, Leo  
10 Gensweider, told me we were hometown. I don't know if  
11 you have heard that. It's like the "Good Old Boys"  
12 network. We were hometown. It's a small town, they  
13 play golf together, they go out, and my attorney told  
14 me it was a done deal when he walked in there, when the  
15 judge didn't know what to say anymore he would say,  
16 we're not communicating. When he didn't want to hear  
17 something he said to my attorney, we're not  
18 communicating. You'll see it in the transcript. He  
19 also said giving him the divorce would not hold up in  
20 any way -- oh, I must go back just a little bit.

21 The financial settlement will be in  
22 Pennsylvania. He has 95 percent of all our assets, I  
23 have 5. He is paying me -- since we're retired, all  
24 the interest from everything goes to him. Out of this  
25 interest he pays me. He has three times as much money

1 as I have, which is a substantial amount because of the  
2 business that we had. I get one-fourth for support  
3 now. There's absolutely no reason for him to come to a  
4 settlement because the amount of money that he has  
5 every month -- and he is already living in another  
6 household -- the money that he has every month is  
7 enough for him to live comfortably while I can maybe  
8 live on what I have. Not much longer. I'll have to go  
9 to work. So there's no reason for him to come to a  
10 financial settlement with me. And now we had to go and  
11 get a court order, and again, I can't say anything  
12 about the judges in Lancaster. Judge Stengel made a  
13 court order for Mr. Hockenberry to appear for a  
14 Master's hearing October 30th and 31st. Already I  
15 found out they are in the process again of trying to  
16 delay.

17 I cannot understand all these delays, and  
18 I don't understand when there's a court order, why not  
19 enforce it? Why not find somebody in contempt? It's  
20 driving me crazy because -- no, it's not, but you know  
21 what I mean. You see a court order and you think, this  
22 judge made this court order, nobody is going to defy  
23 it. This is how I used to believe. He's defied every  
24 court order, he's defied everything, and he's in Kansas  
25 and, you know, come and get me is sort of what he's



1 saying. In the meantime, I'm lucky there's some money  
2 frozen here.

3 Well, that's one of my notes here. I  
4 firmly believe that if some of the laws, there need to  
5 be some new laws, but I firmly believe in what little  
6 bit I know, and you know I don't speak like some of the  
7 other people did, they did so much research and they  
8 all seem much smarter than I am, but it seems to me  
9 common sense will tell you if you have some good laws  
10 on the books and you use them and then don't enforce  
11 them, what good are they? That's common sense, right?  
12 Maybe not. I don't know. To me it makes sense. If I  
13 did all these things, I should be found in contempt.  
14 It should go both ways, not just women or men. If I  
15 did the same thing to Mr. Hockenberry that he has to  
16 me, I would deserve to be found in contempt and start  
17 levying some fines against people. Now, I had to hire  
18 a lawyer in Kansas. I'm responsible for the legal  
19 fees. I think one good thing -- this, again, just  
20 common sense, but anybody who goes out of State to get  
21 a divorce and forces me into legal fees in another  
22 State, those legal fees ought to be paid by the person  
23 who left the State, you know, the home State. Now it  
24 is at the discretion of the judges. The judges may,  
25 may ask for legal fees. But there ought to be a law,

1 if you leave the State, by golly, you're going to pay  
2 this lady's legal fee or this man's legal fees. It  
3 would make sense to me.

4 I'm sure I'm forgetting something, but I  
5 guess this is really enough. I don't understand the  
6 delays. One of the things, again, I'm not talking  
7 about whether even this makes sense, and you may say,  
8 well, this can't be done legally or so, but it makes  
9 sense to me so I'm going to say it. No-fault divorce  
10 doesn't work. It doesn't work. It doesn't work in  
11 insurance and it certainly doesn't work in marriage,  
12 especially long-term marriages. Maybe it will work if  
13 everybody agrees to it. No-fault only helps the person  
14 who's done the bad things, and maybe in long-term  
15 divorces there should be somebody at fault and account  
16 for who's done the wrong in a marriage. Believe me,  
17 somebody is at fault or that marriage wouldn't break  
18 up, and that's both for women or men. Again, this is  
19 not bashing men. If a man has a good reason to get a  
20 divorce, bring it out into the open. Bring it out and  
21 tell them. Why should I take 50 percent of the blame  
22 for a no-fault divorce after what I've been through in  
23 36 years? I refuse to do that. During this time I  
24 raised two children, both graduated from Penn State.  
25 My dream when I came from Germany, my kids are going to

1 graduate from college. I did that. My son is an Eagle  
2 Scout. I helped him. My kids are well adjusted. I'm  
3 proud of that, under the circumstances, and now I'm  
4 supposed to go and say half of all this was my fault  
5 what happened? No. I dreamed of a marriage, a good  
6 marriage, a nice retirement, growing old with somebody  
7 you like and love. But one person can't do it. It  
8 takes two to make these kind of dreams come true.

9           No-fault divorce stinks. I filed for a  
10 fault divorce. I was told the judges don't like that.  
11 You're wasting time. I ask you, am I wasting time when  
12 somebody is asking for a continuance eight times?  
13 That's wasting time. And always the day before so not  
14 the judges or not the lawyers can make any other plans  
15 because they set that day aside. I'm surprised  
16 attorneys and the judges haven't gotten mad, but I  
17 guess they get paid anyhow, so. There should be no  
18 divorce before property settlement. There should be a  
19 property settlement before a divorce is granted because  
20 the person who's squirreled away all the money has no  
21 incentive to go to court and get things done.

22           I'm not as professional as the other  
23 people because I'm emotional about this.

24           CHAIRMAN CALTAGIRONE: You're doing very  
25 well.

1 safe. I watch cars when a light comes up to my window  
2 at nights. I done all I can to make myself secure, and  
3 I'm determined not to let that man ruin the rest of my  
4 life. But I need the courts to help me. I need the  
5 courts to help me to get my settlement so my children  
6 and I and my two cats can be happy.

7 Thank you.

8 CHAIRMAN CALTAGIRONE: Wait for  
9 questions.

10 MS. HOCKENBERRY: Oh, I'm sorry. I'm so  
11 glad to get away from this table.

12 CHAIRMAN CALTAGIRONE: That's all right.  
13 Are there any questions from members?

14 CHAIRMAN CALTAGIRONE: Attorney Dautrich.  
15 BY MS. DAUTRICH: (Of Ms. Hockenberry)

16 Q. Mrs. Hockenberry, I apologize for keeping  
17 you at this table, but just to orient me as to  
18 procedurally what went on, who filed for divorce in  
19 Pennsylvania?

20 A. I did.

21 Q. When did you do that?

22 A. In June of 1989.

23 Q. So you filed for divorce in Pennsylvania  
24 first?

25 A. Yes.

1 MS. HOCKENBERRY: I cannot say that often  
2 enough that there should be a property settlement  
3 before divorce. Also, it would be nice, this is  
4 dreaming now, it would be nice if something like this  
5 came in front of another State in front of a court,  
6 like my attorney in Kansas said, they have their own  
7 problem, the court is full. He said, our judges should  
8 just kick it back to Pennsylvania where it belongs, and  
9 we are appealing this and we are going to the appellate  
10 court. I don't expect to win, but in the meantime at  
11 least I got my health insurance. Can you imagine how  
12 many wives, probably husbands, too, if they are on the  
13 wife's insurance, but when they get an out-of-State  
14 divorce, your insurance stops. If they remarry, they  
15 have a new widow. Now you have to fight the new widow  
16 for what is yours. You know what I'm saying? And most  
17 of all, I'm sure that the courts know that when a man  
18 does or a woman does what Hockenberry did to me, they  
19 must know that he is using, they must know he's using  
20 the court to abuse me. He can't hit me any longer.

21 Do you know what he did four weeks after  
22 I filed for a divorce? He bought four funeral plots in  
23 Laurel Hills Cemetery. I know one of them is for me,  
24 one of them is for my daughter, one of them is for my  
25 son, and one of them is for him. And I'm still not

1 Q. And then he filed in Kansas?

2 A. Just almost when two years were up, yes.  
3 He never consented to a divorce for the first 18  
4 months, then all at once he filed a consent, tried to  
5 bifurcate the divorce, and -- oh, I'm glad you asked  
6 that because Judge Hummer, the family judge, family  
7 judge for 10 years now, he refuses to grant a divorce  
8 without a property settlement because out of 10  
9 divorces that he granted 10 years ago without a  
10 property settlement, 8 are not resolved.

11 Q. It is discretionary in Pennsylvania for  
12 the judge.

13 A. It is, and Judge Hummer is doing it.  
14 Good for him.

15 Q. They can refuse to bifurcate at some  
16 point.

17 A. And they did. I understand they have a  
18 draw for it.

19 Q. Where were the marital assets located  
20 when your divorce was filed in Pennsylvania?

21 A. In Lancaster.

22 Q. What about when Mr. Hockenberry filed in  
23 Kansas?

24 A. By then my wonderful attorney had the  
25 assets frozen.

1 Q. She had them frozen?

2 A. Yeah.

3 Q. So were there any assets at any time in  
4 Kansas?

5 A. Oh, yes. Oh, yes. I mean, we got a  
6 portion of it, but we don't know whether -- I mean, we  
7 found out a lot through discovery. Actually, it's kind  
8 of good that it took a little longer because we found  
9 -- I never knew the kind of money we had. I never  
10 knew. Every time we found something else I said, oh,  
11 goody.

12 Q. Did you file for fault grounds here in  
13 Pennsylvania?

14 A. For both grounds. I wasn't like this --  
15 please, I have gotten so much better since I've been  
16 separated. I would have never done this. I told Ed I  
17 should have brought up a stand-up Margarete what I  
18 looked like 2 1/2 years ago so you can see the  
19 difference. For the first time, I've been in this  
20 country now almost 40 years, the last 2 1/2 have been  
21 the only free ones.

22 Anyhow, did I answer your question?

23 Q. You bet. Thank you.

24 CHAIRMAN CALTAGIRONE: Thank you.

25 MS. HOCKENBERRY: That's it?

1 CHAIRMAN CALTAGIRONE: Yes. Thank you.

2 For the benefit of the members, I just  
3 want to let you know that Attorney Kathleen Dautrich  
4 has been working with me on an unpaid basis as a  
5 consultant to the committee on these issues. She  
6 handles a lot of these issues in private practice in  
7 Berks County.

8 I would like to turn the proceedings over  
9 to Representative Heckler or Piccola. I have a court  
10 appearance myself to attend to, and if you wouldn't  
11 mind proceeding.

12 (Whereupon, Representative Heckler  
13 assumed the Chair.)

14 ACTING CHAIRMAN HECKLER: I believe the  
15 next witness for this morning is Mr. George Land.

16 Mr. Land, good morning.

17 MR. LAND: Good morning. I'm here today  
18 because of the present destruction of the basic  
19 building block of our society - the family.

20 In 1988, I met face-to-face with the  
21 system geared towards our family dysfunction. I have  
22 now been in court 30 times. Our legal fees are over  
23 \$50,000. I have paid \$40,000 in support payments, and  
24 we have lost \$45,000 in income. These are the  
25 financial losses. Also, my 13-year-old son wound up in



1 juvenile court system for 18 months in Vision Quest,  
2 which cost the taxpayers \$60,000. As a result of all  
3 of this, my son hates his mom, my oldest daughter hates  
4 me. We are ruining an entire generation of children,  
5 and it starts with our laws.

6 We are writing laws which promote the  
7 destruction of our families. With this prevailing  
8 attitude, either conscious or unconscious, we now have  
9 more of whatever is bad in our society. Name it, there  
10 is more than of it - suicide, murder, teenage  
11 pregnancies, prisons, drugs, alcohol, teenage runaways.  
12 Every expert on the psychological aspects of this will  
13 tell you, as our families are ruined and divorce  
14 increases, so do all the negative aspects of our  
15 society.

16 We must write laws that promote family  
17 preservation. Here are some ideas for change, rather  
18 than criticism.

19 One, early in grammar school let's have a  
20 class on proper relationships on values, on commitment,  
21 on what swearing to marriage vows really mean.  
22 Examples: Workaholics are not good for a relationship.  
23 Many, many people now come from broken homes and have  
24 no idea about proper, loving relationships.

25 Two, counseling should be mandatory. Not

1 three sessions, as our present divorce law calls for,  
2 but court ordered counseling for three months or more  
3 to resolve a marital issue, if at all possible.

4 Three. Abuse laws have become a  
5 hysterical and often exaggerated means of initiating a  
6 divorce. The law in Michigan requires an investigation  
7 because they realize so many people lie and exaggerate  
8 about abuse. The wording should read, "beyond a  
9 reasonable doubt," rather than a "preponderance of the  
10 evidence." There should be mandatory counseling and  
11 not mandatory evictions.

12 Four, there are States which have written  
13 family preservation pilot acts, and each and every one  
14 of these should encourage reconciliation of long-term  
15 marriages if at all possible. The costs of this  
16 destruction is catastrophic. How many billions of  
17 dollars of our budget goes to courts, welfare, foster  
18 homes, which everyone admits is a failure?

19 Now, my son, when he was put in Vision  
20 Quest -- when a family breaks up, it's an angry time  
21 between mom and dad, and my wife went into court and  
22 insisted he be put in a jail -- well, in a juvenile  
23 detention program. I have a photograph here of what  
24 happened to my son, if you'd like to see it. He had  
25 his nose broken. He was strangled till he was

1 unconscious. He was beaten, cursed at, pushed on the  
2 ground, and certainly this does nothing to correct a  
3 juvenile, a child that's acting out because their  
4 family is breaking up.

5 I have a tape of my daughter who calls me  
6 constantly, or has called me for two years on the phone  
7 and cursed me and called me every profanity in the  
8 book, threatened to kill me and kill herself. It's an  
9 angry child. Certainly our divorce situations today  
10 are a mess.

11 The courts, I don't really blame it  
12 entirely on the judges. We now have a court system  
13 where perjury laws are not upheld. You can go in there  
14 and say whatever you want. You don't have to prove it.  
15 And how can a judge make a proper decision when people  
16 are not telling the truth? We've taken our divorce  
17 laws, we've taken things like fidelity, adultery, it  
18 doesn't mean anything today. I mean, this is what  
19 families and marriages are based on is fidelity. And  
20 today you'll find most long-term marriages break up  
21 because somebody is having an affair, whether it be the  
22 man or the wife. But I would like you -- can I hand  
23 this? This is my son and that's what happened to him  
24 in Vision Quest. We paid \$60,000 of government money  
25 to put him there and you have an angry 17-year-old boy

1 that nothing's been accomplished with. So we have to  
2 change what we're doing here somehow.

3 Divorce mediation, give people an  
4 opportunity to speak in a non-adversarial climate where  
5 you're not pitted against one another. You have two  
6 attorneys looking at what you have for family assets,  
7 where you have attorneys that are in there for the  
8 buck. They're not in there for the children, they're  
9 not in there for the family. Years ago attorneys would  
10 sit down and say, hey, what's the problem here? You've  
11 been together 18 years. You got a nice family. Why  
12 don't you try and work things out? You don't do that  
13 today. It's how much you can take from the other  
14 party. And I think mediation is long overdue in this  
15 State. Maine has a mediation system that in 80 percent  
16 of divorce cases are resolved before they even get to  
17 court. That's a tremendous improvement. So.

18 This is a letter from State  
19 Representative Godshall. "I have received your  
20 detailed letter regarding your concerns that the  
21 Protection From Abuse Act is subject to misuse by  
22 spouses engaged in divorce litigation. I understand  
23 that the Pennsylvania Bar Association is concerned with  
24 this ongoing phenomena; that is, the tendency of  
25 litigants to falsely accuse the other spouse of abuse

1 in order to gain the upper hand in economic issues  
2 involved in proceedings."

3 Our abuse laws today are being used to  
4 initiate divorce on the majority. Two percent of the  
5 families today are abusive, yet in divorce situations  
6 you get 60 percent of the participants in divorce that  
7 claim some sort of abuse.

8 "Recently, the legislature enacted  
9 comprehensive amendments to the Protection From Abuse  
10 Act. However, some of the provisions have come under  
11 some criticism and are presently being studied by  
12 judges and lawyers in Pennsylvania. I anticipate some  
13 remedial amendments might be proposed in the 1989-90--"  
14 well, that hasn't been done.

15 Because of my dilemma and my family's  
16 hardships in the courts and the break-up of the family,  
17 I've spoken to or written to or met with over a hundred  
18 State Representatives, Senators, judges, lawyers and  
19 there was a show on TV recently where lawyers tell  
20 their client to initiate an abuse situation if they  
21 want a divorce. This way the abuse law gives you the  
22 home, it gives you custody of the children, it gives  
23 you a support order, and it gets your mate out of the  
24 home. So when you start a divorce in this manner, you  
25 have control of the marital home right off the get go.

1 I spoke to Joe Lashinger, who wrote this law, and he  
2 told me he did not mean for it to be used this way. I  
3 understand he's been put out of his home because of a  
4 Protection From Abuse Order.

5 Tens of thousands of people have been put  
6 out of their homes in this State since 1988 when they  
7 required no evidence. If someone's being abused  
8 there's photographs, there's medical reports, there's  
9 injuries, okay? You can go in and say whatever you  
10 want, but if somebody is being abused long-term like  
11 the lady before me, I'm sure she had evidence of some  
12 sort, medical treatment, photographs, what have you.

13 I met with Dennis O'Brien in northeast  
14 Philadelphia and he told me he voted against the abuse  
15 law in 1988 because he felt it could be misused. I  
16 spoke to Dennis Leh, he told me he had a report that  
17 came to him that said 70 percent of the abuse charges  
18 are false. I mean, that's over 50 percent of the  
19 people making accusations are not telling the truth. A  
20 judge in Bucks County recently wrote that 80 percent of  
21 the abuse hearings that he listens to what he hears is  
22 not true. Senator Hall, in speaking to his office, he  
23 is flooded with letters of people today going one step  
24 further, when you want to batter your mate and keep the  
25 children away just say that your mate has sexually

1 abused the children. Fortunately, that wasn't done in  
2 my case, my kids are too old and that just wouldn't go.  
3 But there's people today involved in long-term  
4 litigation that takes two, three, four years, \$40,000,  
5 \$50,000 in legal fees to vindicate them because a  
6 vindictive spouse decided to keep the children away  
7 from whichever party by claiming sexual abuse of the  
8 children.

9                   And the destruction to these kids, this  
10 is our future generation coming up here now, they are  
11 subjected to psychological counseling, they are  
12 involved with Children and Youth. When they visit  
13 whichever parent is restricted they get one hour  
14 visitation every two weeks with a supervised visit. I  
15 mean, this whole thing is very destructive to our  
16 family and our future generation, and we've got to take  
17 a long, hard look at what we're doing, because what  
18 we're doing is not doing things better. We have the  
19 highest divorce rate in our history, and it states in  
20 our divorce law the family is the basic building block  
21 of our society and every effort is made to resolve  
22 family problems where the welfare of minor children is  
23 involved. This is not being done. So we're going to  
24 have to change things here. You're going to have to  
25 write laws that work toward family preservation.

1                   Fourteen States -- Mr. Godshall sent me a  
2 packet of 14 bills called family preservation pilot  
3 programs. They found out that taking children out of  
4 homes like my son doesn't work. It makes them worse.  
5 They spend a lot of money. Now they're sending people  
6 in to counsel right in the home to try and resolve a  
7 family issue rather than destroy the family.

8                   The same thing goes with people that  
9 claim to be battered or whatever the problem may be.  
10 They send counselors into the family situation to try  
11 and resolve that or make an effort to preserve that  
12 family. We're not making any effort here. We make  
13 every effort to divide and separate. Just like this  
14 lady with the bifurcation. Tomorrow I go to court for  
15 the 32nd time for a bifurcation. There's been no  
16 family, no marital property settlement. I was a  
17 workaholic in my marriage and the marital home is paid  
18 for. My wife lives in it, she has use of all the  
19 furniture and my two daughters are in the house with  
20 her, the oldest will be 21, and they want to bifurcate  
21 the divorce without any property settlement. And just  
22 as this lady before said, eight years later there's  
23 still no property settlement.

24                   So, I mean, it's a tactics, it's a legal  
25 maneuvers. My wife told me the more times she takes me



1 to court, the better it is for her, that I will be  
2 responsible for her legal fees. Now they're  
3 approaching \$60,000, and obviously I'm not going to be  
4 able to pay her legal fees, and that's not the way it  
5 works today. For 10 months I went to my home, I was  
6 with her every day, I tried to make peace, I tried to  
7 work things out. I read 30 to 40 books on marriages,  
8 relationships and families to look at me to see what I  
9 did wrong. And I think people can be trained or can be  
10 taught to change.

11 One of my problems was I was a  
12 workaholic. I was never home. I worked 7 days a week,  
13 12, 16 hours a day to get ahead. And just as the  
14 marital home was paid for, my wife, since I wasn't  
15 there, was having an affair with a married man, takes  
16 me into an abuse hearing, puts me out of my home. And  
17 after 10 months I go to my house and she sits there and  
18 she cries and says to me, "I shouldn't do this to you.  
19 It's wrong. You've been a good father, you've been a  
20 good provider. This will ruin our lives." I say, "Why  
21 did you do this? Why are you doing this?" And I look  
22 in the dresser and I find a book, it's from the women's  
23 center down in Norristown, it's called, "Getting Free."  
24 She was reading this before this happened. She told me  
25 she had planned to break up our marriage for two years.

1 It's written by a lesbian, as a matter of fact, a  
2 family-oriented type person, you know.

3 It tells you how to arrest your husband,  
4 it tells you how to take him for everything you  
5 possibly can. This is the women's center's handbook.  
6 It's a State-funded group, and they're all over the  
7 State now. Many of these women have been abused, so  
8 they have a grudge against men, so they try to crucify  
9 people in the courts and they brainwash these women  
10 into breaking up their marriages and families, and in  
11 the long run when you do this, five years down the line  
12 nobody is any happier. Nobody is any better off. In  
13 fact, in most cases people are worse off. So they are  
14 getting bad advice from a group of angry people that at  
15 one time I'm sure they had good intentions but became  
16 overzealous with this abuse nonsense. People have  
17 gotten out of hand with this. Everything is abuse  
18 today. I walked up to my wife and I said, "Come on,  
19 Hon, let's work this out," gently tapped her on the  
20 arm, didn't grab her arm, and she said, "Al, Al, Al,  
21 you just abused me," and then laughed at me. Okay?

22 These tactics, I have talked to people  
23 that have told me that the women's center have told  
24 people, if you want a divorce, you scratch your neck,  
25 you mess up your hair, you rip your blouse open, you

1 call the police and say you were abused. This is  
2 wrong. And it does bad for people that really need  
3 protection from abuse.

4 So the abuse law today needs to be  
5 revised, and you've got to take a good look at it. You  
6 can order mandatory family counseling rather than  
7 mandatory evictions. Why is it everybody gets evicted  
8 out of their home with no evidence whatsoever?

9 So we're all in a dilemma here, we're all  
10 in this world together - men, women, children - and we  
11 should try and make things better for everybody rather  
12 than tearing up our families, because obviously  
13 something is wrong. I think the divorce rate's gone up  
14 to what, 60 percent now? Okay? So a lot of long-term  
15 marriages, this would be my 22nd year of marriage.  
16 Obviously, something worked for a long time. So.

17 If there's any questions, if I can--

18 ACTING CHAIRMAN HECKLER: Thank you, Mr.  
19 Land.

20 I'm going to exercise the prerogative of  
21 the Chair and just ask two or three questions and then  
22 I'm going to have to leave and Representative Hagarty  
23 will be chairing the last part of this morning's  
24 session.

25 I'm wondering if you could tell me who

1 the judge in Bucks County is, who indicated that you  
2 indicated a substantial majority of the--

3 MR. LAND: I don't know his name offhand.  
4 That, I don't know.

5 ACTING CHAIRMAN HECKLER: Okay. Thank  
6 you very much.

7 Are there any other questions?

8 Representative Reber.

9 REPRESENTATIVE REBER: Thank you, Mr.  
10 Chairman.

11 BY REPRESENTATIVE REBER: (Of Mr. Land).

12 Q. Mr. Land, just out of curiosity, the  
13 scenario about your son, after viewing the pictures  
14 that tickled some thoughts. What was the basis for  
15 which he was committed?

16 A. Well, when the family broke up he was 13  
17 years old and he was being left alone. My wife was  
18 working, she didn't work for many years and she got a  
19 job full-time and then she would come home and be tired  
20 or would have some kind of activity and leave, and he  
21 would be left alone. So he started hooking school and  
22 he would take her car and drive it, and he just got to  
23 the point where he was truant. So when we went into  
24 court--

25 Q. Who did you see? Who did you go before?

1 A. We went before Judge Tressler.

2 Q. Okay.

3 A. We went into court, the judge had  
4 released him into my custody. His probation officer  
5 and my wife came in late and they called the hearing  
6 back. He had been released, and she got up and gave  
7 very dramatic testimony and begged the judge, and she  
8 had told me before the hearing that if she couldn't  
9 have her son, neither could I, and she begged the judge  
10 that he be put away. Now, he was put away and 18  
11 months -- well, he's 17 now, he has nothing to do with  
12 his mother. I've encouraged him to try and make peace  
13 because it's not good for anyone to walk around all  
14 their life hating one of their parents, whether it be  
15 mom or dad.

16 Q. Was Judge Tressler made aware of this  
17 assault, to your knowledge?

18 A. I don't think so, because I took the  
19 photographs in at one hearing and I was going to show  
20 them to the judge--

21 Q. What was the time and date of the  
22 assault?

23 A. This occurred, he was in Vision Quest  
24 three days.

25 Q. Could you do me a favor?

1           A.    Yeah.

2           Q.    Could you submit to the committee an  
3 identical set of those prints that you showed us this  
4 morning? Could you prepare an affidavit setting forth  
5 the time, date, and place of the incident and I will  
6 personally see that this is brought to the judge's  
7 attention.

8           A.    Because there's a lot of problems in  
9 Vision Quest.

10          Q.    I don't need any more editorializations.

11          A.    Okay.

12          Q.    Just please do what I ask.

13                   Moving along to a different subject. For  
14 your information, and I think for the information of  
15 many people similarly situated like yourself that have  
16 some of the same concerns about the Protection From  
17 Abuse procedures vis-a-vis the recent amendments to  
18 that code, you should be aware of the fact that I, as  
19 well as two other members of this committee, when that  
20 was being considered articulated to the committee and  
21 on the floor of the House made reference to the General  
22 Assembly some of the concerns that we had vis-a-vis  
23 abuses that would be manifested from the language in  
24 the procedures set forth in those amendments that  
25 subsequently became law. I think you should be aware

1 of the fact that there are a lot of practicing  
2 attorneys that had those kind of concerns, that  
3 visualized that type of abuse to take place.

4 Now, I think in all fairness, it doesn't  
5 take place in a majority of the circumstances, but it  
6 does take place, and I think we as legislators have an  
7 obligation to make sure that the abuses, even if they  
8 take place in a minuscule manner, the language should  
9 be so fashioned to avoid that that does not happen.  
10 Unfortunately, it has happened.

11 There was debate to that effect. It's  
12 not as if it was enacted in a vacuum. There were a lot  
13 of people that had concerns with those amendments from  
14 different perspectives. There was negative votes  
15 because of those concerns. Similarly, you should be  
16 aware, specifically myself, since I came to the General  
17 Assembly in 1980, since that date I've every two years  
18 introduced legislation to take the waiting period to  
19 one year. I have a firm conviction/belief that the  
20 longer we keep people tied together, the longer we keep  
21 them in the system, children and the parties themselves  
22 are so torn apart that they're not even able to  
23 function as a society. I think we have an absolute  
24 obligation to try and when the determination is made,  
25 because I have a feeling that, look, if you made a

1 mistake and you were divorced and you shouldn't be  
2 divorced and you want to get back together again, you  
3 can remarry tomorrow. So I don't think the system  
4 should allow things to be perpetuated ad infinitum,  
5 which goes on in a minority of the cases. And believe  
6 me, it's my belief that the kinds of stories we're  
7 hearing today are a minority of the cases, but  
8 nonetheless, they should not even exist, or we should  
9 make an attempt, a bona fide attempt to effectuate a  
10 system, effectuate a procedure so they won't exist.

11 I guess what I'm trying to say to you is  
12 that many of the concerns that you have expressed have  
13 been expressed in the legislative process, in the  
14 advocacy for or against particular opinions. I think  
15 you have to continue to articulate those to a lot of  
16 the people, many of which are names that you've ticked  
17 off there that you had contact with. I think you're  
18 going about it the right way, and I just want you to be  
19 aware that these kind of concerns have been brought to  
20 the attention of the committee over a period of time.

21 A. Well, what about perjured testimony?  
22 What are we doing with perjury in the courts? It's  
23 blatant in domestic situations.

24 Q. What are we doing with it? It's like  
25 anything else. If in fact it takes place, the process



1 has to be implemented under the law to criminalize the  
2 conduct. If in fact it is the case, then to follow  
3 through with those particular types of prosecutions.  
4 That's up to the district attorney of the respective  
5 counties where it takes place for that to be brought to  
6 their attention, and if the appropriate investigation  
7 finds that out, all well and good, the prosecution  
8 would continue. There's a process for that.

9 I see Representative Hagarty out of the  
10 corner of my eye is chomping at the bit to--

11 ACTING CHAIRPERSON HAGARTY: To recognize  
12 another member for questions.

13 REPRESENTATIVE REBER: Okay. And I think  
14 I've been long, but I want you to be aware of it  
15 because I think it's concerning for many members who  
16 frankly articulated, articulated having been involved  
17 in the profession, if you will, for years prior to  
18 their tenure in the General Assembly, to recognize that  
19 there are scenarios, there are people out there,  
20 professionals, laypersons, litigants, that abuse the  
21 process. Not sometimes as knowingly as you might think  
22 they are, but do abuse the process, and I think we've  
23 an obligation to take a hard look at the procedures and  
24 to not allow the procedures to be the tools for this  
25 type of carnage that is vested upon people that are in

1 a difficult situation.

2 Thank you for your testimony, Mr. Land.

3 Q. You're welcome.

4 ACTING CHAIRPERSON HAGARTY:

5 Representative Ritter has a question.

6 REPRESENTATIVE RITTER: I have not so  
7 much a question as I have some comments. There were  
8 some statements that you made that are unsubstantiated  
9 and I think can't stand without having some discussion  
10 about that.

11 First of all, your statement, I believe,  
12 said something about 2 percent of families in the  
13 United States experience domestic violence. Anybody  
14 that believes that statistic is not living in the real  
15 world. Representative Hagarty, Representative Blaum  
16 and myself served on a committee that investigated this  
17 and we had hard statistics, not someone's feeling, some  
18 unnamed person's idea that this was the statistic.  
19 Former Surgeon General Koop in fact said that domestic  
20 violence resulted in more injuries to women, it was the  
21 number one cause of injuries for women in the United  
22 States, more than automobile accidents, muggings and  
23 rapes combined. Most of the injuries come from  
24 domestic violence. That does not occur in only 2  
25 percent of the families.

1                   Second of all, in terms of these alleged  
2 situations of abuse and that they are not true is what  
3 you're saying, I suppose, evidence, again, hard data,  
4 statistics that we have from individual court systems,  
5 for instance in Berks County shows that 95 percent of  
6 the temporary orders that are granted for Protection  
7 From Abuse are eventually given final orders. In other  
8 words, there's a full hearing where the petitioner  
9 comes in and the defendant comes in, they make their  
10 cases and final orders are entered in 95 percent of  
11 those cases, and those statistics are borne out across  
12 the State. So to say that there is somehow some  
13 conspiracy going on where women are bringing men into  
14 court and saying that they've been abused and it's not  
15 true, while it may happen in very rare cases, I'm not  
16 saying it's never happened.

17                   MR. LAND: I wouldn't say it's that rare.  
18 I wouldn't say it's that rare today.

19                   REPRESENTATIVE RITTER: Well, 95 percent  
20 seems to me, and the 5 percent that were not given  
21 final orders are not necessarily because they were  
22 found to be groundless. In a lot of cases in Berks  
23 County the reasons for the order not being entered  
24 finally, a lot of them have to do with withdrawal of  
25 the complaint and other types of dismissals for not

1 filing the exact procedures, but in other counties,  
2 McKean County, Somerset County, Mifflin County, other  
3 counties in the State, much more than 95 percent, a  
4 higher degree than that are found to be issued for  
5 final orders. So while I'm not denying that there may  
6 be cases, and your case may be one, where these  
7 complaints are filed and they are groundless, to say  
8 that this is the case in anything more than a very  
9 small number of cases I think is untrue, and I didn't  
10 want to let those comments stand, so I appreciate the  
11 opportunity.

12 ACTING CHAIRPERSON HAGARTY: Thank you,  
13 Representative Ritter.

14 If no other committee members have  
15 questions, thank you, Mr. Land, for your testimony.

16 And the Chair now recognizes Mr. Gibbons.

17 Are you a scheduled witness, sir? We're  
18 not taking comments from the audience.

19 MAN IN AUDIENCE: I would just like to  
20 ask a question. I heard about this meeting the day  
21 before yesterday, and the case that I'm involved in--

22 ACTING CHAIRPERSON HAGARTY: All right,  
23 let me just interrupt you. The Chair is not here at  
24 the present time. An unexpected situation called him  
25 away, so I'm not aware of scheduling. I and

1 Representative Heckler are going to chair the meeting  
2 for the afternoon. We are going to ask each of the  
3 witnesses to limit their time so that there will be  
4 members here to hear all of them to no more than 20  
5 minutes so that there will be time for questions, and  
6 if you have scheduling questions or questions, you'll  
7 have to get in touch with the Chair and staff.

8 MAN IN AUDIENCE: Will there be a chance  
9 sometime today to have five minutes? Five minutes. My  
10 case--

11 ACTING CHAIRPERSON HAGARTY: No, I'm  
12 sorry, there will be no members of the committee here  
13 past what is the scheduled witness time. I would  
14 suggest, though, that you submit your comments in  
15 writing and the Chair will make sure that they are  
16 circulated for the full membership.

17 I'd like to now recognize the next  
18 witness, Mr. Gibbons from Quakertown.

19 MR. GIBBONS: I want to thank you for the  
20 opportunity to exercise my constitutional right to  
21 freedom of speech. I will say that my family has been  
22 involved in the defense of the Constitution since  
23 Gettysburg, where my grandfather's bones are buried,  
24 having made his defense of freedom in the Civil War for  
25 the preservation of the union and the defense of the

1 Constitution. My father, who is with me, served in the  
2 Second World War as a member of the Pennsylvania  
3 National Guard, and he, too, stood for the defense of  
4 freedom at a so friendly place well known as Bastogne,  
5 where he was surrounded and refused to surrender.

6 I, myself, answered the call on December  
7 30, 1990, as a member of the Army reserves, and I have  
8 here today my helmet which I wore in Saudi Arabia.  
9 Stenciled on my helmet are the names of my four  
10 children and a Bible verse that I am claiming with  
11 them, Jeremiah 33:3, "Call upon me and I will answer  
12 you and I will show you great and mighty things which  
13 thou knowest not."

14 And I must say that as a layperson to be  
15 sitting here in Harrisburg speaking to such a board of  
16 experts and my legislature is indeed mind-boggling to  
17 me. My highest education is associate of arts. I'm a  
18 licensed practical nurse. I'm not used to dealing with  
19 such high things and dealing with such weighty matters  
20 of the law, but to the best of my ability I will  
21 testify as to what has happened to me and I will trust  
22 your expert judgments, since you have made your  
23 business and your lives at this sort of a thing and  
24 indeed sit on the committee overseeing these matters, I  
25 trust your judgment and I will submit to you a full



1 my rights? For 10 months I did not know where my  
2 children were. They were completely concealed from me,  
3 I knew where she was. I found out where she worked, I  
4 did not have her address. Coming from a Christian  
5 background, evangelical, I did not feel that divorce  
6 was an option, so I did not seek immediate legal  
7 counsel, feeling that within the parameters of my  
8 religion I would be able to overcome the difficulties  
9 that apparently had mounted. Plus, due to my wife's  
10 physical condition, having been sick for many years,  
11 having just given birth after a long, painful delivery,  
12 I felt that she may have been suffering from a  
13 postpartum depression or some other type of emotional  
14 collapse, as I took care of her 24 hours a day while  
15 she was lying on her left side with my last baby that I  
16 can't see today.

17           You know, I could -- I am not here to  
18 discuss handgun control, but I will bring up an issue  
19 and a principle, and that is after a period of waiting  
20 whatever it is now, and I don't know the specifics  
21 because I don't follow that issue, but since I have no  
22 criminal record, I submit to this committee that I  
23 could have more rights to a handgun today than I have  
24 rights to my own children. And I do not own a handgun  
25 and I do not advocate the overthrow of this country or



1 anything violent of that nature, but it is a terrible  
2 thing when a father in the Commonwealth of Pennsylvania  
3 has more access to a handgun than he has access to his  
4 own children. That's a terrible, terrible, terrible,  
5 terrible, deplorable state of affairs. I mean, by law,  
6 I could have a handgun. I do not. I could have a  
7 handgun in here, but my three-month old baby that was  
8 taken from me I can't see today, and he's growing up  
9 without a father, and that's not right.

10 On January 5th, a support complaint was  
11 filed against me. She demanded \$350 a week. I take  
12 home \$427. At the time I took home \$427. A hearing  
13 was set and I'm telling you, I was absolutely in amaze  
14 -- a daze, rather.

15 REPRESENTATIVE REBER: Mr. Gibbons, can I  
16 interrupt you a second?

17 MR. GIBBONS: Yes, sir.

18 REPRESENTATIVE REBER: Where was the  
19 proceeding instituted?

20 MR. GIBBONS: The proceedings, she filed  
21 for divorce, custody and support in Montgomery County,  
22 Pennsylvania, sir.

23 REPRESENTATIVE REBER: Okay, thank you.

24 MR. GIBBONS: Yes, sir.

25 A hearing was set for March 18th. A

1 temporary order of \$183 a week for support was entered  
2 on March 15th. On March 22nd, the only hearing that  
3 she showed up for -- now, when I went into the  
4 temporary order, it was a small room, I forget what the  
5 name of that is, but I went in for that small hearing.  
6 She was not there. She was not required to be there,  
7 so my right to face my accuser was denied me. Nobody  
8 forced her to be there.

9 MR. BOSZA: Support conference.

10 MR. GIBBONS: Okay, the support  
11 conference. I'm not a lawyer, I'm a nurse by trade, a  
12 licensed practical nurse.

13 On March 22nd, she did show up for her  
14 money. A Master's hearing was held. At the Master's  
15 hearing, Santangelo did not rule in front of me. There  
16 was a hearing that was heard on April 19. The schedule  
17 came on March 29. On April 19th I had a hearing. The  
18 order was entered May 4, so as far as I'm concerned, I  
19 was denied a fair trial. If the man is going to assign  
20 something to me, I should have the right to sit here  
21 and face him while he does it. It shouldn't be done  
22 behind the scenes.

23 \$183 for support, \$25 in alimony, and \$10  
24 in arrears. That's \$218 a week times four is \$872 a  
25 month payment. With a take home of \$427 minus \$218 is

1 \$209 had for me. And that's with married deductions.  
2 Now under the new Federal laws I have now found out  
3 that I cannot, even though I'm paying child support, I  
4 cannot, to the best of my knowledge at this time and I  
5 may be in error, I cannot deduct my children.

6 The scriptures teach us, "Do not muzzle  
7 the ox while he is threshing," and that's what I feel,  
8 that the rights of my full parenthood have been denied  
9 me, but I know that's a Federal issue and that's not  
10 here.

11 I have listed expenses and testified to  
12 \$12,795 worth of expenses. After Santangelo  
13 unconstitutionally extorted money from me, I was left  
14 with a real income of \$10,032, which left a \$2,763  
15 deficit, plus 75 percent unreimbursed medical and  
16 dental expenses. I had \$12,000 expenses and \$10,000 as  
17 yearly income, and that's unconstitutional as Hades.  
18 I'm sorry, but that's against the Constitution of  
19 United States to levy excessive fines, and when I list  
20 expenses as such and such and they leave me with  
21 insufficient money to meet my expenses, that's  
22 unconstitutional. Plus, it also constitutes cruel and  
23 unusual punishment psychologically in that to pay for  
24 children that you can't even parent is absolutely  
25 psychological torture, and plus it's financial.

1 distress, and the financial distress is unbelievable.

2           The forced estrangement from my children  
3 -- and I have a thought, I don't know, if somebody else  
4 has a car accident, and I don't know how I can be  
5 assigned to pay for that, but how can a person sue for  
6 moneys and civil damages when the responsibility for  
7 the payment of these moneys has not yet been  
8 determined? Custody is assumed in this situation. She  
9 walked out, took the children and concealed the  
10 children, and I can document that and I will provide  
11 all -- due to the emotional nature of this, I could  
12 not, I mean, it costs money to produce copies of all  
13 this, and I believe there's 18 members of this  
14 committee and everybody is going to get a copy of it.

15           Custody is assumed in this situation.  
16 Guilt or responsibility to pay is presumed. In other  
17 words, she walked out. It was presumed that she was  
18 going to have custody and therefore it was presumed and  
19 assumed that I was supposed to pay, but there had been  
20 no hearing. She simply assumed, she took the children  
21 and thereby acquired custody under unconstitutional  
22 conditions.

23           The custody of the children had not been  
24 established after due process of the law. There has  
25 never been a true and proper hearing for custody. How

1 then could I be assigned child support money when there  
2 is no custody order? She just walked out. It's  
3 unconstitutionally excessive. It presumes my guilt  
4 without due process of the law, i.e. a custody hearing.

5 The resultant economic slavery is  
6 unbelievable. I have lost my property and my children  
7 without due process of the law, and the establishment  
8 of guilt, that is my responsibility to pay, in other  
9 words if I'm a non-custodial parent, my responsibility  
10 to pay was automatically assumed at the Master's  
11 hearing, even though she illegally assumed custody of  
12 the children, concealed them.

13 The excessive fines were high-handed.  
14 The order of May 4th was backdated to 1-17-90, so  
15 therefore I started off with an arrears of I believe it  
16 was close to over \$4,000. I make \$11 an hour. It was  
17 backdated to the date that she filed, so this is a very  
18 convenient system by which a woman can walk out, steal  
19 children and actually make more money by walking out  
20 the door.

21 I was denied due process, as far as I'm  
22 concerned. When I pay \$652 a month child support -- I  
23 refuse to pay alimony to the woman who stole my  
24 children after I nurtured my children, took care of  
25 them. She worked day shift. None of this was ever

1 brought out in court... I'm getting a better hearing  
2 today than I ever did in court in Montgomery County.

3 I took care of my children. I was with  
4 them every day. I worked part-time at night, weekends.  
5 She worked through the day. I said, honey, they're  
6 better off with me than with a babysitter, and she  
7 walks off and she was lying on her left side with her  
8 last pregnancy on disability because she was in severe  
9 pain. I was home with her. I'm a nurse. I've had  
10 more than one temptation to "What are you doing after  
11 work, Ed?" I came home to her because the Scriptures  
12 told me that's what I was supposed to do. And I'm not  
13 saying that I'm a perfect man, perfect Christian, or  
14 anything like this. I presume no righteousness of my  
15 own, but I lost my children.

16 Now, in the old days there was a  
17 triangular trade of slaves, rum, and sugar, if I  
18 remember my history correctly. Nowadays there's a  
19 triangular trade which I learned through Fathers and  
20 Children's Equality between judges, lawyers, and the  
21 Federal government through Title IV-D reimbursements.  
22 As I understand the program right now, the county is  
23 reimbursed from the Federal government for every dollar  
24 -- I believe it's 50 cents on the dollar for child  
25 support that they get. So the judge's loyalty is to

1 the county, and when a woman is making \$218 off of my  
2 \$427 a month salary, any lawyer representing a female  
3 client knows he's going to get paid. And the Federal  
4 government funds this triangular trade. That's not  
5 what I wore my helmet to defend. I'm sorry.

6 Montgomery County splits my child support  
7 payment. I've been denied due process of the law. I'm  
8 paying the 47558, which is my child support account.  
9 Montgomery County unlawfully, in my opinion, takes \$90  
10 from that every time I pay it and applies it to  
11 alimony. This is creating an artificial arrears, which  
12 is maddening. And I spoke with Sam -- I forget his  
13 name -- let me read what this sounds like. What it's  
14 like to get one of these things.

15 "If the court finds that you have  
16 willfully failed to comply with its order to pay  
17 support, you may be found to be in contempt of court  
18 and be committed to jail, fined, placed on Probation,  
19 compelled to post security or bonds, suffer a Wage/  
20 Income Attachment, pay up to ten (10%) percent on any  
21 amount of arrears..., pay costs, Attorney's fees.

22 "FURTHER, that your name may be submitted  
23 to a Credit Bureau as being delinquent in paying  
24 support."

25 And I started out with a deficit of over

1 \$3,000 because they backdated it even and the fact that  
2 I didn't know where my children were as no consequence.  
3 And I'm paying into my child support account and  
4 they're taking the money saying I'm not paying into  
5 that account and they're throwing it onto the alimony  
6 account, and I refuse to pay alimony.

7 I filed for exceptions on 13 June 1990,  
8 which I was getting more stuff in the mail, and honest  
9 to God, I had no idea what was hitting me. I got  
10 continuance after continuance after continuance after  
11 continuance after continuance after continuance after  
12 continuance. It's now 12 September 1991 and I still  
13 have yet to have my exceptions heard, and as far as I'm  
14 concerned, that's denial of fair and speedy trial.

15 That support for divorce, I want to read  
16 for you what I have sustained. This was filed April  
17 27, '90.

18 ACTING CHAIRPERSON HAGARTY: Mr. Gibbons,  
19 if I may just caution you.

20 MR. GIBBONS: Yes, Ma'am.

21 ACTING CHAIRPERSON HAGARTY: The  
22 committee is going to recess at 12:00 o'clock, so we do  
23 want to have time for questions.

24 MR. GIBBONS: Yes, Ma'am.

25 ACTING CHAIRPERSON HAGARTY: Could I just



1 ask you to stick to the most important points for our  
2 purposes?

3 MR. GIBBONS: Yes, Ma'am. I will do  
4 that. I'm off the support issue. Dick is kicking me  
5 in the fanny.

6 The plaintiff, and this is the main thing  
7 right here, the plaintiff is Esther M. Goebel Gibbons,  
8 who presently resides in the State of Louisiana at an  
9 address to remain confidential. And that's what was  
10 filed as a legal position in this Commonwealth. Now, I  
11 could understand if there was a Protection From Abuse  
12 Order on me, if I was a felon, if I was some kind of a  
13 maladaptive -- there are words for that kind of person,  
14 but for a law firm, Solomon, Berschler & Warren in  
15 Norristown to conceal my children from me without due  
16 process of the law, without cause to do so, is absolute  
17 tyranny. And I'm sorry, that is not what I have  
18 defended. This is not the Constitution. I have the  
19 right to a hearing. I have a right to due process.  
20 For five generations my family has defended the  
21 Constitution. And I'm not trying to be overly  
22 emotional, but I was in Riyadh, I had the SCUDs over my  
23 head, I was the one that was petrified from death from  
24 nerve gas, I was the one that dedicated my life to  
25 uphold the Constitution, and I don't know how in God's

1 name a law firm can do this. That is not in the best  
2 interests of the children.

3 ACTING CHAIRPERSON HAGARTY: Mr. Gibbons,  
4 if I may, I think there are some pertinent questions to  
5 be asked. Does that conclude the substantive portion  
6 of your testimony?

7 MR. GIBBONS: Ma'am, I'm sorry, I didn't  
8 hear you.

9 ACTING CHAIRPERSON HAGARTY: I said, I  
10 believe there are some pertinent questions to ask you.  
11 Does that complete the substantive portion, the  
12 informational portion of your testimony so that the  
13 committee may ask questions?

14 MR. GIBBONS: I have some statements that  
15 I want to -- I brought the court transcript here that I  
16 want you to understand the absolute arrogance of Horace  
17 Davenport when I finally did get a hearing for custody  
18 after over a year.

19 ACTING CHAIRPERSON HAGARTY: Well, may I,  
20 so that the committee has time for questions, ask if  
21 you want to yield for some questions, because we are  
22 breaking at 12:00 o'clock. I believe that most of the  
23 members of the committee are going to find it necessary  
24 to break. Our schedule has been somewhat changed today  
25 because of the absence of the Chairman.

1                   MR. GIBBONS: My purpose in coming here,  
2 I wanted this committee to hear some of the statements  
3 that the judge had made in court to me, statements such  
4 as, I'm not going to get into that issue, I don't want  
5 to discuss this. He just basically didn't want to hear  
6 it. And while I was in Saudi Arabia, he precludes  
7 jurisdiction to Louisiana. The kidnapping of my  
8 children was propagated upon me first by my wife, then  
9 by her attorneys. It was further authorized by Judge  
10 Horace Davenport of Montgomery County, Pennsylvania,  
11 and my portion of the American dream is to have that  
12 man impeached for allowing my children to be stolen  
13 from me.

14                   Now, after 10 months prior, Saddam  
15 Hussein invaded on August 2nd. As a member of the Army  
16 Reserves I felt that it was imminent that I would be  
17 called, especially as a licensed practical nurse. I  
18 found my children and saw them, a dying man's last wish  
19 in September. They told me that they were being  
20 slapped by their babysitters, being kept locked up in a  
21 hot garage in Louisiana. I did not have a custody  
22 hearing. I brought my children home to Pennsylvania,  
23 and within two working days, without my presence at an  
24 ex parte hearing, Judge Horace Davenport sent two State  
25 Policemen with drawn billy clubs and put my children

1 back in Louisiana, and that's wrong because I was  
2 denied my right to testify, denied my right to present  
3 evidence, and Judge Horace Davenport put my children  
4 back into the hands of a woman who was already  
5 determined by a court conciliator to be in need of a  
6 psychological evaluation. This was done ex parte, and  
7 my mother and my father and I were sitting at our home  
8 and two State cops come up, I have my baby sitting on  
9 my shoulders and these cops walk in the door with a  
10 drawn billiclub and ship my children back to Louisiana.  
11 And that's wrong. And I'm sorry, but that's wrong, and  
12 I cannot discuss this without becoming emotional. I  
13 had no right to testify, no right to present evidence.  
14 My children, since it was an abuse case, were denied  
15 the right to testify. I don't think -- I believe the  
16 word is jurisprudence. I don't think that was  
17 jurisprudence, prudence on the part of the judge in an  
18 abuse case. The fact of the matter is she took the  
19 children, she disappeared with the children, she  
20 concealed the children, she hit me up with the support.  
21 Her law firm arrogantly concealed my children.

22 After 10 months under threat of death I  
23 find my children, and Saddam Hussein did me a favor by  
24 invading because that created enough sympathy, you see,  
25 so I could see my children for one last time before I

1 breathe a whiff of nerve gas, and when I finally see my  
2 children, they tell me that they're being slapped by  
3 their babysitters, they're being left alone for hours  
4 at a time, and I bring them home because I'm their  
5 father and it's my God given responsibility to protect  
6 my children, and I bring them home and the judge ships  
7 them back. And I'm sorry, that's wrong. And it's not  
8 proper judicial procedure, and I've been denied due  
9 process, I've been denied every constitutional right,  
10 and not only me but my children also, because that's  
11 not in their best interests, and my life has been a  
12 living hell, Ma'am.

13 ACTING CHAIRPERSON HAGARTY: May I  
14 recognize one of the committee members who has a  
15 question now, sir?

16 MR. GIBBONS: Yes.

17 ACTING CHAIRPERSON HAGARTY: Okay,  
18 Representative Fajt.

19 REPRESENTATIVE FAJT: I thank the  
20 Chairman.

21 BY REPRESENTATIVE FAJT: (Of Mr. Gibbons)

22 Q. Yes, Mr. Gibbons?

23 A. Yes, sir.

24 Q. You say that you were given the chance to  
25 see your children before you went over to Saudi Arabia?

1           A.    Yes.

2           Q.    Was there any other opportunity to see  
3 your children once you started paying the support  
4 hearings?

5           A.    Sir, I don't mean to be redundant, but, I  
6 mean, she was in Louisiana at an address to remain  
7 confidential. I did not know where she was. This is  
8 why I say I'm supposed to be innocent until proven  
9 guilty, as I understand the Constitution. She went in  
10 for support. I was presumed to be the non-custodial  
11 parent, therefore I was forced to pay support under  
12 unconstitutional conditions.

13          Q.    No opportunity to see your children?

14          A.    To answer directly, sir, no opportunity  
15 at all. I did not know where they were.

16          Q.    When you were given the opportunity  
17 before you went over to Saudi Arabia, did they give you  
18 a set amount of time which you could see the children,  
19 and did that time expire when the police arrived at  
20 your house to take them back?

21          A.    In September there was -- my first  
22 attorney did nothing, and that's the question I have,  
23 how do I sue an attorney that does a lousy job? If a  
24 plumber does a lousy job you have evidence, but if a  
25 lawyer does a lousy job in the law, how are you going

1 to sue a lawyer?

2 Q. There are law firms out there that do  
3 that.

4 MEMBERS OF AUDIENCE: Where? Give us  
5 names.

6 REPRESENTATIVE FAJT: I will do that  
7 after the meeting.

8 MR. GIBBONS: Sir, I would be more than  
9 happy to talk to you about that because I am sick of  
10 what I've had to -- I don't want to chase a rabbit  
11 trail. There was negotiations. I walked into my  
12 attorney and I said, probably some words I shouldn't  
13 say, I said, "I'll be damned if I'm going to die from  
14 Iraqi nerve gas before I see my children. This has  
15 been going on 10 months. I want some action." And she  
16 had been promising me some kind of -- I did not know  
17 what a petition was. She had been promising some kind  
18 of emergency petition for all these months and  
19 continuance after continuance after continuance.

20 So there was negotiations between my  
21 attorney and her, negotiations which gave her primary  
22 physical custody of the children, gave her everything.  
23 Her attorney typed it up, not mine, so what good did my  
24 attorney do, okay, for me? Marijo Murphy. Murphy's  
25 law.

1 BY REPRESENTATIVE FAJT: (Of Mr. Gibbons)

2 Q. Please, sir, just stick to the question.

3 A. I apologize.

4 Q. We are pressed for time.

5 Were you given a set period of time?

6 A. I did see them.

7 Q. And what was the time?

8 A. For five days and 10 months.

9 Q. Did the five days exceed when the police  
10 returned to your house?

11 A. I was supposed to return the children.  
12 The agreement was never signed by any judge, either by  
13 my attorney, her attorney, myself or Esther May. It  
14 went before a Judge Yahn. Judge Yahn, I got a FAXed  
15 letter, I was already in Louisiana, I refused to sign  
16 this, there's no signatures, there is no agreement. So  
17 under the circumstances, there's the testimony of my  
18 children to me, as their father, sitting on my lap, I  
19 said, I am not tolerating this. She stole the  
20 children, I'm returning them to Pennsylvania, which is  
21 where Mr. Bullock, court conciliator, felt Esther May  
22 should be brought, and I did not bring that up at this  
23 time, but there was a conciliator's hearing at which  
24 the court conciliator felt that she should be brought  
25 back to Pennsylvania for a psychological evaluation.



1 He met me and I did not need one, okay. But I  
2 apologize for rabbit trailing.

3 Q. That's okay. That answers. Did they  
4 press kidnapping charges or anything like that or  
5 attempt to do that against you when they came to take  
6 the children back?

7 A. No.

8 Q. Okay, thank you.

9 A. And neither did my attorney press  
10 kidnapping charges on her because she took the children  
11 and concealed them.

12 REPRESENTATIVE FAJT: Thank you.

13 ACTING CHAIRPERSON HAGARTY:

14 Representative Gruitza.

15 BY REPRESENTATIVE GRUITZA: (Of Mr. Gibbons)

16 Q. Sir, I have to say that I'm sure that the  
17 whole panel, everybody here feels for what you've gone  
18 through, that this has got to be a very, very difficult  
19 thing. The thing that goes through my mind, though, is  
20 that there should be some legal remedy available to  
21 you.

22 A. Sir, that's why I'm here today. I have  
23 no legal remedy.

24 Q. I've got to believe that maybe you had an  
25 attorney who didn't do a job for you, but I think if

1 something like this occurred back in my county, and  
2 most of them, almost any of the firms that handle these  
3 types of cases, there would be a petition filed before  
4 the court and at least some sort of an opportunity to  
5 present testimony before a judge on the issue.

6 A. Sir, this is why I want this committee to  
7 understand what happened in Montgomery County with  
8 Horace Davenport. I will not read the whole thing, but  
9 I do want and I will submit to this committee some of  
10 the statements that this judge made to me, to my  
11 attorney as my attorney fought like a dog to get me on  
12 the stand. I have never been on the stand.

13 Q. You have not been able to get a hearing  
14 on temporary custody issue in that county?

15 A. No, sir, I have never had a hearing on  
16 custody in Pennsylvania to which I was allowed to  
17 testify. Never. And neither have my children had a  
18 chance to express their feelings and their wants.

19 Q. Well, I agree with you, your  
20 constitutional rights have been thwarted.

21 A. Thank you, sir.

22 ACTING CHAIRPERSON HAGARTY:

23 Representative Reber.

24 REPRESENTATIVE REBER: Mr. Gibbons, so  
25 you do not have to incur the costs of reproduction of

1 the court documents that you would wish to present to  
2 the committee, as a member of Chairman Caltagirone's  
3 staff here, see the young lady holding her hand up?

4 MR. GIBBONS: Yeah.

5 REPRESENTATIVE REBER: After break, would  
6 you please see her with the documents so they can be  
7 reproduced and then can be circulated to the committee,  
8 okay?

9 MR. GIBBONS: Thank you, sir.

10 REPRESENTATIVE REBER: That's all right.  
11 Thank you.

12 ACTING CHAIRPERSON HAGARTY: I had an  
13 additional question or two.

14 BY ACTING CHAIRPERSON HAGARTY: (Of Mr. Gibbons)

15 Q. Did you attempt to appeal the custody  
16 order issued by Judge Davenport?

17 A. I had a month trying to shake Marijo  
18 Murphy off of my case because after that time, I mean,  
19 she did nothing for me. There was no way to appeal it.  
20 It took a month for me to get her off of my case so  
21 that my new attorney, Beau Reynolds, could take over.  
22 So that order was unable to be appealed. I apologize  
23 for rabbit trailing. The answer is no. I was unable  
24 to do that.

25 Q. I understand. My other question was,

1 when you first went before the Domestic Relations  
2 hearing officer for the support petition.

3 A. Yes.

4 Q. Did you make any effort then, I guess, to  
5 get before the court the fact that your children had  
6 been concealed from you?

7 A. Ma'am, I went to an attorney and I feel I  
8 fulfilled my obligations at that point, and then after  
9 paying her \$1,500 it was her job to do that for me. I  
10 mean, I wasn't trying to do this pro se. I didn't even  
11 know what "pro se" meant at the time. But, I mean, I  
12 hired a professional once I understood that, once I got  
13 something in the mail and I knew there was something  
14 cooking and I needed an attorney, but she made no  
15 efforts on my behalf at all to say, hey, this guy can't  
16 see his children. So to answer the question, there was  
17 nothing made. I did what I knew to do, in the context  
18 of the time, I hired an attorney.

19 Q. The information that you indicated you  
20 were going to supply for us, does that include the  
21 transcript before Judge Davenport?

22 A. I have the transcript right here.

23 Q. Let me just ask you then, we will review  
24 the transcript, what was the basis you, at some point  
25 in your testimony referred to it as an abuse hearing.

1       What was the allegation of abuse during the custody  
2       hearing? I take it there was an allegation of abuse  
3       and that's why--

4               A.    I was accused, and now I'm a nurse and  
5       I've taken care of abused children, retarded children,  
6       permanently damaged, so, I mean, for me to be accused  
7       of being a bonafide so-and-so that would do something  
8       like that hurt me quite badly. Esther May accused me  
9       of beating my little boy's back side so bad that it  
10      bled, and that was the end of that, of which it was  
11      unfounded, and I have a copy of that also, and that's  
12      my clear conscience--

13             Q.    What about the other children?

14             A.    Nothing was ever said about them.

15             Q.    There was one incident, you're telling--

16             A.    Supposedly one incident, and then there  
17      was nothing and then for months there was nothing, no  
18      charges were filed, nothing was ever said. Then I'm  
19      sitting there and Peter Welling accused me of sexually  
20      molesting my children, and when I served as a licensed  
21      practical nurse at Delaware County Prison through an  
22      agency, they brought up the child molesters separate  
23      from all the other prisoners, so for me to be subjected  
24      to that kind of an accusation is absolutely terrible.  
25      I mean, there are no words to describe what went

1 through my soul when I was accused of that, but I was  
2 accused of that. No charges were filed, and that is  
3 absolutely blatantly untrue.

4 Q. When the custody order was entered by  
5 Judge Davenport giving primary custody to your wife,  
6 did you have a visitation order? Were there visitation  
7 rights for you in that order?

8 A. There is absolutely nothing in the order  
9 of September 18, 1990 to give me any kind of access to  
10 my children whatsoever. A volunteer by the name of  
11 Eleanor Zimmerman, she is a sight, she's a little old  
12 lady with a cane, she walked over to Soloman, Berschler  
13 & Warren's office, spoke with Peter Welling, and in a  
14 way that only a little old lady with a cane could, I  
15 obtained the telephone number of my children and kind  
16 of an off-the-side, off-the-record agreement to where I  
17 could call my children.

18 Q. Did the judge indicate why he was denying  
19 visitation?

20 A. I wasn't there. I wasn't there. It was  
21 a telephone conference call. I'm sitting at home with  
22 my children on my lap and my lawyer calls me up and  
23 says, by the way, the cops are coming.

24 Q. No, my understanding was that was on the  
25 visitation before you left for Saudi Arabia. The

1 initial order?

2 A. Okay, wait.

3 Q. Maybe I got mixed up.

4 A. On September 18th, when they shipped the  
5 children back to Louisiana, there was not one line of  
6 access for me to my children.

7 Q. The children were in -- you may have said  
8 this, I apologize -- the children were in the court at  
9 the time of the initial custody order?

10 A. The children were in the court?

11 Q. Were the children?

12 A. No. No, they were at home with me,  
13 because they told me that they were being slapped by  
14 their babysitter. You know. These allegations--

15 Q. This is at the time of the original  
16 custody hearing before Judge Davenport or--

17 A. The only custody hearing I've ever had,  
18 Ma'am, is September 18, 1990, which was a telephone  
19 conference call. I believe the term is ex parte. I  
20 was not there.

21 Q. Was there a custody hearing scheduled  
22 before the court?

23 A. I went through about six -- pardon me, I  
24 believe from four to six different continuances,  
25 continuances, continuance, continuance, continuance on

1 custody. I have never had a custody hearing in  
2 Pennsylvania.

3 Q. And did the judge ever see the children?

4 A. No, Ma'am.

5 ACTING CHAIRPERSON HAGARTY: Thank you.

6 Representative Reber.

7 BY REPRESENTATIVE REBER: (Of Mr. Gibbons)

8 Q. Mr. Gibbons, if my notes are correct, and  
9 I apologize if they're not, December 8, '89 was the  
10 date when the four children were removed from the  
11 premises to Louisiana, is that correct?

12 A. December 9, 1989.

13 Q. 1989. And I seem to think that the next  
14 contact you had with your wife was in March when the  
15 Domestic Relations Office noted to you that I assume it  
16 was a reciprocal nonsupport complaint?

17 A. It's nonreciprocal, unfortunately.

18 Q. Right.

19 A. I obtained her address, she was working  
20 at Kelly Girls at--

21 Q. Let me back up.

22 A. Okay.

23 Q. From December 9, '89, there wasn't any  
24 contact until March of 1990 when the Domestic Relations  
25 procedures were instituted?



1 A. With Esther May? With my former spouse?

2 Q. That's correct.

3 A. There was telephone contact at work. I  
4 did figure out where she was working.

5 Q. Okay. But what I'm saying is, was that  
6 the first time there was any kind of a proceeding  
7 initiated?

8 A. I hired Murphy in February of '90 after I  
9 got something in the mail, so that must have been in  
10 January. There was an order, a complaint entered on  
11 the 7th, so probably after a couple of weeks I got  
12 somebody.

13 Q. Well, let me ask you this: When the  
14 children were taken on December 9, 1989, did you on  
15 December 10, December 11, December 24, January 1,  
16 January 2, did you ever, prior to being served with any  
17 papers by your wife, did you ever file a petition for  
18 custody and/or visitation with your children, with any  
19 court in any jurisdiction?

20 A. No, I did not.

21 Q. Okay. Okay. Now, did your wife file  
22 against you and you held up the pleadings from a firm,  
23 Solomon, somebody and somebody?

24 A. Yes.

25 Q. Okay. When was that document filed?

1 A. This is very confusing to me.

2 Q. Well, there should be a time-stamped  
3 copy.

4 A. There is a time -- April 7 is the  
5 divorce, but there's something else in here for custody  
6 that was filed sooner than that. Plus on April 19 I  
7 filed for custody of my children.

8 Q. Okay. All right. I think we'll be able  
9 to take a look at those documents when you provide them  
10 and maybe chronology to try to put that together.

11 Thank you very much for your time.

12 A. It's very confusing to me. Thank you.

13 ACTING CHAIRPERSON HAGARTY: Thank you.

14 The hearing is recessed, to resume at  
15 1:00 o'clock.

16 (Whereupon, the proceedings were recessed  
17 at 12:13 p.m., and were resumed at 1:15 p.m.)

18 ACTING CHAIRMAN HECKLER: We are about to  
19 begin then the afternoon session of the Domestic  
20 Relations hearings by the House Judiciary Committee.

21 I'd like to make a few observations.  
22 It's my understanding that Representative Hagarty and I  
23 will be chairing this afternoon's session. We do have  
24 quite a number of witnesses. I suspected that some of  
25 the folks whose names I've read will be turning up

1       shortly, so we are going to adhere to a 15-minute time  
2       for initial presentation, which will allow then some  
3       opportunity for questions, and I will be keeping track  
4       of that time and so I would urge you to try to restrict  
5       yourself to that timeframe.

6               I would also ask that all of us retain  
7       proper decorum. We will only be hearing from the  
8       people who are testifying and we won't be having any  
9       demonstrations, sympathetic or otherwise. We are  
10       interested in putting testimony on the record so that  
11       -- yes, sir, you wanted to be recognized?

12               MR. VALENTICH: Yes, sir. I think for  
13       the gravity of this whole operation here I would like  
14       to see a lot more of the Representatives listening to  
15       these cases. Can you tell us maybe where they are and  
16       why they're not here?

17               ACTING CHAIRPERSON HECKLER: I don't have  
18       any idea. This, as I'm sure you are aware, Chairman  
19       Caltagirone scheduled these hearings. Every  
20       Representative is responsible for their own whereabouts  
21       and actions, and they are certainly not answerable to  
22       me. I am a fairly junior member of the minority party.  
23       Tom had another unavoidable commitment, as I understand  
24       it, and asked that Representative Hagarty and I see to  
25       it that the hearing was chaired. You will note that

1 there is a court reporter here so that the various  
2 items of testimony and exhibits which the various  
3 witnesses provide, as well as the record of the  
4 testimony itself is available for all of the members  
5 who would not be here.

6 MR. VALENTICH: Frank Valentich,  
7 V-A-L-E-N-T-I-C-H.

8 You know, this kind of makes us all a  
9 little bit nervous because we can't get the questions  
10 back and forth that need answered.

11 ACTING CHAIRMAN HECKLER: I understand  
12 that, sir, but there's certainly nothing I can do about  
13 that.

14 Okay. I think let me just run through  
15 the agenda one more time.

16 Mr. Levy, Mr. David Levy. Is he present?

17 (No response.)

18 ACTING CHAIRMAN HECKLER: Okay. Mr.  
19 Larry Baumbaur.

20 (No response.)

21 ACTING CHAIRMAN HECKLER: Mr. Dennis  
22 Scavuzzo.

23 (No response.)

24 ACTING CHAIRMAN HECKLER: Okay, I believe  
25 Mr. Schierer and Mr. Longnecker, I see that you're both

1 from Bradford. Are you testifying jointly or--

2 MR. SCHIERER: Separately, sir.

3 ACTING CHAIRMAN HECKLER: Fine. Then Mr.  
4 Schierer, would you please step up and we'd like to  
5 hear your testimony.

6 I note that you have provided prepared  
7 testimony which has been distributed.

8 MR. SCHIERER: Yes.

9 My name is David W. Schierer, and I'm  
10 from Bradford, Pennsylvania, and I would like to thank  
11 those responsible and the committee for this  
12 opportunity.

13 I have come here today as a father and a  
14 husband, and also a cancer survivor, and I hope that  
15 the people here will please bear with me. I am not a  
16 public speaker, but above all, I am afraid that the  
17 cross of having to deal with the apparent disregard for  
18 my health by the McKean County judicial system, in  
19 addition to my having to deal with my cancer, will make  
20 it difficult at times for me to express myself.

21 After many years of deteriorating health  
22 and lymph node biopsies, it was discovered that I had a  
23 lymphatic cancer. The length of time that it took them  
24 to discover this was in part -- the hospital was in  
25 part responsible because they really didn't know what

1 they were looking at. Two months prior, after it was  
2 discovered I had cancer and after we had sought  
3 counseling, because the toll her indifference toward me  
4 was taking in our home life with our two sons, my wife  
5 and I agreed to separate. I went to live with friends  
6 and she did not want to help me deal with the rigors of  
7 chemotherapy, or moreover, the medical bills. She  
8 filed for divorce. I was guilty of no indignities.  
9 There is no PFA standing against me. I was guilty only  
10 of my illness.

11                   Along with my affidavit, I have submitted  
12 for your inspection several exhibits, and for each I  
13 have given an explanation and comments. Exhibit A is  
14 the family law Master's conference report. On the face  
15 page you will see that I was not represented by  
16 counsel. In addition to the burden of my medical  
17 bills, I continued to support my family after our  
18 separation. Upon going before the Family Law Master, I  
19 still could not afford counsel, and when I had phoned  
20 Domestic Relations prior to this conference I was told  
21 that the Family Law Master was an unbiased mediator and  
22 that it was not absolutely necessary for me to have an  
23 attorney present.

24                   In a phone conversation in June of 1990  
25 with Mr. Paul Rowe, the State Coordinator for Domestic

1 Relations, Mr. Rowe told me that the unbiased mediator/  
2 Family Law Master concept was conceived to avoid the  
3 need for expensive attorneys. The Rules of Civil  
4 Procedure, in conjunction with the law, made a Family  
5 Law Master's decisionmaking pretty much cut and dried.

6 On page 2, part 8 of the conference  
7 report, the Master acknowledged my cancer and my  
8 immediate need for \$110 per month consideration. Now,  
9 I might insert here that \$110 per month doesn't seem  
10 like a whole hell of a lot of money, but when you've  
11 got cancer and you've got medical bills rolling in and  
12 you've got all this fear built up inside you about what  
13 your destiny really is, the burden of having the  
14 problem of not being able to pay medical bills takes a  
15 big toll on somebody with a serious disease.

16 After my health needs were discussed at  
17 this conference, I asked the Master how much child  
18 support should I be paying per month. She told me  
19 \$430. My wife and I agreed to go to this conference to  
20 resolve the issue of child support. As I mentioned  
21 earlier, I was supporting my family. I was not guilty  
22 of nonsupport. And we, after my wife had found what  
23 she considered to be meaningful work, we agreed to go  
24 to this conference to have this primary issue resolved.  
25 In the absence of an agreement between the parties, as

1 required by the Rules of Civil Procedure, 1910.11-d, I  
2 have been paying child support now for four years  
3 without a court order.

4 After talking additionally again to Mr.  
5 Rowe, I made an appointment to see Barry Lee Smith,  
6 Esquire, the Family Law Master for Warren County. Mr.  
7 Rowe told me because of my serious illness I was  
8 entitled to special consideration by law. Based upon  
9 the figures in the conference report, Attorney Smith,  
10 using the Melzer formula, calculated that in addition  
11 to not giving me consideration for my medical expenses,  
12 the \$430 per month I was verbally told to pay was 10 to  
13 15 percent above what the guidelines required. Mr.  
14 Paul Rowe, in addition, told me that medical expenses  
15 are not to be compromised. They are not a parallel  
16 priority with education expenses or any other type of  
17 expenses.

18 On page 4, part 14 of the conference  
19 report, I never agreed to the listed items. They were  
20 all discussed but were just as contested as the issues  
21 on page 5, part 15 of the Master's reported.

22 Exhibit B is the resulting court order  
23 from the September conference. It gave my wife primary  
24 custody of the children, exclusive use of the marital  
25 residence, and she was awarded what was at that time a



1 3-year-old automobile that had a \$6,000 equity. I was  
2 permitted to keep a 1970 Jeep worth \$500 and a boat I  
3 purchased after separation with a third party that had  
4 an encumbrance of \$12,000 and no equity.

5 Now, if the Master's report and the court  
6 order you are holding in your hand is the work of an  
7 unbiased mediator, then on our way home from here  
8 tonight we should all keep a watchful eye out for cows  
9 that fly.

10 I alleged that the McKean County Family  
11 Law Master assumed that I was going to die. It appears  
12 that this person secured all the necessary items my  
13 wife needed to live comfortably through a court order,  
14 apparently knowing that upon my death my pension plans  
15 and the house would all belong to my wife. I should  
16 insert here that since I have been reading Pennsylvania  
17 law it should be pointed out that from what I've read  
18 that in the Commonwealth of Pennsylvania if two parties  
19 are in the process of divorce and one of the spouses  
20 dies, then the Commonwealth will, if you're more  
21 divorced than you are married as far as going through  
22 the progress of getting a divorce, the Commonwealth may  
23 consider that you are more divorced than you are  
24 married and so that would abate the surviving spouse's  
25 entitlement to the other spouse's half of the marital

1 property. So I suspect that they didn't want to abate  
2 my wife's entitlement to my half of the marital  
3 property and that's part of the reason why a limited  
4 amount of procedure was followed in this particular  
5 case of mine.

6 Okay. If you will notice, or if you will  
7 take notice, excuse me, on the bottom of page 2 of that  
8 court order resulting from the conference, the wording  
9 to establish another hearing date was scratched off.  
10 Apparently, there was no intention of continuing this  
11 litigation. It does appear I was taken advantage of in  
12 my state of illness. I also alleged that the McKean  
13 County Family Law Master deliberately did not create a  
14 court order for child support because this person  
15 apparently did not want to give me any consideration  
16 for my out-of-pocket medical expenses. This would have  
17 reduced the amount of support that my wife was going to  
18 receive.

19 I should point out here that at this  
20 point in time she had a Bachelor's degree in elementary  
21 education and she was working toward her Master's  
22 degree.

23 Okay. Not receiving any consideration  
24 for my out-of-pocket medical expenses made it very  
25 difficult for me to afford the necessary health care to

1 survive my cancer. My doctors told me to devote my  
2 energy toward achieving a remission instead of trying  
3 to deal with my cancer and the divorce at the same  
4 time. I was in an extreme disadvantage.

5 Exhibit C is a letter from my first  
6 attorney to the Family Law Master requesting a status  
7 conference without the litigants present. Still  
8 feeling ill from the chemotherapy, I borrowed \$500 from  
9 a friend to hire this McKean County attorney. The  
10 pending divorce caused a lot of stress and I thought I  
11 might feel better if I got the divorce issue resolved.  
12 My attorney went to this conference only to concede to  
13 this Family Law Master and to the McKean County  
14 district attorney who was privately representing my  
15 wife that my health was not an issue in the divorce  
16 settlement. I fired this attorney. And if you'll  
17 notice, I put numerous question marks after "attorney."  
18 He told me that the defendant husbands in McKean County  
19 are not given consideration for their health.

20 Exhibit D is my original biopsy report  
21 from 7-31-86. Exhibit E is a letter from Dr. David  
22 Wolfe, head of hematology, oncology, Guthrie Clinic,  
23 Sayre, Pennsylvania. Should you care to read it, the  
24 letter speaks for itself.

25 On January 5, 1990, I hired the

1 representation of Thomas E. Africa, Esquire, of Warren  
2 County, Pennsylvania. I hired an attorney from out of  
3 the county because it seems McKean County attorneys  
4 have a collusive rapport with the Family Law Master and  
5 Domestic Relations. Their attitude, and I am familiar  
6 with enough cases in McKean County to know that their  
7 attitude is if 50 percent of their clients are women,  
8 then they win 50 percent of the time. It has taken  
9 over a year and a half from that date of January 5,  
10 1990 to force my wife, who is the plaintiff, and her  
11 attorney into litigation. They didn't expect me to  
12 live.

13                   Exhibits F, G, and H represent  
14 correspondence that has resulted from my wife and her  
15 attorney's flagrant defiance of court orders and the  
16 court's inability to enforce court orders where an  
17 attorney refuses to comply with pretrial orders and the  
18 woman is in contempt.

19                   I alleged that my wife's attorney, the  
20 McKean County district attorney, has been receiving  
21 preferential treatment for his client because of his  
22 influence as a primary court officer. In McKean  
23 County, if I were the one who was in contempt for  
24 disregarding a court order, I would be sitting in jail  
25 right now. And there is an apparent double standard

1 here.

2                   Exhibit I is a response from the Judicial  
3 Inquiry Review Board to a complaint of discrimination I  
4 filed with them. The board apparently does not  
5 consider discrimination to be misconduct. They refer  
6 to a normal judicial process. How can there be a  
7 normal judicial process when there is the element of  
8 discrimination and the disregard for proper procedure  
9 and rules?

10                   Exhibit J is the response from the  
11 Department of Health and Human Services to a  
12 discrimination complaint I filed. It seems they have  
13 no investigative authority. My wife's attorney  
14 succeeded in postponing a final hearing that was  
15 scheduled for June 21, 1991. My physicians, who are  
16 very busy people under considerable demand by their  
17 patients, gave up four hours of their office time to  
18 testify about my health and my employability, which are  
19 two factors involved in equitable distribution. In the  
20 eleventh hour on the day before the hearing my wife's  
21 attorney was granted a continuance by Judge John  
22 Cleland. My wife's attorney has yet to file an amended  
23 petition as requested by the judge explaining why he  
24 had to cancel the June 21st hearing. And I allege that  
25 this cancellation occurred to inconvenience my

1 witnesses and create additional expense for myself and  
2 my attorney.

3           Exhibit K is one of the many letters of  
4 rejection I received from insurance companies. As a  
5 cancer survivor, I am uninsurable. One of the things  
6 that my wife and her attorney are after is to  
7 disassemble my life insurance policies and the cash  
8 value without any regard to my uninsurability. I am  
9 presently employed, but with the job situation as it  
10 is, coupled with the economy as it is, there are highly  
11 qualified people out there who have lost their jobs  
12 only to gain other employment only to find themselves  
13 unemployed. If I were to lose my job, I would also be  
14 unemployable.

15           An additional thing that my wife is  
16 after, and she has many assets - AT&T stock, there's a  
17 trust that I know exists that we have no proof of, and  
18 she has other assets. Her portion of my pension is  
19 only worth \$3,000 at this point in time. If I were to  
20 -- if she was to damage my pension, I would have no  
21 other recourse than to try to find work with another  
22 company and that would be -- have the same success as a  
23 snowball in hell.

24           Exhibit L is an article by Ellen Goodman,  
25 who I might point out is a very devout, very respected

1 feminist in this country. She writes for the  
2 Washington Post, and the article that I have enclosed  
3 with this information is about former Senator Paul  
4 Tsongas, who has put in his bid for a shot at the White  
5 House. His battle with lymphoma and discrimination he  
6 will face, as do other cancer survivors, also faces me.  
7 It took Mr. Tsongas nine years to finally feel  
8 comfortable enough to get back into where he is now  
9 pursuing or continuing his career in politics.

10 On August 9, 1991, a final hearing was  
11 held on the divorce matter of Schierer vs. Schierer in  
12 the McKean County Court of Common Pleas. One month  
13 later, because my wife and her attorney are still being  
14 permitted by the court to disregard court orders, a  
15 decision by the McKean County Family Law Master has yet  
16 to be forthcoming.

17 Exhibit M is the section of 23 PS, with  
18 401(D)(3), which is the listing of the law whereby in  
19 equitable distribution health and employability  
20 consideration are to be given consideration.

21 Our State has an equal rights amendment  
22 that absolutely forbids sex discrimination at any level  
23 in our society. This should be especially true  
24 throughout the legislative and judicial functioning in  
25 our system. Why is it that we still have laws that

1 smack of sex bias? Why is it that renegade counties  
2 are permitted to interpret the law on a sex bias? I  
3 wasn't aware that any of our counties have seceded from  
4 the Commonwealth.

5 The women and men that have come here to  
6 testify before this committee are living proof that sex  
7 discrimination in our courts is alive and well in the  
8 Commonwealth of Pennsylvania. At present, the people  
9 who are running our domestic courts are above reproach  
10 for wrongdoing, and they know it. We need an  
11 investigative body that will investigate and take  
12 action against those who abuse their authority.

13 I have some additional comments, if you  
14 will allow me time.

15 ACTING CHAIRMAN HECKLER: Well, actually,  
16 I've allowed you about five minutes more time, but let  
17 me ask you a few questions and perhaps your  
18 observations may be appropriate.

19 MR. SCHIERER: Okay.

20 BY ACTING CHAIRMAN HECKLER: (Of Mr. Schierer)

21 Q. Part of the document you provided  
22 reflects your employment circumstances at the time the  
23 Master made a recommendation as to an interim support  
24 amount. Have you been able to maintain your employment  
25 situation despite your illness or through your illness?



1 A. I was disabled for six months.

2 Q. Okay.

3 A. At which time my wages were reduced to 90  
4 percent. And had I been disabled longer, why, it  
5 progressively gets less and less.

6 Q. But you have been able to return to your  
7 former employment at the former level of activity and  
8 compensation?

9 A. That's correct. But I am having a  
10 difficult time making it through an eight-hour day.

11 Q. I can well imagine that you would be.  
12 Again, my understanding of the law would be that the  
13 court would look at, you know, real world dollars and  
14 cents what's coming in.

15 A. Right.

16 Q. Certainly any period of time during which  
17 you cannot be employed, and obviously you have an  
18 excellent reason, should that occur, hopefully it won't  
19 occur, you know, represents a change of circumstances.

20 A. If I could inject one thing into that  
21 figure you're looking at in the conference report.  
22 That \$1,700 a month net did not take into consideration  
23 the increase of my Federal income tax obligation once I  
24 was denied having the children as exemptions in my  
25 taxes.

1 Q. Well, again, it would be my understanding  
2 that what a Master would do represents an interim order  
3 and that you would have been entitled long before this,  
4 if you pressed the issue, to a hearing before a judge  
5 on the issue of appropriate amount of support, and this  
6 is, I assume, primarily child support.

7 A. I know it's only hearsay, but this Master  
8 routinely at the initial preliminary conference takes  
9 care of child support as first order of business.

10 Q. Okay. Well, quite frankly, I think  
11 that's a proper priority.

12 A. Right.

13 Q. No matter what -- I mean, one of the  
14 things that needs to be borne in mind, whatever the  
15 profound difficulties that all of the people who have  
16 testified here and will testify here tomorrow  
17 experience, children are the primary victims of  
18 divorce, and certainly simply maintaining their  
19 economic well-being, their ability to eat and have a  
20 roof over their head is a fundamental responsibility,  
21 so that I don't think that's inappropriate.

22 What I'm saying is that it's at least my  
23 understanding of the law that while a Master, or in a  
24 larger county it would be a Domestic Relations officer,  
25 will make an interim order, will come up with a number

1 pursuant to various procedures and guidelines, if  
2 either party is unwilling to agree to that number  
3 because they don't think that number is fair then they,  
4 at least in my experience, would have rather rapid  
5 access to a judge who, you know, again, the judge may  
6 make a decision that either party or both parties agree  
7 with or don't agree with, but in our system they are  
8 the people who make the final call. You haven't gotten  
9 there, and I'm just wondering why that is. I assume  
10 that part of your view that sex bias exists in our  
11 system, and obviously I gather you feel that that's a  
12 pro-female bias, is based on the fact that you're being  
13 ordered to pay too much money for the support of your  
14 children.

15 A. That's correct. No consideration was  
16 given to my health, and it was specifically asked. The  
17 \$110 figure per month was offered in testimony at this  
18 conference by my wife.

19 Q. All right. Well, what do you -- what  
20 have you done or what have your lawyers done to get a  
21 hearing before a judge on the issue, specifically on  
22 the issue of support?

23 A. Like I said, and I realize that I'm an  
24 exception to the rule. I was in an emotional health  
25 situation where I could not go and deal with this,

1 number one, because of a financial problem; number two,  
2 because of my illness and the emotional aspect that  
3 having to deal with the divorce when that particular  
4 conference occurred. It was just not within my ability  
5 to deal with it. So I went into this cooperating,  
6 expecting that the law, being that this was an unbiased  
7 mediator, because I had been cooperating because I was  
8 guilty of nothing, that I would be given every benefit  
9 and entitlement that I was entitled to by the law.

10 Q. Well, I guess I'm a little bit confused,  
11 Mr. Schierer, and we'll have to move along, as I look  
12 at the numbers on that sheet, I don't do much Domestic  
13 Relations work anymore and really never did that much,  
14 but when I look at those numbers, my impression is that  
15 \$430 a month is in the ballpark. And I'm not saying  
16 it's precisely an appropriate number, but it's  
17 certainly not wildly out of line, and if your wife  
18 weren't employed at a substantial level it would be a  
19 heck of a lot higher.

20 So I confess that I am getting lost as to  
21 how you are being blatantly discriminated against.  
22 Unlike some of the other testimony we've heard today  
23 and yesterday, your case seems to be moving along, if  
24 not with greatneck speed at least with reasonably due  
25 deliberation, and apparently your attorney is ably

1 seeking sanctions against the lawyer on the other side  
2 who is not providing the discovery information which  
3 obviously you and ultimately the court are going to  
4 need to make an appropriate determination about  
5 equitable distribution. So it seems to me like the  
6 remedies exist in your situation and at least the case  
7 is in the process of unfolding as it should, maybe not  
8 as quickly as would be desired.

9 I guess does staff have any questions to  
10 ask?

11 (No response.)

12 ACTING CHAIRMAN HECKLER: Thank you very  
13 much, sir.

14 MR. SCHIERER: Thank you.

15 (Applause.)

16 ACTING CHAIRMAN HECKLER: Could we  
17 refrain from applause, please?

18 Mr. Longnecker. And again, I will ask  
19 you to try to restrict your prepared presentation to  
20 about 15 minutes.

21 MR. LONGNECKER: My name is Steven  
22 Longnecker. I'm living in McKean County but I relate  
23 to you a story from Westmoreland County. Yesterday I  
24 received some new information and it's on a two-page  
25 affidavit that while I assemble my material I would

1 appreciate if you gentlemen would read it first. It  
2 would lend perspective to my case.

3 (Chair read document.)

4 MR. LONGNECKER: I, Stephen Longnecker,  
5 wish to inform this body of the circumstance which  
6 exists in law that leads, in my opinion, to a breach of  
7 legislative intent -- and I'll try to go through this  
8 as fast as I can.

9 On July 18, 1988 my spouse deserted me to  
10 take my infant son to live in another city. What I was  
11 not aware of was that several months prior to  
12 separation, on the first of a marriage of 4 1/2 years,  
13 my spouse had applied for admission to graduate school  
14 in Erie for her second Master's degree within five  
15 years. Ten days after leaving, she filed for support  
16 and a no-fault divorce, et cetera, et cetera.

17 At a support conference hearing on  
18 9/15/88, I was assigned child and spousal support of  
19 \$850 a month, as my spouse invoked the nurturing parent  
20 exemption to the constitutional duty of support by  
21 claiming that she intended to stay home and nurture a  
22 small child. Meanwhile, I was told I could not avoid  
23 the duty of support, and I made no argument against  
24 that.

25 I was allowed to be present at the

1 support conference but not allowed to be present for  
2 the custody meetings. I was forced to wait in the  
3 hallway during this and other instances.

4 I reluctantly agreed to pay the above  
5 amount, after voicing entitlement objections because my  
6 spouse did desert me, and after being assured that it  
7 was what the law proscribed using my income and that of  
8 none for my spouse, who claimed inability to work  
9 because of nurturing duties.

10 Now, you read the affidavit, sir. I  
11 think you've got a perspective on it.

12 What was not explained to me was that my  
13 spouse had no intention to stay home to raise my son  
14 but that she intended to place the child in an  
15 extensive day care situation while she attended a  
16 graduate program of 28 to 30 months' duration. This  
17 program was conceived and applied for six to eight  
18 weeks before separation.

19 I'm skipping a few lines. She actually  
20 attended this program in 1989 for eight months, leaving  
21 my son at a YMCA daycare facility from 8:00 a.m. to  
22 4:00 to 6:00 p.m. five days a week, sir, and even  
23 before that she started.

24 When I discovered this in 1989, on my own  
25 initiative I began my protest, including a demand for a

1 de novo hearing before the court on the basis of  
2 deliberate fraud, and I think that affidavit has  
3 something to do with the establishment of fraud. I  
4 will discuss that in a while, so I may go quickly over  
5 this.

6 On 4/5/89, at a conference for  
7 modification, where I was again not allowed to be  
8 present at all times, several witnesses to this, I  
9 found out that in spite of the fact this situation had  
10 been made known to Domestic Relations' officer that my  
11 spouse was attending a graduate program of 28 to 30  
12 months' duration while not attending to her nurturing  
13 parent duties, the conference hearing was aborted in  
14 mid-cycle, with no action, no modification, and  
15 absolutely no action with respect to the evident breach  
16 of the constitutional duty of support. All support  
17 conferences were just that, conferences. I had been  
18 refused de novo hearings since I began demanding such  
19 in 1989.

20 I would like to go a little faster, but I  
21 don't want to rush through this.

22 ACTING CHAIRMAN HECKLER: That's fine.  
23 That's fine.

24 MR. LONGNECKER: Okay. In 1989, a  
25 complaint to the Commonwealth, through a Mr. Paul Rowe



1 of Central Operations, and a subsequent response to me  
2 from Westmoreland County Director of Domestic  
3 Relations, I learned that the support order was framed  
4 without testimony and without the use of guidelines.  
5 And I am under the understanding that since 1985  
6 guidelines have been mandated in the State of  
7 Pennsylvania.

8 At any rate, when I requested the support  
9 conference officer's conference summary notes pursuant  
10 to both statute 23 Pa 4342 and Rule 1920.11, I was told  
11 that there were none at all since the orders were  
12 formed by agreement. Yes, but agreement to orders  
13 formulated under law, not outside of the law.

14 I filed a lawsuit against Westmoreland  
15 County in the Supreme Court for a writ of mandamus  
16 demanding the material. The suit was dismissed per  
17 curium, but I finally got the material and I have that  
18 to present to you today. To my surprise in reviewing  
19 the Domestic Relations records, I learned that  
20 Westmoreland County had known all along of my spouse's  
21 attendance of the graduate program but never told me of  
22 it nor intended to do anything about the breach of duty  
23 of support. This activity is completely contradictory  
24 to the Commonwealth principle that support obligations  
25 are constitutionally mandated, gender neutral, and that

1 each spouse must contribute to such according to  
2 capacity and ability -- I'm sure that language is  
3 familiar.

4           The exemption allowing the escape of this  
5 duty of support, the nurturing parent exemption, ala  
6 the Wasiolek, Bender, and Hesidenz rulings had been  
7 invoked by my spouse when it was known and can be  
8 proven by subpoenaed material, and now by that  
9 affidavit you have, that the intent never existed at  
10 the outset. Additionally, my spouse is a critical care  
11 nurse with 10 to 12 years' experience, had been working  
12 and not reporting it to the Domestic Relations  
13 operations, so she was placing my son in day care to an  
14 even greater extent while she attended the graduate  
15 program.

16           This is in face of the fact that I  
17 specifically petitioned the court for support  
18 modification with the added demand for earning capacity  
19 review at the 4/5/89 conference. As stated previously,  
20 I was somewhat aware of the circumstances under which  
21 my son was being cared for, although not fully.

22           I would kind of like to skip right over,  
23 because I have some remedies and I'm sure that if you  
24 people are going to read these things you will examine  
25 your statute closely. I would like to go right to the

1 material I brought, which is some of the photocopies  
2 from the Westmoreland County Domestic Relations  
3 section.

4           The very first page we see a document  
5 date 9/15/88, and you can see in the center of the page  
6 an entitlement issue was raised. I raised the issue  
7 that my spouse had deserted me and that she was  
8 unentitled to spousal support, however I had no  
9 objection at all to child support. There's two  
10 strikeovers in the right-hand side of the column.  
11 These were not present at the initial conference, these  
12 are strikeovers by someone else, an unidentified  
13 person. Also, I have transcripts from a hearing in  
14 June of 1991 in Westmoreland County that I don't want  
15 to read it to you, but there are strikeovers in the  
16 official record and docket entries, and as a matter of  
17 fact there has been a whole page retyped, and I offer  
18 you that there has been somewhat of a cover-up.

19           To continue, the next page, dated 4/5/89.  
20 This was from a petition where I specifically  
21 petitioned the court for earning capacity of my wife,  
22 who I had a real good idea wasn't nurturing my son but  
23 had him in day care full-time. As you can see from  
24 this document, the hearing officer recorded on the  
25 right-hand side that she was enrolled, that she had

1 earned the last five months \$1,513 a month, and my  
2 income was net at \$2,629 on the left side, and that she  
3 had certain expenses, but at the bottom, a Master's  
4 degree in nursing in 1984. Now, this conference was  
5 aborted as soon as the information had been written on  
6 this form, and this modification hearing didn't go any  
7 further than this. Now, I know the law states that a  
8 modification of support must not be made without  
9 showing substantial circumstances. I believe the  
10 inverse to be true. If substantial circumstances are  
11 shown, I believe the court is obliged to continue a  
12 hearing. Nevertheless, this hearing never came to  
13 anything.

14           The next page is simply the support  
15 order, originally formed in 1988. And to get to the  
16 material which I really would wish that you would  
17 examine is the next page, where we see a support  
18 complaint, part of a support complaint from  
19 Westmoreland County where you can see my wife  
20 deliberately left the space 11 blank because she  
21 intended to be unemployed. Now, you read the  
22 affidavit, sir, and I think it relates to that.

23           Also, on the income and expense statement  
24 which she filed as part of the divorce action we see  
25 that she's unemployed and did not fill in any blanks as

1 to how much she earned, and on the last page you can  
2 see that she filed on the 17th of August 1988. That  
3 was one month before the support hearing, two weeks  
4 after she went back to work. It was used at the  
5 support conference in 1988.

6 The next page simply shows her paycheck  
7 upon separation, which was her earning capacity at the  
8 time. The second half of the page shows simply that  
9 she had a Master's degree as recent as 1983, yet the  
10 court knew that she was in training for another  
11 Master's degree to be issued after a 28-month program.

12 This next statement, or page, is my son's  
13 YMCA day care application. It's page 2. It was signed  
14 December 30, 1988. This was about the time when I  
15 should have been receiving a no-fault divorce from this  
16 woman. She filed a 201(c). She never had any  
17 intention to go forward with a 201(c) because I filed  
18 an affidavit in January of '89 and she failed to file  
19 her affidavit for another year and a half. As you can  
20 see, my son was signed up to go to 8:00 a.m. to 6:00  
21 clock at night on Sundays, and you can see that he was  
22 assigned to go full-time. I went and investigated his  
23 attendance records, although I don't have them here.  
24 He was there.

25 You can see that her affidavit of consent

1 on the next page for the 201(c), which is simple  
2 Pennsylvania no-fault. You can see that she filed a  
3 divorce on August 3rd of '88 and she didn't sign this  
4 until January 24, 1990. She intended to use support  
5 money to finance her education.

6 The next page is from Mr. Paul Rowe  
7 detailing to me, after he had done some obvious  
8 research, that there was no use of guidelines. Now, in  
9 my investigations, any support order that doesn't have  
10 guidelines or a Melzer formula utilized, that both the  
11 initial and subsequent orders is due to get kicked out  
12 immediately upon review. They have been trying to not  
13 let me review this order for years, although I must  
14 tell you that my brief for appeals court in Superior  
15 Court is due in 10 days, so you will hear probably this  
16 again.

17 This flies in the face of Commonwealth  
18 law, not using guidelines of the Melzer formula and not  
19 using earning capacity.

20 This next page is a petition to modify  
21 where I specifically pled that my wife has voluntarily  
22 eliminated herself from the workforce by pursuing a  
23 degree which she already has and that I requested her  
24 earning capacity.

25 These next two letters from Hamot Medical

1 Center in Erie outline the fact that there had been  
2 communication back and forth with Domestic Relations  
3 that she was intending to attend a three-year graduate  
4 course about the time that she was supposed to give up  
5 a divorce on a 201(c) basis.

6 And the next couple of pages show that I  
7 had consented to a 201(c) divorce and yet she refused  
8 to file her consent. I must tell you right now that I  
9 still don't have a divorce to this day, although  
10 Pennsylvania law says that you require 6 months and a  
11 30-day wait, or something like that.

12 Now, the next page, which is interesting,  
13 the court was fully aware that my wife was, at this  
14 point in time, on March 23, '89, after the divorce  
15 should have been granted, she was in a program that  
16 continued to have 24 months to remain and that she  
17 expected to be in clinical practice 8 hours a day, 5  
18 days a week, and classes will be given in the evening.  
19 You must remember that my son is in day care full-time.  
20 And she's collecting support based upon that affidavit,  
21 sir, that she was going to stay home with my son.

22 Now, the next ones are motions for  
23 Masters and things like that to show that this issue  
24 was heavily contested, and rightfully so. A  
25 counterclaim that I filed that has been pretty much

1 ignored because I still think the court intends to give  
2 her a 201(c) divorce after three years and she refused  
3 to file. And that was, incidentally, was the gist of  
4 my couple pages that I just didn't feel like reading.  
5 I don't think the State of Pennsylvania should allow a  
6 person to file a 201(c) divorce and refuse to go  
7 through with it by not filing that affidavit of  
8 consent. Case law is minimal in this circumstance.  
9 There's only a couple cases dealing with it, but I say  
10 it's unlawful.

11 The next page is simply a page that is  
12 subpoenaed out of her graduate school application  
13 showing that about the time of the support conference  
14 she wanted to start the graduate program September of  
15 '88. That was before the support conference was held.  
16 The intent to nurture my son had never been there for a  
17 millisecond. The intent was to go to graduate school.

18 The next page simply shows the date that  
19 she signed the application.

20 I'd like to concentrate on the affidavit,  
21 if you would, please, sir, itself. I received this  
22 yesterday. It's from a former attorney of mine dated  
23 September 10, and I have made many representations of  
24 deliberate fraud to the court in Westmoreland County.  
25 These have been pretty much passed up because they



1 don't want to have a finding of fraud. This reads:

2 "I, WILLIAM J. McCABE, Esquire, of  
3 Greensburg, Westmoreland County..., am an attorney  
4 licensed to practice law in the Commonwealth of  
5 Pennsylvania. In said capacity, I represented Stephen  
6 Longnecker in a divorce action filed in...Westmoreland  
7 County.... A review of the record in that case will  
8 reveal that Mr. Longnecker at no time waived, either on  
9 or off the record,...any 'entitlement' relative to the  
10 full earning capacity of," his spouse, et cetera, et  
11 cetera, "...or at any time thereafter.

12 "On said date, during a support hearing  
13 in the Office of Domestic Relations..., at which time I  
14 was present, Janet Longnecker represented under oath to  
15 the hearing officer that she intended to remain  
16 unemployed in order to stay home to nurture her then 18  
17 month old child. As a result, Stephen M. Longnecker  
18 agreed that his spouse's full earning capacity should  
19 not be utilized.... Based on the representations of  
20 his wife, Mr. Longnecker agreed to a consent order  
21 based upon his full earning capacity and an imputed  
22 earning capacity of his wife based only on her previous  
23 part-time employment.

24 "Likewise, during child custody hearings,  
25 Mr. Longnecker agreed that his spouse should have



1 digress a little bit, is simply the copy of House  
2 Resolution No. 8 where it plainly states, the  
3 Pennsylvania Rules of Civil Procedure are being  
4 violated in Domestic Relations on a daily basis, and  
5 clandestine, out-of-court settlements are made, and  
6 injustices have driven litigants to financial distress.

7           And I read in the paper this morning that  
8 perhaps this is going to be tabled or something because  
9 of a lack of funding, and I submit to this body that  
10 they should simply take the money that is pumped into  
11 the Pennsylvania Commission for Women, which New York  
12 State has had the wisdom to begin shutting theirs down,  
13 and to just simply transfer the funds to fund  
14 Resolution 8.

15           I will entertain questions, if you have  
16 any.

17           ACTING CHAIRMAN HECKLER: I have a few  
18 questions.

19           BY ACTING CHAIRMAN HECKLER: (Of Mr. Longnecker)

20           Q. Are you presently being represented by  
21 counsel?

22           A. Sir, I found that the only way to insure  
23 that my rights to fundamental fairness, due process,  
24 and equal protection of the law was that I take my case  
25 pro se. I have progressed quicker, faster in a pro se

1 manner than I did in 2 1/2 years with counsel. Now, I  
2 say that I am in the appeals court of the State of  
3 Pennsylvania now, and this may be a precedent case, I  
4 don't know, but I certainly don't agree that a woman  
5 can make statements of intent to place -- you  
6 understand the issue. I won't belabor it.

7 Q. I do, and I'm very sympathetic to the  
8 initial claim, and certainly I spent many years in the  
9 criminal courts. You know, it is given of human nature  
10 that people are going to lie. Some people are, some  
11 people aren't. And the best system we've come up with  
12 is the truthfinding process in both the civil and  
13 criminal cases, some involve juries, some involve  
14 either Domestic Relations officers or other people who  
15 report to a judge, and then ultimately the best  
16 judgment of the court, the judge him or herself.

17 The problem that I see from a legal  
18 standpoint, and I've been trying to kind of untangle  
19 this as I was looking through the materials you  
20 provided, is that it would appear that you entered  
21 into, by agreement, two orders - one, the primary  
22 custody of your child would be with your wife; and two,  
23 that the amount of support you provided. And maybe I'm  
24 misconstruing this.

25 A. This is--

1 Q. Let me finish this before.

2 A. Okay.

3 Q. Having been misled or having relied upon  
4 certain facts as a predicate for entering into that  
5 particular agreement, I think that puts this in a  
6 somewhat different posture than if the matter had been  
7 contested throughout and a Domestic Relations officer  
8 or Master or whoever it was and then ultimately a judge  
9 had entered a particular order based upon  
10 representations. And similarly, as for the perjury  
11 issue, was there a record? I assume that there was not  
12 a stenographic record as we have today.

13 A. Of course not. That's why they didn't  
14 want to give these records up to me.

15 Q. Well, okay.

16 A. But to make a long story short, I begged,  
17 pleaded for a de novo review. I even had a de novo  
18 hearing, at which they only allowed me two or three  
19 months in retrospect instead of a review of the  
20 original matters, and there is no way that that court  
21 is going to let me go back and present the issues that  
22 where they have been a party to allow this to happen.  
23 So I, of necessity, need to present this material to  
24 the Superior Court of Pennsylvania, and I know they  
25 have the power for a de novo review of the entire

1 matter, and they will take care of it. I think it's a  
2 pity that a citizen has to go through this to get a  
3 Superior Court to look.

4 Q. Well, I can't get a clear enough picture  
5 of your situation to have any opinion as to what the  
6 Superior Court's liable to make of it, but my sense is  
7 that, and I don't claim expertise in this area of the  
8 law, I don't know that anybody is going to be able to  
9 go back, when you say "de novo," I'm not sure how  
10 you're using that term, go back and say, yes, Mr.  
11 Longnecker should never have been paying \$850, it  
12 should have been some other number, and therefore we're  
13 going to redress that grievance. Certainly, once you  
14 became aware and once you made the Domestic Relations  
15 office aware of changed circumstances, if you applied  
16 for a hearing on the issue of either custody or  
17 support, it seems to me that should have been afforded  
18 and the court should have looked at the situation at  
19 that time to determine whether some change was  
20 appropriate.

21 A. There is case law providing a de novo  
22 review of conferenced matters, and I have it with me  
23 and I won't bore you.

24 Q. Okay.

25 A. But I submit to you that I have been a

1 victim of fraud. I've lost my son because of it, I've  
2 lost a considerable amount of money, and this affidavit  
3 is going to lead me to put this attorney on the stand  
4 in some form, somewhere, to redress the grievance.  
5 That's really all I have to say.

6 Q. Well, and I thank you for your testimony.  
7 As I know, courts -- one of the failings, if you will,  
8 of the judicial system in any area, Domestic Relations  
9 or criminal law or whatever, is that it relies upon the  
10 facts, the information that is brought to it, and  
11 sometimes those facts aren't reliable, and sorting out  
12 the truth from the fiction is--

13 A. Doesn't common law state that no verdict  
14 or judgment can stand upon fraud?

15 Q. I think that's a fair statement of law.  
16 The problem is how do you go about proving it?

17 A. That's definitely good law.

18 ACTING CHAIRMAN HECKLER: Well, thank you  
19 very much.

20 MR. LONGNECKER: Thank you.

21 ACTING CHAIRMAN HECKLER: Let's go back  
22 and check here. When we commenced this afternoon's  
23 session I called for Mr. Levy. Is he present?

24 REPRESENTATIVE HAGARTY: My understanding  
25 is he won't be here.

1 ACTING CHAIRMAN HECKLER: Okay.

2 How about Mr. Baumbaur?

3 (No response.)

4 ACTING CHAIRMAN HECKLER: Again, I see no  
5 indication.

6 Mr. Dennis Scavuzzo.

7 (No response.)

8 ACTING CHAIRMAN HECKLER: Again, I see no  
9 indication that he is present.

10 Mr. Glassmire. Is Mr. Glassmire present?

11 (No response.)

12 ACTING CHAIRMAN HECKLER: Well, we seem  
13 to be moving right along here.

14 Mr. Hallman, Mr. Scott Hallman from  
15 Ambler.

16 (No response.)

17 ACTING CHAIRMAN HECKLER: My goodness.

18 How about Mr. Denman?

19 MR. SCHJERER: Mr. Denman is  
20 hospitalized.

21 ACTING CHAIRMAN HECKLER: Well, it seems  
22 that we have moved through this afternoon's agenda with  
23 remarkable alacrity.

24 I am informed that there is a gentleman,  
25 Mr. Christopher. Is Mr. Christopher present? He



1 provided a written statement to Ms. Manucci on -- why  
2 don't we take about a 5-minute recess and if Mr.  
3 Christopher appears he will be certainly welcome to  
4 provide his statement in writing. Failing that, we  
5 will recess.

6 We will be in recess for five minutes.

7 (Whereupon, the proceedings were recessed  
8 at 2:10 p.m., and were resumed at 2:15 p.m.)

9 ACTING CHAIRMAN HECKLER: All right,  
10 could we resume, please?

11 I believe that we do have -- some of the  
12 scheduled witnesses have appeared. And Mr.  
13 Christopher, I'm going to ask you to wait until we take  
14 care of all of the witnesses who have been scheduled to  
15 testify for today.

16 MR. CHRISTOPHER: Okay. My wife is  
17 putting them quarters in that meter anyway.

18 ACTING CHAIRMAN HECKLER: Okay, fine.

19 All right, I believe our next witness  
20 scheduled for today is Mr. Dennis Scavuzzo. Is Mr.  
21 Scavuzzo present?

22 MR. SCAVUZZO: Yes.

23 ACTING CHAIRMAN HECKLER: Very good. If  
24 you would step up to the witness table, please, and if  
25 you have prepared testimony, someone will take that

1 from you, if you have copies prepared.

2 And you probably were not here when I  
3 made these comments earlier. We do have a number of  
4 witnesses scheduled, although some appear not to have  
5 shown up as yet, it may be that they will be coming in,  
6 so we're going to try and move along with a 15-minute  
7 limit on the prepared presentation and then obviously  
8 the committee members may have questions for you. So  
9 with that, would you please proceed?

10 MR. SCAVUZZO: Thank you, Mr. Chairman.

11 Good afternoon. Mr. Chairman and members  
12 of the committee, my name is Dennis Scavuzzo. I am  
13 Alexandria Scavuzzo's father and have been for the past  
14 nine years. I am also a member of FACE, or Father's  
15 And Children's Equality.

16 Since June of 1988, I have been involved  
17 in ongoing custody litigation in the Philadelphia  
18 Family Court, who have the legal authority and  
19 responsibility to make decisions affecting the  
20 permanent welfare of my daughter and thousands of other  
21 children in that city. The story I'm going to tell you  
22 actually occurred and is thoroughly documented. I have  
23 included pertinent exhibits with my statement to better  
24 illustrate the issues involved in my case.

25 As a result of the actions and decisions

1 of various Philadelphia Family Court judges, most  
2 notably the Honorable Vito F. Canuso, every child in  
3 this Commonwealth has now been placed under increased  
4 risk for the crime of parental kidnapping. This crime,  
5 because of lax enforcement and prosecution of parental  
6 abduction laws, is on the increase in this State and  
7 throughout the country generally.

8           According to a study of abducted,  
9 missing, runaway and throwaway children conducted by  
10 the National Center for Juvenile Justice, over 163,000  
11 parental abductions occurred in a given year in this  
12 country. Behind every face you see displayed on milk  
13 cartons and leaflets distributed by the National Center  
14 for Missing and Exploited Children and other child find  
15 agencies there is a parent like myself who is searching  
16 for his or her child, sometimes for many, many years.

17           The custody action involving my daughter  
18 began in June of 1988 in front of the Honorable Frank  
19 Jackson. I was awarded the standard arrangement given  
20 to most fathers, that is partial custody two weekends a  
21 month. My wife would not comply with this order, and a  
22 contempt hearing was held in September of 1988 in front  
23 of the same judge. Under the threat of incarceration,  
24 my wife began to comply with this order but also  
25 undertook a behind-the-scenes effort of contacting

1 various judges to influence the conduct and handling of  
2 this case, including the President Judge of the  
3 Philadelphia court system, Ed Bradley, and Family Court  
4 Administrative Judge Nicholas Cipriani. The internal  
5 memorandums that resulted from these improper contacts  
6 show clearly that my wife had contact with these judges  
7 and that they clearly intervened in her behalf. A  
8 clear violation of the Canons of Judicial Ethics.

9 In December of 1988, my wife deliberately  
10 withheld my daughter for her scheduled Christmas  
11 holiday with me and I immediately filed the appropriate  
12 contempt petition. In January of 1989, my daughter  
13 reported to me that her mother was forcing her to rinse  
14 her mouth with hydrogen peroxide as a form of  
15 punishment, and I had this immediately confirmed with a  
16 forensic psychologist, Dr. Robert Tannenbaum. I also  
17 filed a Protection From Abuse Order, and on May 11,  
18 1989, testimony was presented about this abuse in front  
19 of the Honorable Ed Rosenberg. The case was continued  
20 till July of '89 because of the length of the  
21 testimonies, and when my wife's attorney was successful  
22 in obtaining the continuance during an off-the-record  
23 conference, my attorney became convinced that Judge  
24 Rosenberg was having ex parte conversations with  
25 opposing counsel and subsequently asked the judge to

1 recuse himself, which he did in August of 1989.

2           This case was then referred back to Judge  
3 Jackson, who recused himself on his own motion because  
4 of letters my wife had written to President Judge  
5 Bradley. The case was then assigned to Judge Canuso,  
6 who held a pretrial conference in November to set up a  
7 five-day trial scheduled for January 19, 1990. The  
8 judge was apprised of Mrs. Scavuzzo's ongoing contempt  
9 of court orders and was asked to schedule a hearing to  
10 insure that Christmas 1989 would not also be ruined.  
11 He refused, and, not unexpectedly, my wife again  
12 violated the court order for Christmas 1989.

13           In January of 1990, the case was  
14 continued because of opposing counsel's illness to  
15 March 19th of that year, and on March 10, 1990 my  
16 mother passed away. An emergency order for my daughter  
17 to attend her grandmother's funeral was granted on  
18 March 12 because my wife would not permit her to  
19 attend.

20           On March 15, my wife asked the same judge  
21 to grant her an order to return the child, and I was  
22 ordered to bring the child to school the following  
23 morning, Friday, March 16, which I did. My attorney  
24 took the precaution of notifying school authorities  
25 that Mrs. Scavuzzo would attempt to remove the child

1 from school, as she had done on numerous occasions in  
2 the past to prevent me from seeing her on scheduled  
3 weekends under the court order. Within one hour after  
4 dropping the child off, my wife went to the school  
5 office to attempt to remove her and was told she could  
6 not. She then went to the school yard and waited for  
7 the 10:30 recess when the children are released in the  
8 yard to play and enticed my daughter to go to her car  
9 because she had a present to give her. When the child  
10 got in the car, Mrs. Scavuzzo sped away, while startled  
11 school monitors in the yard realized what was happening  
12 and tried to chase after her, to no avail. We  
13 ascertained that day that my wife had quit her job and  
14 we feared that Alexandria had been kidnapped, because  
15 she had told me in the past that she wouldn't be seeing  
16 me again.

17 On Monday, March 19, I was in court for  
18 the scheduled hearing and everyone was in attendance  
19 except Mrs. Scavuzzo. Despite clear evidence presented  
20 to the judge that she had fled the jurisdiction, Judge  
21 Canuso refused to issue a bench warrant for her arrest,  
22 and incredibly sent the file back to the petition  
23 control unit. My attorney then obtained an emergency  
24 custody order to locate the child and return her to  
25 Philadelphia. We also obtained a warrant for Mrs.

1 Scavuzzo, and the search for my daughter began.

2 The district attorney's office in  
3 Philadelphia told me they had no resources to look for  
4 missing children, and I was referred to Mr. Bill  
5 McMonagle of the Parent Locator Service, whose  
6 encouragement and support during this ordeal was  
7 outstanding. But he also told me what limitations his  
8 office could provide and pointed me to his "recovery  
9 wall," where pictures of missing children with their  
10 searching parents were, some after 16 years having not  
11 seen their parent. I began to have a very sick feeling  
12 that there was the real possibility that I might never  
13 have the opportunity to experience my daughter growing  
14 up because she was 8 years old at the time, and that if  
15 she were to be found in a relatively brief period of  
16 time, I would have to find her.

17 Since my wife had lived only two blocks  
18 from my home, I set up a 24-hour surveillance on her  
19 apartment. I would literally eat and sleep in my car,  
20 returning home to shower and shave, hoping to find any  
21 clue which would lead me to my daughter.

22 At first, I didn't believe that my wife  
23 would leave the Philadelphia area, since all her  
24 relatives were from the area and she lived there all  
25 her life. Also, her older daughter by a previous

1 marriage still lived in the apartment. After weeks of  
2 observation, it became apparent that my wife may have  
3 left the area entirely, and approximately 3 1/2 weeks  
4 later a breakthrough had occurred that I discovered a  
5 clue which indicated my wife and daughter were living  
6 now in the San Diego area. I passed this information  
7 on to Mr. McMonagle of Parent Locaters, and indeed  
8 within 48 hours we had confirmation of my wife's  
9 address in San Diego. Because we had to act swiftly, a  
10 decision was made to use the FBI to recover the child  
11 under the UFAP - or Unlawful Flight to Avoid  
12 Prosecution - charge, which enables Federal authorities  
13 to intervene and apprehend parental abductors under the  
14 1980 law passed by Congress.

15 I called the FBI office in Philadelphia  
16 at approximately 3:00 p.m. on April 12 and spoke with  
17 Special Agent Warren Griggs, who after hearing the  
18 circumstances of the case swung into action.  
19 Initially, my lawyer had requested the Philadelphia  
20 DA's office to request FBI assistance, but they  
21 refused, telling him to use local authorities. This  
22 presented too many problems and could have alerted my  
23 wife to the possibility she had been discovered.  
24 Within two hours of my call for assistance, Agent  
25 Griggs had personally walked to the DA's office for the



1 official request form asking for Federal assistance and  
2 had a Federal magistrate then sign a UFAP warrant for  
3 my wife's arrest. He telephoned me approximately 5:00  
4 p.m. and asked if I could supply him with photos of my  
5 wife and daughter and said he would wait for me to  
6 bring them to the Federal building in downtown  
7 Philadelphia. When I arrived at 7:00 p.m., Agent  
8 Griggs was already two hours beyond his assigned shift,  
9 which ended at 5:00 o'clock. He FAXed all the  
10 documents and photos and put me in telephone contact  
11 with Special Agent Kevin Foley of the San Diego office.  
12 Agent Foley told me to fly out in the morning, the next  
13 morning, because they would try to make the arrest then  
14 and I could take my daughter home immediately.

15 I arrived in San Diego at 9:30 pacific  
16 time and went immediately to the FBI office. Within  
17 the hour, I was informed that my wife was in custody  
18 and my daughter would be brought to me shortly. At  
19 10:30 Friday, April 13, on that morning I was reunited  
20 with my daughter and made immediate arrangements to fly  
21 home. We were taken to the airport by an FBI agent who  
22 told me I was very lucky to have recovered my daughter  
23 so quickly, because most parental abductions can last  
24 for several years before the fleeing parent makes a  
25 mistake and is apprehended.

1                   When I returned to Philadelphia, I  
2 believed the Philadelphia court system, however  
3 incompetent and corrupt, would now protect my daughter  
4 and myself from a parent who had totally disregarded  
5 every order the court had made and had fled the  
6 jurisdiction so that I would never see my daughter  
7 again. I was wrong. Very, very wrong. There was no  
8 end to this nightmare, just a new beginning.

9                   Immediately, within a week of my return,  
10 I learned Mrs. Scavuzzo was released in San Diego and  
11 was to surrender to Philadelphia police upon her  
12 arrival, which she did. She was released on a \$5,000  
13 sign-your-own bail and immediately began to drive  
14 around my neighborhood, and at one point had my child  
15 in her car again before I had stopped her. I  
16 repeatedly called the district attorney's office in  
17 Philadelphia to obtain a stay away order, and it took  
18 over five months until this order was put into place.

19                   Despite the fact that my daughter was  
20 going to testify about her mother's flight and related  
21 matters, Judge Canuso decided he would go ahead with  
22 the custody trial scheduled for October 1, 1990, and  
23 that we would not be able to bring up the criminal  
24 flight from the jurisdiction because Mrs. Scavuzzo had  
25 the right to refuse to answer any questions about these

1 acts on the grounds of self-incrimination. It became  
2 obvious to my attorney and myself that this judge would  
3 protect this mother in whatever way possible, including  
4 ignoring the criminal matter that was pending. In  
5 effect, he was saying that Mrs. Scavuzzo's criminal  
6 activity did not exist, and that he would base his  
7 custody decision on other facts and relevant law. This  
8 decision was astounding, in light of the fact that  
9 merely moving from this jurisdiction was grounds for  
10 switching custody, as the appellate courts of this  
11 State have repeatedly held. On the basis of this fact  
12 and the judge's failure to issue a bench warrant on  
13 March 19th of 1990, a recusal petition was presented on  
14 October 1 for this judge and was denied.

15 We made our first trip to the Superior  
16 Court for a supersedeas, or stay of these proceedings,  
17 based on the fact that the criminal proceedings, which  
18 had a direct bearing on this custody decision, had not  
19 been adjudicated. This petition was denied. My  
20 lawyer, fearing the loss of his license for saying,  
21 among other things, that this judge had been  
22 compromised and was incompetent, asked me to permit him  
23 to withdraw, which I did. At this point, I began to  
24 represent myself and my daughter pro se.

25 After testimony, the judge confirmed

1 custody with me on December 7, but incredibly gave Mrs.  
2 Scavuzzo unsupervised visitation outside the court  
3 nursery on Christmas day, despite testimony which  
4 clearly showed that Mrs. Scavuzzo was in contempt of  
5 the court order from 1988 and 1989 for failing to  
6 permit Alexandra to visit with me over this holiday.  
7 He again displayed an overt bias toward my wife that  
8 was incomprehensible.

9 He scheduled a special conference for  
10 December the 19th, and on that day both I and my  
11 daughter had been sick with the flu and so informed the  
12 court. I took the added precaution of sending a  
13 hand-delivered letter to the judge's chambers  
14 explaining my absence and request that this matter be  
15 relisted. Unknown to me at the time, Judge Canuso  
16 entered an ex parte order for Christmas day. This  
17 order was not received until after Christmas by me, and  
18 as a result, the Judge, on December 31, issued a bench  
19 warrant for my arrest for failing to appear on the  
20 19th, despite acknowledging in his order of that day  
21 that, quote, "Dennis Scavuzzo telephoned that he would  
22 not be present with the child Alexandra because both  
23 were ill," unquote. I was never notified of any bench  
24 warrant and was in complete shock when on January 18,  
25 1991, my home was forcibly broken into by members of

1 the sheriff's department in Philadelphia who informed  
2 me of this warrant and proceeded to take me into  
3 custody. I asked the sheriff during this time on that  
4 evening where he was taking my daughter, and he replied  
5 that Mrs. Scavuzzo, who had a protective order against  
6 her, was outside my home and would be turned over to  
7 her. I asked if Mrs. Scavuzzo had an order for  
8 custody, and he replied that she did not.

9           It was at this point that I realized that  
10 I was no longer living in the United States and that  
11 there was obvious collusion between the sheriff, my  
12 wife, and this jurist, who was now willing to do  
13 anything, including criminal conspiracy, to protect  
14 this mother. Also, it was not accidental that Mrs.  
15 Scavuzzo's criminal hearing was to be held on January  
16 22, the following Tuesday, four days from the 18th.

17           I was taken in handcuffs to the detention  
18 center, where I learned that I could be released on  
19 payment of \$2,500 cash bail, which would be the  
20 equivalent of a \$22,000 bail. That bail was posted by  
21 my father, and I was released at approximately 2:00  
22 p.m. on Saturday, January 19. I immediately went to  
23 Northeast Detectives to explain what had happened, and  
24 they informed me that under the circumstances  
25 surrounding this incident, that enough probable cause

1 existed to arrest Mrs. Scavuzzo and the sheriff for  
2 violation of the protective order issued on October 19.  
3 What they did not know and why they hesitated to make  
4 these arrests was if Mrs. Scavuzzo had obtained an ex  
5 parte order from the judge giving her permission to be  
6 at my home. Since we could not resolve this question  
7 on a weekend, it was decided to wait until the DA's  
8 office opened on Tuesday, since Monday was a holiday  
9 and the courts were closed. It was suggested that we  
10 go with members of the police to Mrs. Scavuzzo's home  
11 to recover my daughter, but when we arrived, it  
12 appeared no one was home. I tried the next two days,  
13 Sunday and Monday, but to no avail.

14 On Tuesday morning, I informed District  
15 Attorney Geno Meckley, who was handling the criminal  
16 matter, of this turn of events and requested that he  
17 call me if Mrs. Scavuzzo showed up for her criminal  
18 hearing scheduled for that morning, January 22. At  
19 11:00 o'clock, I was informed by DA Meckley that my  
20 wife had indeed come to court with my daughter. I  
21 asked him to determine if she had a custody order for  
22 that child, and her criminal attorney, Mary Zell,  
23 informed him that they did not.

24 Mrs. Scavuzzo and her lawyer were then  
25 informed by DA Meckley that I would be coming to court

1 to pick up the child, and I arrived there at  
2 approximately 12:30 p.m. and I waited in the victim  
3 witness waiting area. My daughter could not be  
4 located, and DA Meckley told me he would bring her to  
5 me after this hearing. At 2:30 p.m., when the hearing  
6 was concluded, DA Meckley informed me that my wife's  
7 criminal attorney had magically obtained an ex parte  
8 order for the custody of this child signed by Judge  
9 Canuso, despite her knowing, and this judge, that I was  
10 in the building at this time less than 50 feet from his  
11 chambers.

12 On January 24, two days later, a hearing  
13 was held for this bench warrant and for failing to  
14 follow the order issued on the 19th, and at the  
15 conclusion of the sheriff who arrested me, his  
16 testimony, I asked to cross-examine this witness, as I  
17 was operating pro se, and was denied the opportunity to  
18 do so. It was at this point that I realized these  
19 entire proceedings with this judge were fixed and that  
20 nothing I could say in the closed courtroom, not open  
21 to the public, would have mattered. It also became  
22 apparent when the judge said, quote, "I did receive  
23 some information that the child has been staying with  
24 her father and not with you. He has been taking her to  
25 school, is that correct? " That this judge had been

1 "speaking," quote, unquote, that this judge had been  
2 speaking directly with my wife, because only myself,  
3 Alexandra or Mrs. Scavuzzo could have known that this  
4 information was partially correct.

5 Incredibly, I was now placed in  
6 restrictive visitation in the court nursery pending a  
7 hearing on March 14, and my wife, who had been bound  
8 over for a criminal hearing for the charge of custodial  
9 interference, kidnapping, now had custody of my  
10 daughter again. The awesome powers of the State in the  
11 form of this jurist had now conspired to usurp the laws  
12 of this Commonwealth for his own purpose, and as he  
13 continually repeated that he was acting in the quote,  
14 "best interests of this child."

15 I immediately appealed this decision  
16 again to the Superior Court and I asked for an  
17 emergency stay of this order, and this was also denied.  
18 During this hearing in front Judge Cavanaugh, Ms. Zell,  
19 my wife's criminal attorney, made a startling  
20 revelation that it was Judge Canuso himself who told  
21 Mrs. Scavuzzo to go to my home on January 18, the night  
22 I was arrested. The hearing on March 14 was a foregone  
23 conclusion.

24 My daughter is now in the custody of the  
25 parent who kidnapped her and is awaiting trial. She is



1 in the custody of the parent who had abused her in the  
2 past and has beaten her to lie in court. She will  
3 testify, or is supposed to testify, at her mother's  
4 criminal proceedings, and in my opinion these charges  
5 will be dismissed.

6 Who is going to see that the laws of this  
7 Commonwealth are enforced? Who is going to compel the  
8 district attorney's office of Philadelphia to arrest  
9 Mrs. Scavuzzo for committing a second felony for  
10 custodial interference on the night of January 18,  
11 along with the sheriff? And finally, who is going to  
12 protect the best interests and welfare of my daughter  
13 and from being kidnapped again?

14 ACTING CHAIRMAN HECKLER: I would like to  
15 ask just a couple of questions.

16 BY ACTING CHAIRMAN HECKLER: (Of Mr. Scavuzzo)

17 Q. One, your daughter is now how old?

18 A. Nine.

19 Q. Has she expressed or been called upon to  
20 express to the court any opinion as to her situation or  
21 preferences as to custody?

22 A. On March 14 she was called on to do that,  
23 and I later found out that she was beaten to lie at  
24 that hearing and was under the threat of being beaten  
25 if she did not lie during that hearing. The judge had

1 heard previous testimony that Mrs. Scavuzzo had used  
2 these techniques in the past to have this child express  
3 her preference, and up until this point, that was the  
4 second time that Judge Canuso had interviewed this  
5 child. I placed clearly on the record the fact that  
6 this child's testimony was threatened and coerced, and  
7 the fact that the child was removed from me from  
8 between January 18 and March 14 showed that there was  
9 something terribly, terribly wrong. I asked to speak  
10 to my child prior to going in to testifying and I was  
11 refused to do so.

12 Q. Has the court employed any psychologist  
13 or other intermediary to meet with you, your former  
14 wife and the child and make a report to the court?

15 A. No. The court record is incomplete in  
16 that area, and psychological studies were never done on  
17 my daughter or myself, or really on my wife. And  
18 certainly no independent studies have been done.

19 Now, the forensic psychologist who had  
20 testified back in May of 1989 regarding this hydrogen  
21 peroxide abuse was not at these hearings during this  
22 particular time. I couldn't afford to hire him to  
23 bring him in, but his testimony was a matter of record  
24 in the March 1989 hearing, and we attempted to  
25 introduce that testimony but that was essentially

1 denied because the judge had recused himself from that  
2 matter, so essentially what you had was a trial de novo  
3 and you had to bring your witnesses in all over again.

4 I hope that answers your question.

5 Q. Yes. I had another question and it  
6 escaped me.

7 What is your situation right now so far  
8 as either visitation or partial custody?

9 A. The partial custody arrangement now is  
10 actually slightly worse than it was before she  
11 kidnapped the child. In other words, I have less time  
12 that's being spent with my daughter as opposed to  
13 before she had kidnapped this child.

14 Q. And how much time is that?

15 A. It's an alternating weekend situation,  
16 from Friday night to Sunday night. Prior to that it  
17 was Friday afternoon to Monday morning.

18 And I think the real issue here is that  
19 there are clear gaps in our laws, in our statutes in  
20 this particular State, because I've checked in other  
21 States, particularly Florida, and in Florida, when a  
22 crime like this has been committed or the person has  
23 been arrested for custodial interference/parental  
24 kidnapping, the criminal matter will always precede the  
25 custody action. It's a matter of practicality, because

1 the court is now saying to me, she has the right of  
2 self-incrimination. We can't use that. By the same  
3 token, she's already fled this jurisdiction one time.  
4 It is what I call and what a lot of other people would  
5 call legalized kidnapping. That's basically what we  
6 have here. And there's no statute to protect against  
7 this type of thing. I thought that the Superior Court  
8 would step in and issue a stay and turn this child back  
9 over immediately because of the surrounding  
10 circumstances, but they failed to act. The matter is  
11 on appeal now.

12 Q. Well, there are two aspects of this that  
13 I frankly find very troublesome. First of all, no  
14 matter where the merits lie between you and your wife,  
15 your daughter must have gone through a very difficult  
16 time, and I think that's way more than unfortunate for  
17 her.

18 The other thing that I will tell you I  
19 have some difficulty with in terms of your position and  
20 that is in a matter as important as your continued  
21 access to your daughter was, whatever you thought of  
22 Judge Canuso, I find it very difficult to envision  
23 failing to appear for a hearing which you knew was  
24 scheduled. I mean, if your daughter was ill enough to  
25 require a doctor's care, perhaps that's something that

1 would have been unavoidable, but I would suggest that  
2 you would have been, you know, short of being in a  
3 hospital, it behooved you to be at that hearing. And  
4 frankly, any time I, in my experience in judicial  
5 matters, again not so much in domestic relations as  
6 other matters, criminal defendants are always sick on  
7 the day their matter is supposed to be heard, and I  
8 think that that was a bit of bad judgment on your part  
9 at the very least.

10 A. The child and I were both sick the  
11 previous night and had gone to a physician that morning  
12 who told us to go immediately home and get in bed. I  
13 was in no position, since I was the only caretaker for  
14 the child at that point, to go to the court, and that's  
15 why I took the added precaution of sending this  
16 hand-delivered letter down to the court at that time,  
17 along with the doctor's prescriptions and intake forms.  
18 I sent all of that hand-delivered to the court  
19 chambers. So I thought at that point I would have had  
20 to have taken the child, sick as she was and sick as I  
21 was, certainly would have to go there and was not in a  
22 position physically to do that.

23 Q. As I say, I think, again, I don't know  
24 that I have enough information to comment one way or  
25 another about anything else the judge may have done in

1 this case, but I would certainly understand his concern  
2 and skepticism about a failure to attend a hearing  
3 based on a claim of illness.

4 ACTING CHAIRMAN HECKLER: I have no other  
5 questions.

6 Representative Hagarty.

7 REPRESENTATIVE HAGARTY: Just one.

8 BY REPRESENTATIVE HAGARTY: (Of Mr. Scavuzzo)

9 Q. I understand your concern with regard to  
10 your wife's not being able to testify because of  
11 self-incrimination. What I don't understand is there  
12 was other competent evidence, it seems to me, as to the  
13 fact that she had taken the child outside of the  
14 jurisdiction. Did the judge entertain any other type  
15 of evidence on that point?

16 A. No. No. Absolutely not. And as I said,  
17 he issued a temporary order on December 7 conferring  
18 custody to me, and then six weeks later on this  
19 so-called failure to appear and broke into the home and  
20 took me out and then took the child away. This is  
21 absolutely unexplainable, particularly under the  
22 circumstances surrounding the criminal indictment.  
23 It's absolutely baffling.

24 Q. Well, my only suggestion is short of your  
25 suggestion, and I would agree with you that testimony

1 should certainly be admissible in a custody hearing on  
2 absconding with a child, I believe it is. The fact  
3 that there was a self-incrimination issue, I still  
4 think there were several other ways that that testimony  
5 could have been admitted. I don't see, I mean,  
6 obviously under your recitation of these facts there's  
7 an enormous failing in the judicial system in that  
8 situation. I don't see a statutory correction for what  
9 your allegations are of clearly a judicial and sheriff  
10 mishandling of the situation, or at least judicial.

11 A. The question I had I think goes to the  
12 point of other parental abductions in this State is  
13 that if the State of Florida has such a statute which  
14 specifically states that criminal proceedings will take  
15 precedence over any civil proceeding for custody, what  
16 they're saying there is that when you've committed this  
17 type of crime or this prima facie evidence of this type  
18 of crime, we cannot go ahead with the custody matters  
19 since that information is relevant--

20 Q. And I don't disagree with that. I'm  
21 simply indicating that I think that that could have  
22 been admitted anyway without an adjudication on the  
23 criminal case. I mean, I don't think that's a problem,  
24 admitting it in our statute makes, you know, makes that  
25 relevant at custody, and so, I mean, I agree with you,

1 it's very relevant, but whether or not the criminal  
2 trial goes first, which I also agree with you it  
3 probably should.

4 Let me also suggest to you that in terms  
5 of remedies of this committee, because I continue to be  
6 concerned when we have heard some alarming testimony as  
7 to what remedies the legislature has, by that change,  
8 at least as it strikes me, would probably be a change  
9 that would have to be made by the Criminal Rules  
10 Committee of the Supreme Court of Pennsylvania. It is  
11 procedural and it is not one which this legislature  
12 could enact a statute on without a court indicating  
13 that it is procedural. So, you know, I just continue  
14 to be concerned about legislatively how we can remedy  
15 some of these situations which are indeed tragic.

16 Thank you for sharing that situation.

17 ACTING CHAIRMAN HECKLER: Thank you.

18 I give you authority.

19 BY MS. DAUTRICH: (Of Mr. Scavuzzo)

20 Q. Yes. Mr. Scavuzzo, did you say you had  
21 custody confirmed December 7, 1990?

22 A. That's correct. Yes. The child was in  
23 my custody from when she was picked up in San Diego  
24 April 13, 1990 until January 18, 1991.

25 Q. Was that a temporary order issued in



1 December of 1990?

2 A. That's correct.

3 Q. Are you saying that without any petition  
4 by your wife through her attorney she again got  
5 custody? So there was nothing before the court, or was  
6 there? That's what I'm not clear on. Between after  
7 December of 1990.

8 A. That is precisely what I'm saying. I'm  
9 saying on January 22 -- well, let's back it up to  
10 January the 18th, when she came to my home and took  
11 custody of this child.

12 Q. You had custody?

13 A. I had custody. She had no valid custody  
14 order at that time.

15 Q. Okay. And then in January of 1991, you  
16 had a hearing on your bench warrant, is that correct?

17 A. That's correct, on January 24.

18 Q. Okay. Was that a hearing, a contempt  
19 hearing?

20 A. It was a contempt -- yes, that was a  
21 contempt hearing and a hearing on the bench warrant,  
22 both.

23 Q. Right. And who was the judge that held  
24 or conducted the hearing?

25 A. Judge Canuso.

1 Q. And you were denied cross-examination on  
2 that?

3 A. Absolutely.

4 Q. Was that on the record?

5 A. Yes.

6 Q. Do you have a copy of that record?

7 A. Yes, I do.

8 Q. Was it from that hearing that the order  
9 -- it was later, this is why I'm trying to get the  
10 chronology, when did your wife get the custody?

11 A. The custody order?

12 Q. Yeah.

13 A. She got an ex parte custody order on  
14 January 22 when I came to court to pick that child up.  
15 She had no valid custody order for well over -- it was  
16 into the fourth day, and the ex parte order was issued,  
17 and as I said, it was issued by the criminal attorney,  
18 it was prepared on her stationery, knowing that I was  
19 coming to the court, and I don't know whether or not  
20 she had informed the judge that I was there, but I was  
21 50 feet from his chambers. That was an ex parte  
22 hearing, there was no hearing whatsoever, and custody  
23 was switched.

24 Q. So that ex parte order did not provide  
25 for a hearing within 10 days or anything like that?

1           A.    No.  It simply set up a temporary custody  
2 arrangement for two days for the hearing on January 24  
3 on the failure to appear, the bench warrant and the  
4 contempt.  And on that day, this is where the incident  
5 with the failure to cross-examine and other statements  
6 came out by the judge that led me to believe that he  
7 indeed had had contact with my wife either through the  
8 staff or directly himself.

9           Q.    But that order that was issued in January  
10 of 1991 was also a temporary order?

11          A.    That is correct.

12          Q.    Was there another later temporary order?

13          A.    The January 22nd order was temporary  
14 interlocutory, the January 24th order was temporary  
15 interlocutory.  I appealed all of these orders, and  
16 they were all thrown out because of the temporary--

17          Q.    Because they are interlocutory?

18          A.    That's correct.

19          Q.    Okay.  Is there another order after  
20 January that gives your wife custody where you have  
21 partial custody?

22          A.    Yes.  It would be the March 20th order  
23 that was a hearing for March 14.

24          Q.    Right.

25          A.    But that is a final order.  That order

1 has been appealed to the Superior Court, and that's  
2 scheduled for an oral argument shortly, within possibly  
3 three weeks or so.

4 Q. Was that an order after full hearing,  
5 after a de novo hearing?

6 A. I don't know what you would call that. I  
7 don't know if you could call that a de novo hearing.  
8 These were a series of hearings.

9 Q. Right.

10 A. And I really couldn't tell you if that  
11 came under the rubric of saying it was a de novo  
12 hearing. I honestly don't believe it was. It was  
13 simply a continuance of these other hearings, and it  
14 was a hearing supposedly, according to the judge, to  
15 review all outstanding orders.

16 Q. But there were no psychological  
17 evaluations. Was there ever a motion before the court  
18 for a guardian ad litem for your daughter?

19 A. No, but what had happened was a criminal,  
20 not a guardian ad litem, the other term that's used is  
21 a criminal advocate was appointed for the criminal  
22 side.

23 Q. Right.

24 A. And then magically he showed up at the  
25 civil proceeding and the judge asked him to go into

1 chambers, because my wife was not represented by  
2 counsel either, and this gentleman came out and made  
3 certain statements, I don't have that record, which  
4 indicated to me clearly that the child had been  
5 coerced, and I put that onto the record. But this is  
6 the so-called guardian ad litem that you're referring  
7 to, and that's the only person at this point who's been  
8 appointed. So now we have the possibility or the very  
9 real possibility the child is going to go into court.  
10 She has pertinent testimony that she will give  
11 regarding the custodial interference issue, and she is  
12 now in the hands of the perpetrator and her lawyer, et  
13 cetera, et cetera.

14 Q. Thank you.

15 A. You're welcome.

16 ACTING CHAIRMAN HECKLER: Thank you very  
17 much, sir.

18 MR. SCAVUZZO: Thank you.

19 ACTING CHAIRMAN HECKLER: Mr. Glassmire.  
20 And I believe we already have received and distributed  
21 your prepared comments.

22 MR. GLASSMIRE: My name is William  
23 Glassmire from Philadelphia. I would just like to read  
24 the testimony I have already prepared for the  
25 committee.

1                   My testimony today will focus on the  
2 current practices of our State courts regarding family  
3 law and domestic law matters. This testimony is the  
4 product of my experience as a parent, divorced father,  
5 and member of Fathers' and Children's Equality. These  
6 issues also touch my professional life. I work in the  
7 health care field and have had the opportunity to  
8 provide medical care for countless number of people  
9 over the past 11 years and have found that the number  
10 of individuals and families I encounter who have  
11 suffered the effects of divorce and separation is  
12 growing at an alarming rate. The current practice of  
13 our courts are proving to be not only apathetic but  
14 also detrimental to the well-being of so many  
15 throughout the State.

16                   My concern, and the concern of FACE, is  
17 for the parents and their children who call upon our  
18 courts for assistance when faced with the results of a  
19 family break-up. But routinely, they encounter a  
20 complex and convoluted system with philosophies and  
21 standards that are many decades behind our society  
22 today.

23                   In the past two years that I have  
24 volunteered my time and services to FACE, I have spoken  
25 with over 1,500 such people. They can include parents,

1 both fathers and mothers, children, grandparents, and  
2 extended family members. No one's story was exactly  
3 the same, but they all had one common issue: They had  
4 entered the "Twilight Zone" of family court. They have  
5 all experienced the same disbelief that, no, this is  
6 not occurring. The courts are here to provide for all  
7 litigants, to fairly and objectively review all cases  
8 and render decisions based upon this. In short time,  
9 though, they learn that the standards and rules which  
10 govern the courts of this Commonwealth are not applied  
11 to family law. They find that the laws enacted by our  
12 legislature and Rules of Civil Procedures are not  
13 followed. They find that appellant review of family  
14 court cases are not granted the same standard of review  
15 as other cases, and also they find that lower courts  
16 routinely ignore case law handed down by our appellate  
17 courts.

18 For many years, the Tender Years Doctrine  
19 was a compelling rule in custody determination. This  
20 was ruled unconstitutional by our Supreme Court shortly  
21 after the passage of the Equal Rights Amendment of  
22 Pennsylvania's Constitution. But when we are faced  
23 with the fact that 92 percent of custody cases heard by  
24 our courts will result in an order granting custody to  
25 the mother, and further spend time observing the

1 attitude and actions of our courts, we find that the  
2 Tender Years Doctrine is alive and well in Pennsylvania  
3 today.

4 Fathers have only one right in our family  
5 courts, and that is the right to pay support. The  
6 rights of a father and his children to access receives  
7 little attention by our courts, and when an order is  
8 finally obtained, the enforcement of this order also  
9 receives little attention. In these same courts,  
10 though, there are thousands of fathers jailed every  
11 week for failure to pay support, and often I encounter  
12 fathers who are behind on their support obligations due  
13 to legitimate reasons, such as loss of employment or  
14 health reasons, and have filed the appropriate relief  
15 but are brought before judges and jailed. On the other  
16 hand, when a mother is brought before the court for  
17 contempt of custody, the most common action taken is a  
18 scolding and nothing more. In the last two years, I  
19 encountered one custodial parent who was jailed for  
20 denying access, and that was a custodial father.

21 Another tragedy that a growing number of  
22 our children are facing today is being uprooted and  
23 moved thousands of miles away from their fathers,  
24 family members, schools, and friends. This often  
25 occurs with the move offering no benefit to the



1 children and occurs in violation of custody orders.  
2 While our courts offer no remedy when this occurs, they  
3 often instruct fathers to take action in the  
4 jurisdiction the children now live in. All of this is  
5 contrary to our case law and the Uniform Child Custody  
6 and Jurisdiction Act.

7 A further example of our courts' apathy  
8 towards access is the resources they expend. The  
9 following are a few examples:

10 Philadelphia Family Court has a minimum  
11 of 18 hearing officers for support and only 4 for  
12 custody.

13 Montgomery County has a minimum of 10  
14 hearing officers for support and none for custody.

15 In Philadelphia, hearing for contempt of  
16 support is heard within 1 1/2 to 2 months. In  
17 contrast, contempt of custody will take 7 to 10 months  
18 to be heard, and I have found a few cases to have  
19 waited over 15.

20 If a father fails to appear for a support  
21 hearing, a bench warrant is issued. If a mother would  
22 fail to appear for a custody hearing, it is just  
23 rescheduled.

24 I have found that most judges hearing  
25 custody matters inquire to see if the support payments

1 are current. When they hear support matters, there is  
2 never inquiry on where the custody matter has been.

3 As we are all aware, the utmost priority  
4 of our courts when hearing family law matters is to  
5 provide for the best interest and permanent welfare of  
6 the children of this Commonwealth. Securing both  
7 emotional and financial support is in their best  
8 interests. To assure our children of our commitment to  
9 them and their future, the following steps could be  
10 taken.

11 First, a legal presumption favoring joint  
12 custody. This would allow joint custody to be the  
13 standard throughout our State, unless compelling  
14 reasons were present to the contrary. This would offer  
15 our children equal access to both their parents.

16 Second, placing custody issues in parity  
17 with support issues.

18 Third, establishing a process in which  
19 decisions of family law matters can be reviewed  
20 expediently and objectively. At present, the only  
21 review process in our appellate courts - the Judicial  
22 Inquiry and Review Board and the Disciplinary Board of  
23 the Supreme Court. The appellate process is lengthy,  
24 financially out of reach of most parents, and too often  
25 these courts are the gatekeepers for our lower courts.

1 The records the JIRB and the Disciplinary Board of the  
2 Supreme Court shows that they dismiss approximately 93  
3 percent of complaints filed before them.

4 Fourth, the establishment of mandatory  
5 divorce mediation in our State. This would place the  
6 families facing the issues of divorce and separation in  
7 a setting with the assistance of trained mediators  
8 where they can mutually resolve the issues of divorce,  
9 custody, and support. This process allows the parties  
10 to resolve matters to a give-and-take posture.  
11 Agreements obtained through mediation have a higher  
12 rate of success and compliance since the parties  
13 themselves negotiated it, not the courts imposing their  
14 will on the parties. Plainly speaking, it is a much  
15 less adversarial process and promotes communication  
16 that will benefit the children in the future.

17 To close, I wish to thank the Chairman,  
18 committee members, and staff for the opportunity to  
19 speak here today and share this information. I am  
20 confident this committee will carefully review all of  
21 the testimony brought before them and take steps to  
22 improve our family courts and provide a brighter future  
23 to the children and their parents who must call upon  
24 them.

25 Thank you.

1                   ACTING CHAIRMAN HECKLER: Thank you very  
2 much.

3                   Are there any questions?

4                   (No response.)

5                   ACTING CHAIRMAN HECKLER: Thank you.

6                   I believe Mr. Hallman is here now, is  
7 that correct?

8                   MR. HALLMAN: That's correct.

9                   ACTING CHAIRMAN HECKLER: Do you have any  
10 prepared testimony?

11                   MR. HALLMAN: I will submit it at a later  
12 date, but today I will read from the text that I have  
13 prepared and it will be submitted.

14                   I'm Scott Hallman. I'm here primarily  
15 today as my role as President of Fathers' and  
16 Children's Equality, a statewide organization of  
17 fathers. Let me just tell you a little bit about who  
18 we are so you have a better understanding of what our  
19 role is in all.

20                   Fathers' and Children's Equality was  
21 established in the State of Pennsylvania over 12 years  
22 ago, and we're primarily a fathers' and children's  
23 advocacy group concerned with the inequalities and  
24 inequities in the family law system. It is our  
25 experience that fathers are routinely denied their

1 parental rights and are encumbered with inequitable  
2 child support obligations. Our major goal has been and  
3 will continue to be to insure the legislative and  
4 judicial branches of our government begin to recognize  
5 fathers' rights as parents and our children's rights to  
6 full access to both parents in the extended family.  
7 That's pretty much who we are in a nutshell.

8           And just in some of the testimony I've  
9 heard, you've heard the personal stories and the  
10 tragedies that have been wrought as a result of the  
11 gender-biased domestic law system. I myself am a  
12 victim of this system, but I'm not here to tell you my  
13 personal story. That's not my purpose today. My  
14 testimony today will instead be on behalf of FACE as my  
15 role as president, and I would think on behalf of all  
16 the fathers and children of this Commonwealth,  
17 particularly those that have gone through, are  
18 currently going through, and will in the future go  
19 through separation and divorce. I might add, too, that  
20 I hope my comments will not be construed as a gripe  
21 session. I am here to hopefully put forth some -- name  
22 the problems and put forth some ideas for change.

23           I've got five major points that I want to  
24 make today. The first point is as you've heard over  
25 the past two days, the present domestic law system is

1 an adversarial process that pits one parent against the  
2 other, with the children as another piece of property,  
3 kind of almost as an equitable distribution kind of  
4 arrangement, who are generally allocated to a winner,  
5 which then becomes the custodial parent, and denied to  
6 a loser, who then becomes a mere visitor in their  
7 lives, instead of recognize that children are born with  
8 two parents and are entitled to keep them.

9           Nationwide, approximately 90 percent of  
10 the custody orders end in maternal sole custody. In no  
11 other area of the law can winners and losers be  
12 predicted with this degree of certainty solely on the  
13 basis of sex, and in no other area of law would such  
14 bias and prejudice be tolerated. If the role was  
15 reversed wherein mothers were experiencing the same  
16 degree of prejudice, all areas of government would come  
17 to bear the change and reverse the system. But no  
18 government agency or commission has stepped forward to  
19 help save joint parenting and fathers, and that's the  
20 key right there is joint parenting.

21           The remedy is at hand - mandatory divorce  
22 mediation, and that's, I would say, is the primary goal  
23 of an organization like FACE, which would mean a  
24 professional mediator, preferably a non-lawyer -- we've  
25 had enough of lawyers -- would sit both parties down to

1 work out the issues involved in a divorce or separation  
2 within an atmosphere of concern for the welfare of the  
3 children and mutual respect for both parties. And I  
4 think the important key point here is mandatory  
5 mediation, because that would be allow for the  
6 resolution of marital and custody disputes through the  
7 nonconfrontational process rather than the adversarial  
8 litigation process that now exists. Let's face it,  
9 mediation would greatly reduce the emotional and  
10 financial drain of divorce and separation on the  
11 parents, and most often the children. And in this area  
12 I would like to say that FACE would love and appreciate  
13 the opportunity to work with this committee on the  
14 drafting of an effective divorce mediation law for the  
15 State of Pennsylvania. We are, quite honestly, not  
16 satisfied with what we have seen introduced so far in  
17 the House and in the Senate.

18 Point number two, and this is an  
19 important one, you have, I'm sure, heard of this one  
20 before, is that abuse petitions and false accusations  
21 of child abuse have become an absolute weapon used to  
22 influences custody decisions. Fathers are routinely  
23 thrown out of their homes with an absolute minimum of  
24 evidence that a danger exists or that domestic violence  
25 has occurred, and also without the benefit of the right

1 to face their accuser. This all equates to misuse of  
2 the Protection From Abuse Act, and what greater impact  
3 on custody decisions than the accusation of child  
4 abuse? Once these accusations have been raised, and  
5 even if the father is later exonerated, the effects  
6 linger forever, and I'll just paraphrase a statement  
7 made by an Atlanta judge to our organization. "The  
8 accusation of child abuse is like throwing a skunk into  
9 the courtroom. You can get rid of the skunk but never  
10 the smell." And believe me, I understand that one from  
11 a personal standpoint.

12 Not only are they thrown out of the house  
13 for these laws, but the mother now has custody of the  
14 children and in most cases is granted support. I call  
15 that quite an incentive program for a misuse of the  
16 system.

17 What can be done? The answer is quite  
18 simple. We need to tighten the evidence requirements  
19 for obtaining a protection order and not loosen them,  
20 as most of the present legislation that we've seen  
21 that's been introduced tries to do. We need to insure  
22 that those truly in need have access to these services  
23 and that they can no longer be used as a weapon in  
24 custody disputes. We also need among the Children and  
25 Youth organizations, they need to institute better



1 investigative techniques. I think that's not so much a  
2 law but a training. And they also need to recognize  
3 that in custody disputes false accusations are made,  
4 therefore they need to proceed with a greater deal of  
5 caution, rather than just jumping at the accusation and  
6 jumping at the conviction.

7           If it is deemed that an accusation is  
8 false and malicious, the accuser must then be  
9 prosecuted to the full extent of the law, and I think  
10 that's important. I think that will certainly put the  
11 brakes to the misuse of these systems.

12           Point number three is each year Federal  
13 and State governments like ours spend approximately \$1  
14 billion on child support enforcement, but yet no funds  
15 are allocated or spent on access visitation  
16 enforcement. Yet custody orders are routinely ignored  
17 and violated, but the custodial parent is not given  
18 more than a lecture or a slap on the hand for violation  
19 of these orders.

20           What we are asking for is stronger  
21 enforcement of the custody orders. We are not  
22 suggesting that mothers be jailed, and I think that we  
23 are often misquoted in that respect, but that we need  
24 to adopt laws and fund programs that deal more  
25 effectively with this growing problem. Just as a

1 suggestion, let's take a look at Michigan's friend of  
2 the court system. Their domestic relations system,  
3 which is already in place, treats visitation, custody  
4 and support issues equally. If you don't let the  
5 non-custodial parent see the child, you're punished.  
6 If you don't pay support, you're punished. It is no  
7 surprise that by undertaking this balanced approach,  
8 Michigan collects more child support per administrative  
9 dollars spent than any other State. The results in  
10 Michigan clearly illustrate that this effective  
11 approach ensures children of adequate joint parenting  
12 wherein their financial and emotional need are met.

13 Point four, in most custody cases the  
14 burden of supporting the children is imposed upon the  
15 father. When the father is awarded sole custody, which  
16 is about 6 percent of the time, mothers are rarely  
17 ordered to pay support. Let's take a look. In  
18 Pennsylvania, like most States, child support is based  
19 on a percentage of the father's income with little or  
20 no regard for the needs of the children. Other income  
21 sources available to the mother or accountability for  
22 the support payment to insure it is utilized to insure  
23 the needs of the children. What you end up with is  
24 that the mother has no obligation to seek employment  
25 and is in fact rewarded for her lack of financial

1 responsibility.

2                   What we need is a fair and equitable  
3 child support system. We need legislative changes to  
4 insure compliance with the State guidelines regarding  
5 support. We need greater accountability on the parent  
6 receiving support to insure the money is utilized for  
7 the children and obviously an end to imprisonment for  
8 debt. If a father wants to pay support, he can pay  
9 support. He should not be jailed for that crime.

10                   The committee should also recommend  
11 legislation that insures the costs incurred by the  
12 non-custodial parent are considered when calculating  
13 support. We need to begin to recognize that the  
14 non-custodial parent has housing, food, transportation  
15 and recreational costs that are spent directly on the  
16 children. As a further point, just in my own personal  
17 case, if I do not maintain a proper home for my  
18 children, overnight access is denied to me. Therefore,  
19 that's why the financial aspect of making sure that the  
20 father can also provide an adequate home for the  
21 children is that much more important and should be  
22 given greater weight.

23                   And my fifth and final point is that  
24 currently no one oversees the family court system or  
25 the judges to insure custody orders comply with

1 existing law. Appellant court decision and Rules of  
2 Civil Procedure. Obviously, by the testimony that  
3 you've heard, they do not.

4           What we need is establishment of some  
5 sort of a more intensive judicial review process, an  
6 ongoing review process. Judges must be held  
7 accountable for their decisions and must be compelled  
8 to comply with existing laws, and in cases where the  
9 courts are closed to public access, such as the  
10 Philadelphia Family Court, the doors must be thrown  
11 open to allow public scrutiny to insure their  
12 compliance and accountability. Who knows what orders  
13 come out unless people come and tell us, since we're  
14 not allowed in to see what goes on.

15           This committee must focus on the  
16 emotional needs of the children through the promotion  
17 of joint custody and recommendations that lessen the  
18 adversarial approach in divorce. This Commonwealth  
19 must change its adversarial approach to resolving  
20 marital disputes and separations and legislatively  
21 recognize the importance of fathers to the healthy  
22 development of our children. When considering the  
23 recommendations listed above and the others presented,  
24 I always like to put it this way, ask yourself one  
25 simple question: How would I react if I was ordered to

1 stay away from my children except for specified visits  
2 and was ordered to pay someone else to raise the  
3 children I wanted to raise myself? That's exactly  
4 what's happening today, and I think that there's ways  
5 that we can make the system a little bit fairer, a  
6 little bit better, and that I only ask that you let  
7 your own conscience be your guide in your development  
8 of future legislation.

9 On behalf of Fathers' and Children's  
10 Equality, I wanted to let you know that I appreciate  
11 this opportunity to testify and we urge that this  
12 committee do whatever is within its power to restore  
13 fathers' rights as parents and our children's rights to  
14 full access to both parents in the extended family for  
15 our children's sake.

16 ACTING CHAIRMAN HECKLER: Thank you.

17 I have just a few questions, Mr. Hallman.

18 MR. HALLMAN: Okay.

19 BY ACTING CHAIRMAN HECKLER: (Of Mr. Hallman)

20 Q. One, you mentioned that mothers, women,  
21 gain custody in the vast majority of cases in which  
22 custody orders are entered. Do you have any statistics  
23 on regarding the breakdown between agreed and contested  
24 orders? In other words, my general experience and my  
25 guess would be that in contested matters, in fact I've

1 seen some statistics that suggest that men win more  
2 often than women, but putting that aside, that it would  
3 be at least a roughly 50-50 proposition, but that in a  
4 great many cases it is agreed, for whatever reasons,  
5 that mothers would be the primary caretaker.

6 A. We have been in contact with the  
7 statistics office here in Harrisburg and unfortunately,  
8 nobody has bothered to sit down and take the time to do  
9 a thorough evaluation and develop statistics on, you  
10 know, who has custody and how they obtained that  
11 custody, and I think that's important, and I think  
12 probably the kind of statistics that you really need to  
13 decide on what legislative changes that you're going to  
14 focus on. Unfortunately, the information is not  
15 available. I wish it was.

16 Q. Okay. Well, frankly, at least on the  
17 basis of the information I have and the information  
18 you've presented, I would have a difficult time  
19 concluding that there is a bias in our laws in favor of  
20 women. There are -- we're dealing with a number of  
21 cultural, I mean, we're a part of society. Thirty or  
22 40 years ago there was an accepted pattern that women  
23 weren't expected to be seen in the workplace, for the  
24 most part, their place was in the home and the Tender  
25 Years Doctrine was part and parcel with that. I think

1 that to the extent that in at least some peoples' minds  
2 the Tender Years Doctrine has validity whatever the  
3 courts say, I think that the flip side of that, I'm  
4 going to move on to some of your comments about  
5 support, I think the flip side of that is you would  
6 find an awful lot of women who would suggest to you  
7 that a man and a woman don't stand in an equal position  
8 in the workplace or in the marketplace given equal  
9 background or circumstances, and so that you can't have  
10 it one way and not the other. You can't -- and all of  
11 the statistics I've seen suggest that indeed, women are  
12 much less likely to have the same kind of income that  
13 men will have, particularly in a divorce, let's say  
14 they were a couple and had children and then the  
15 marriage dissolved.

16 A. Well, I think you make a very valid  
17 point, and many people disagree when I make this  
18 comment within the organization, but I think if you  
19 look at our laws as they presently stand now, if you  
20 read them you'd say we have a good joint custody law in  
21 the State. Unfortunately, what we end up with is a  
22 system that doesn't administer the law. The law is  
23 good, it's there, but we need to do something about  
24 getting the law administered. Let's make it a joint  
25 custody. There's more opponents out there to joint

1 custody than proponents for joint custody, and I think  
2 it can work, and we've seen that. It's been proven.

3 Q. Well, that gets to another area, and  
4 again, part of this relates to statistics which I  
5 suspect that neither of us have. My perception, again,  
6 limited to Bucks County and the very limited, my  
7 extremely limited domestic practice plus what I've seen  
8 in general, is that the vast, and I mean the vast  
9 majority, 80, 90 percent of domestic relations cases of  
10 divorce situations particularly involving children are  
11 resolved by agreement between the parties. There may,  
12 as to the support issue, it may very likely be that,  
13 particularly where lawyers aren't involved, and  
14 especially pre-guidelines, it may be that the matter  
15 would go as far as a domestic relations conference in  
16 which the domestic relations officer sort of  
17 superimposes their views or the guidelines and gives  
18 some guidance there, but that in fact, you know, as a  
19 matter of the record, how was the case resolved, that  
20 the support order was entered by agreement, that the  
21 custody arrangement, whatever it was, was entered by  
22 agreement, and again, I'm encountering or my impression  
23 would be that a couple, both of whom are reasonably  
24 normal, haven't had mental health treatment, haven't  
25 been subject to criminal prosecution who are divorcing,



1 and let's say both of whom are employed in some  
2 measure, are almost certainly going to see some kind of  
3 shared custody, and they are going to enter into an  
4 agreement and they are going to enter into some kind of  
5 shared custody agreement.

6 Now, from there the geographic situations  
7 and a lot of other unique factors enter in, but, you  
8 know, that whole parashah, I guess, is to get to the  
9 question, we're hearing about the failings of the  
10 system. Do you have any sense, however, how many cases  
11 that applies to out of the hundreds of thousands of  
12 cases that are dealt with statewide every year?

13 A. The latest statistics that we had that  
14 were published by the State I believe was in 1988 or  
15 1989, and I believe the statistics were somewhere  
16 approximately 90 percent of most of the custody orders  
17 were sole maternal. Again, I think that you need to  
18 establish a permanent residence for the children, and I  
19 think that that is important, but what we're saying is  
20 that what we find is that more and more fathers are  
21 ending up being every other weekend visitors in their  
22 children's lives. I think that -- you ask any attorney  
23 that practices domestic law on a regular basis, you're  
24 going to end up with a couple of premises. Number one,  
25 and in fact in the manuals that they publish they try

1 to point that out that this is not true, but it is  
2 true. Number one, if you're a father, you're going to  
3 lose. You're going to you been be an every other  
4 weekend dad and one day during the week. In fact, it's  
5 commonly referred to as the father's software package.

6 The other thing that you're going to end  
7 up with in support issues is that you're going to  
8 probably end paying a pretty good chunk. It's tough  
9 for them to lay down, but somewhere within the  
10 guidelines and sometimes slightly higher.  
11 Unfortunately, if you're self-employed, they use what  
12 has been called and it's been cited and it's on  
13 transcript, at least in Montgomery County they use what  
14 they call the three times rule. That if you're  
15 self-employed, you're probably only reporting a third  
16 of your income. Therefore, they triple your income if  
17 you're self-employed. It's transcribed, it's on the  
18 record.

19 The last thing that you end up with is in  
20 particular when you get to the domestic relations  
21 aspect of it, regardless of the financial wealth or the  
22 ability of the parents and how much they've submitted  
23 to the acquisition of assets over the years, you're  
24 ending up with a 60-40 split. I know myself I was told  
25 that and I know that's a general rule of thumb, that

1 you can expect those three things when you're entering  
2 into it. It shouldn't be that way. They both brought  
3 the children into this world, they should split the  
4 time 50-50. They both acquired assets, they should  
5 both split it 50-50. It should be division, equal  
6 division all the way down the line - children, home,  
7 assets, everything. But unfortunately, it's not.

8 Q. Well, that leads me to sort of the next  
9 question, which is, and again, my perception is that  
10 the system works for the vast majority of people who  
11 were able to enter into an agreement. The question I  
12 then have, I've heard, of course we've heard repeatedly  
13 over the last couple of days, lawyers are one of the  
14 biggest problems with the system next to only the  
15 judges, and if we would just get rid of them, somebody  
16 would be happy with the great Shakespeare quote which I  
17 have on a mug back in my law office, "First let's kill  
18 all the lawyers." But I have difficulty in envisioning  
19 an arbitration or mediation, or whatever name you want  
20 to call to put on the system, which is designed by  
21 definition only going to deal with the intransigent 10  
22 or 15 or 20 percent, whatever that number is, who not  
23 only can't make their marriage go but who can't even  
24 resolve how to divide up what goes along with the  
25 marriage. I don't see how -- I just can't envision

1 those folks not having an adversary relationship. I  
2 mean, they've got an adversary relationship. If they  
3 didn't, they wouldn't be in need of the courts. They  
4 could resolve their own problems because they continue  
5 to be married, and I just wonder, I mean, we've heard  
6 Maine statistics tossed around, but again, the Maine  
7 statistic that I think was reliable is that 50 percent  
8 of the matters are resolved by agreement. I think way  
9 more than that are resolved just in the course of  
10 things, either because the parties don't have enough  
11 money to belabor each other and realize it and manage  
12 to split up what they have and don't have children in  
13 particular, or because good lawyers, competent lawyers  
14 who know about how things are going to work come out,  
15 bring people together, and that's, you know, in the  
16 limited experience I've had, the cases I don't want are  
17 cases without a lawyer on the other side because  
18 there's nobody telling the other party, well, this is  
19 at least a range of what the court may do.

20 A. Well, they're dealing strictly from  
21 emotion. I'd like to clear up one point.  
22 Unfortunately, number one, you need lawyers to go  
23 through the system. There's just no doubt about it.  
24 You just can't do it all yourself. And I will say that  
25 there are good lawyers out there. There are good

1 family law lawyers. I will go on record and say that,  
2 because I have a few that I regularly refer people to.  
3 And I am quite proud of my own attorney's handling of  
4 my case. But, you know, I think what we need to do,  
5 and again, this is where I think that kind of more of a  
6 cooperative type agreement between your committee and  
7 outside sources can be beneficial, we use the Maine  
8 mandatory divorce mediation law as an example. What it  
9 does is that it gives the parties no choice. It tells  
10 you, you're going to hash this out. I don't care if it  
11 takes one session or 10 sessions, and every couple of  
12 sessions if either parties deal in bad faith, I'm going  
13 to haul you in front of a judge and he's going to tell  
14 you exactly what he's going to do if you don't start  
15 dealing in better faith. 60 percent of all of them are  
16 resolved in the first mediation session. Only right  
17 now in the State of Maine the last statistics we had  
18 was 8 to 10 percent ever go in front of a judge. 8 to  
19 10 percent. Because the judge keeps sending them back  
20 to that mediator. They're bound and determined to make  
21 sure that the children's welfare is maintained at all  
22 times and that both parents deal fairly, and they're  
23 given no other alternative but divorce mediation, and  
24 it does work.

25 So then what you've got, you're forced

1 into deciding. Yeah, I realize it's adversarial. My  
2 relationship with my wife now is not one that we can  
3 call each other and we do lunch or cocktails. It's  
4 definitely an adversarial process now in our dealings,  
5 but I can't help but see the positive that would have  
6 come about if somebody had sat us down, slapped us  
7 across the head and said, look, we're talking about  
8 children here. If you want to fight over the assets,  
9 I'll give you boxing gloves, go into the other room,  
10 beat the hell out of each other, and come back here and  
11 then let's sit down and talk, and I think that that's  
12 really what needs to be done. Because 10 percent  
13 failure rate in any program, as you well know, is a  
14 pretty good failure rate. It's a pretty good success  
15 of a program.

16 Q. Oh, yeah. Well, again, that's one of the  
17 things I think we deal with continuously in government  
18 is that you can devise the best thought-out system in  
19 the world. If the people who are staffing it and the  
20 people who have to deal with it aren't up to snuff or  
21 behave in particularly irrational ways, the system  
22 isn't going to work, and in fact you can have a pretty  
23 poorly designed system and those defects can be  
24 overcome by the quality and the commitment of the  
25 people who work it.

1           A.    I've talked to domestic relations people  
2 just as my own research, and I'll go back to the Maine  
3 law. After you get these people to mediate this  
4 divorce situation, if you have a friend of the court  
5 system, and I've talked to domestic relations  
6 personnel, they would love to be able to handle all  
7 aspects of the case, because the only thing they see is  
8 mom or dad coming in, he's not paying, he doesn't pay  
9 enough, he's hiding his income, I need more money.  
10 They don't have a full understanding of the dynamics of  
11 the case. All they see is somebody complaining about  
12 money all the time. They feel they could even be more  
13 effective if they understood the full dynamics of the  
14 case and had more responsibility throughout the case.  
15 You're not paying support. Why? She's not letting you  
16 see the kids? Well, great, I'll tell you what. Let's  
17 get you both in here and let's get this issue resolved,  
18 and if she doesn't start letting you see the kids,  
19 she's going to pay a fine, and if she does it again,  
20 she's going to pay a fine, but if you don't pay  
21 support, you're going to jail.

22           Q.    Sort of an ombudsman?

23           A.    Yeah.

24           Q.    It's an interesting thought.

25           A.    I think it's a good system.

1 Q. Well, I'm sure that the committee will  
2 obtain more information about the Maine system.

3 Just as, and only a semi-facetious  
4 comment, one of the difficulties that I have with all  
5 of the testimony that I've had for years watching  
6 divorces go through the court system is that I am  
7 inclined to think that there is too little thought  
8 given for those couples who have children to the  
9 determination to begin with to enter this process, and  
10 that's a societal problem. I don't believe that it's  
11 one that the courts can realistically deal with, but I  
12 think it's certainly one of the great tragedies of our  
13 time.

14 A. And I think unfortunately, too, you have  
15 a lot of people out there that are very much misguided.  
16 I think their intentions are good but maybe their  
17 intent is misguided, and I've seen myself where you get  
18 certain organizations involved in it and they also help  
19 to spur on the adversarial approach to it. Why settle  
20 when you can probably get this, this, and this from the  
21 courts? What incentive is there for them to settle?  
22 So they kind of, you know, hype it up and show them how  
23 to go through the ropes and how to go through like how  
24 to file a PFA and how to file child abuse charges, et  
25 cetera. I mean, unfortunately, there's those misguided



1 souls out there and I think that legislation, mandatory  
2 divorce mediation, et cetera, lets them do what they do  
3 best, and that is provide services, beneficial services  
4 and take them away from being misguided tutors to those  
5 who are looking for that.

6 Q. Well, again, there we run into the  
7 problem that I alluded to I think with an earlier  
8 witness of finding the truth. A woman who is being  
9 abused, a woman who does not have the resources to  
10 figure out what her rights are needs and appropriately  
11 should receive support.

12 A. Absolutely.

13 Q. And there certainly has been an imbalance  
14 historically which I think people are anxious to  
15 redress. That support or those laws should only be  
16 used to redress those problems and not as some kind of  
17 strategic way of gaining a leg up in what should be  
18 straightforward litigation. But sorting that out is  
19 much more a question of the factfinder.

20 Are there other questions?

21 (No response.)

22 ACTING CHAIRMAN HECKLER: Thank you very  
23 much, sir.

24 MR. HALLMAN: Thank you very much.

25 ACTING CHAIRMAN HECKLER: And I gather

1 that we have come to the end of the named folks who are  
2 named for today on the agenda. Okay. So that we have  
3 two other individuals who had requested to make brief,  
4 and I will underline "brief," presentations.

5 Mr. Christopher, I think we had you at  
6 the microphone once before and chased you away.

7 MS. MANUCCI: He left his statement for  
8 the record.

9 ACTING CHAIRMAN HECKLER: Oh, okay. Mr.  
10 Christopher has left his statement for the record.

11 Mr. Williams? If you would step up.

12 MS. MANUCCI: Mr. Williams would prefer  
13 to take time and prepare his testimony and he'll submit  
14 it for the record within 10 days.

15 ACTING CHAIRMAN HECKLER: Great. Very  
16 good. Thank you. And I take it that that concludes  
17 the testimony for today, and I believe we will be back  
18 here tomorrow at 10:00 o'clock.

19 (Whereupon, the proceedings were  
20 concluded at 3:30 p.m.)

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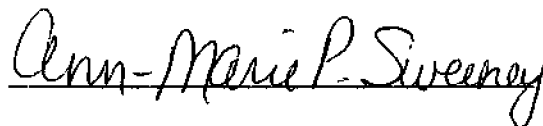
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2 and evidence are contained fully and accurately in the  
3 notes taken by me during the hearing of the within  
4 cause, and that this is a true and correct transcript  
5 of the same.

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