

1 COMMONWEALTH OF PENNSYLVANIA  
2 HOUSE OF REPRESENTATIVES  
3 JUDICIARY COMMITTEE

4 In re: House Bill 826

5  
6 Transcription of recorded hearing held  
7 on May 7, 1993, at the University of  
8 Pennsylvania, Philadelphia, Pennsylvania

9 Friday,  
10 May 7, 1993  
11 10:00 a.m.

12 HON. THOMAS R. CALTAGIRONE, CHAIRMAN

13 MEMBERS OF COMMITTEE ON JUDICIARY

14 Hon. Tim Hennessey

15 Hon. Harold James

16  
17 Also Present:

18 David Krantz, Executive Director  
19 William Andring, Chief Counsel  
20  
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1                   CHAIRMAN CALTAGIRONE: I'm State  
2 Representative Tom Caltagirone, Chairman, House  
3 Judiciary Committee. A little bit of an overview and  
4 history about this particular piece of legislation  
5 which I find kind of interesting, being that Ivan Itkin  
6 claims that he's a civil libertarian, the Majority  
7 Leader of the House takes great pride in that fact, but  
8 yet would not allow these hearings to be held. We're  
9 holding them anyway at my expense, no thanks to Ivan  
10 and at no cost to the taxpayers. And those of you in  
11 the media that are here, and we'll get some later, I  
12 want that so reported.

13                   This bill originated in the last session  
14 with Republican Representative--and I happen to be a  
15 Democrat--Jerry Birmelin. It is his bill. It was  
16 voted out of the committee in the last session for  
17 action. In this session the bill was going to be  
18 reported out and because there's so many new members on  
19 this committee, some of them asked some questions and  
20 felt that it would be appropriate maybe to hold some  
21 hearings. We had a vote in the committee, 20 to 0, to  
22 hold public hearings on this particular issue, which  
23 certainly falls under the jurisdiction of the Judiciary  
24 Committee. All sorts of attempts were then made to  
25 stifle and halt public hearings on this very issue.

1 Contrary to the policy of the House, under rules that  
2 we just recently developed--and this is still America,  
3 I think, where free speech is protected,  
4 supposedly--the Majority Leader refused to approve  
5 these hearings. And in the House rules, the only  
6 reason that a hearing cannot be held is because of  
7 budgetary reasons. That would apply to all 21 standing  
8 committees. And I say to you that all the other  
9 committees are continuing to hold hearings.

10 So there are some people in this State  
11 that are extremely nervous about this particular issue.  
12 Extremely nervous. Which makes me ponder the question,  
13 why? What do they have to hide? We should let the  
14 truth out. I don't think that hurts anybody at any of  
15 these areas, and I've always been a strong advocate,  
16 whether I've been for or against an issue, to let  
17 people speak. Then they accused me of having personal  
18 interests, then they accused me of trying to stack  
19 these meetings, and anybody that knows anything at all  
20 about me in the 17 years that I've been in Harrisburg  
21 knows that I will let anybody speak on any topic at any  
22 time at any of the hearings that we've ever held. We  
23 have never, ever stifled anybody, ever. Whether I  
24 agree with them or not, they have a right to speak and  
25 be heard.

1                   With that as an overview, and the  
2 committee meeting that we did hold in Harrisburg was  
3 approved only because I agreed to have a joint hearing  
4 with the Youth and Aging Committee Chairman Kevin Blaum  
5 from Wilkes-Barre, and I think he's going to have to do  
6 some answering to his people up in Wilkes-Barre about  
7 his involvement in promoting a piece of legislation  
8 called 1001, which would greatly expand the powers of  
9 Children and Youth Services, greatly expand their  
10 powers and intrusion in the family lives and the  
11 reporting that goes on, which I think personally, my  
12 own opinion, editorial comment, is a travesty of  
13 justice. An absolute travesty of justice.

14                   We have only touched the tip of the  
15 iceberg with this issue. We have finally gotten enough  
16 media people to take an interest. There was something  
17 on CNN on Tuesday of this week which highlighted these  
18 very issues that we're dealing with. I think it was  
19 totally devastating because the Speaker of the House  
20 called me to the podium and said, Tom, you're  
21 absolutely right with what you're doing. There was  
22 something on 40 Minutes or something on CBS just two  
23 nights ago dealing with this issue. There was a  
24 documentary on channel 12, the public television  
25 network, about two months ago.

1                   So what are we talking about here? An  
2 issue that doesn't exist? I don't think so. For your  
3 information, by the way, House Bill 1001, prime  
4 sponsored by Kevin Blaum, did not have the benefit of  
5 any public hearings. None. None.

6                   I am very, very disturbed at what's going  
7 on with this issue and the people that are advocating  
8 fair play and checks and balances within the system. I  
9 am beginning to look at them as very suspect with their  
10 motivation. And I say that because I served on the  
11 House Appropriations Committee for a number of years,  
12 and in this particular area they are asking for an  
13 increase of \$67 million, the second largest increase in  
14 the State budget. And everybody else is scrambling for  
15 money to exist. And I've seen the phenomenal growth in  
16 these agencies from one end of the State to the other.  
17 No standards, no qualifications. None. And they  
18 answer to whom? And what accountability is there? I  
19 think this is what this issue is all about.

20                   Anyways, good morning. Child abuse is a  
21 very serious crime. The State must do everything in  
22 its power to protect children. The State also must do  
23 everything it can to guarantee that those who harm or  
24 threaten children face stiff penalties such as  
25 imprisonment. We must ensure the safety of our

1 children, who make up our future. However, our country  
2 is founded on individual rights and liberties. Due  
3 process of law stands as one of our most important  
4 rights. Our laws must protect those who cannot protect  
5 themselves, like children. We also must insure that  
6 our laws are not abused, that they are not used for the  
7 revenge or to do harm against the innocent.

8 We hold these hearings today on House  
9 Bill 826 and the legislation that would amend the  
10 Domestic Relations Code to add the offenses of unlawful  
11 persuasion and false reporting in relation to someone  
12 intentionally using a child to make a false report of  
13 child abuse. There are questions on whether such  
14 legislation is necessary. Last year the Judiciary  
15 Committee held hearings that closely examined the  
16 State's domestic relations laws and the problems  
17 affecting our Commonwealth's family court system, a  
18 problem that continues to go on, I might add. One  
19 topic that arose was the problem involved with our  
20 State's divorce and custody laws. Some testimony  
21 focussed on how parents fought over the custody of the  
22 children without thinking what was truly the best  
23 interest of their child.

24 We heard several cases in which one  
25 parent wanting to be vindictive and hurt the other by

1 falsely reporting child abuse, such a report would  
2 ensure that the other parent lost custody and all  
3 contact with his or her children. The State has no, no  
4 power to stop such false reporting. People falsely  
5 accused of child abuse face immediately losing their  
6 children and their lives without true due process of  
7 law. They face the financial and other burdens of  
8 having to defend themselves against charges without  
9 merit. They often are tagged as guilty as soon as such  
10 charges are launched. They can lose their jobs, their  
11 reputations, and their lives because someone decides to  
12 ruin them by falsely reporting them.

13 Children are also hurt and abused in such  
14 cases. They become pawns in a struggle and their  
15 feelings of love and devotion is often torn apart.  
16 Children and Youth Services in each county receive and  
17 investigate thousands of reports of child abuse yearly.  
18 Every report must be considered seriously and  
19 thoroughly examined. However, State child abuse  
20 investigators risk being overburdened with cases of  
21 false reporting. Many cases that investigators look  
22 into are found to be without merit or are obviously  
23 falsely made. Many children could be hurt if  
24 investigators must focus their time on cases that are  
25 false or without merit instead of the cases in which



1 child abuse is truly happening.

2 The State has laws and penalties against  
3 those who falsely report crimes such as rape, has laws  
4 against those who falsely report fire because such  
5 reports can put people at risk. Falsely reporting  
6 child abuse also can put our children at risk, can also  
7 tear apart relationships between parent and child.  
8 Again, we must insure that our children are protected.  
9 We also must insure that our laws and our children  
10 protective system is not abused. These hearings will  
11 hopefully show a true solution.

12 And with that, we'll start with the  
13 testifants. I know the Daley family is not here at the  
14 present time. And we'd like to hear from I guess it's  
15 Frank and Shelly. If you would please come forward,  
16 state your name, who you represent, and you can begin  
17 your testimony.

18 MR. KRANTZ: And may I interrupt? If  
19 anyone's here to testify, if you could let me know and  
20 I could take you off the list.

21 MS. YANOFF: Thank you, and good morning.  
22 My name is Shelly Yanoff, and I'm Executive Director of  
23 Philadelphia Citizens for Children and Youth, an  
24 advocacy organization for children of the city and  
25 hopefully the region and the State. I want to thank

1 you for coming to Philadelphia. Many times we go to  
2 Harrisburg a lot and we're always pleased to have the  
3 opportunity to present testimony here.

4 I'd just like to say a word about PCCY.  
5 We receive no governmental support. We are a private  
6 nonprofit, not one like those that were recently  
7 illustrated in the Philadelphia Inquirer but rather a  
8 small, understaffed one that tries hard to improve the  
9 quality of life for children. In the city there are  
10 about 35,000 children, 1 out of 11, who have had  
11 founded reports of abuse and neglect, who over the  
12 course of a year who are under the Children and Youth  
13 Agency.

14 We deplore, as do the sponsors and  
15 supporters of this bill, those instances in which  
16 allegations of child abuse are misused. When one  
17 party, particularly in a legal controversy a legal or  
18 personal controversy, is so determined to prevail or  
19 gain revenge by whatever tactic and that person raises  
20 fraudulent child abuse charges, it's an unspeakable  
21 travesty and a controversy already out of control. A  
22 tactic that is destructive to the parties but one that  
23 also deeply harms the child. There are, however,  
24 penalties in current law for such actions for perjury,  
25 for giving false unsworn testimony, for intimidation

1 and for slander.

2 From the point of view of Philadelphia  
3 Citizens for Children and Youth, one of the major  
4 problems in the area of child abuse and neglect is  
5 underreporting. Last year several children died in  
6 Philadelphia and neighbors were interviewed afterwards  
7 and said that they had seen it, they worried, but they  
8 were afraid to report. We have very serious concerns  
9 about the fall-out not at all meant in this bill, but  
10 the fall-out of another chilling effect on reporting.  
11 We are concerned that we believe in the great majority  
12 of cases it's difficult for a person to call and report  
13 child abuse, and that is what our experience tells us.  
14 All of us have received calls which begin very  
15 hesitantly, "I don't know if this is abuse or not,  
16 but....," and then the facts in many cases turn out to  
17 be child abuse.

18 Our concern here is not about those  
19 parties that because they want to prevail in custody or  
20 gain revenge, our concern is not about them at all. It  
21 is for those good faith people who need to be able to  
22 look out for their children and for the children of  
23 their community. Too much, it seems to us, has gone on  
24 in the last several decades that encourages people to  
25 only look out for themselves and not look out for the

1 well-being of others, particularly children. The  
2 protection of the rights of individuals cited in  
3 reports rests on the adequacy of how we investigate and  
4 follow up on those reports, rather than punishing the  
5 reporters. We insist that fairness and due process  
6 considerations guide the treatment of the person named  
7 in the report and that the investigations of such  
8 reports meet the highest standards.

9           Safeguards and procedures of the  
10 investigation process are necessary and are a  
11 legitimate area for attention. Proper and thorough  
12 procedures must be in place and they must be improved.  
13 The rights of the accused of course must be protected.  
14 But the rights of the children must also be protected.  
15 We are concerned about measures which may inhibit the  
16 reporting of child abuse or may lead to situations in  
17 which a victim or an observer of child abuse is  
18 discouraged from going forward. We have legions of  
19 reports of that in our office. Again, we don't report.  
20 People call us and we're not an investing agency,  
21 people call us and talk to us about this. We believe  
22 that this is an area in which there is adequate law  
23 already.

24           Thank you very much for this opportunity.  
25 I know it's very controversial, but we believe that

1 children will be harmed if there's a chilling effect on  
2 abuse and neglect reporting. Thank you.

3 MR. CERVONE: Good morning. My name is  
4 Frank Cervone. I'm the Executive Director of the  
5 Support Center for Child Advocates. The Support Center  
6 provides legal and social services to victims, child  
7 victims of abuse and neglect. We represent kids in two  
8 types of proceedings in Philadelphia County. First, in  
9 dependency court cases, child welfare cases. A civil  
10 proceeding where we serve as counsel and guardian ad  
11 litem. And secondly, in criminal cases, where that  
12 child is a victim and witness to a crime of child abuse  
13 as alleged and tried before a Court of Common Pleas.

14 We have been in the business of child  
15 advocacy formally for 17 years. We've served countless  
16 thousands of children. Typically, we serve about 500  
17 children a year, as well as I have personally  
18 representing victims of abuse in whose cases reports  
19 have been made in which those reports have been charged  
20 to be false and malicious. And so I've had much,  
21 unfortunately, personal experience with precisely the  
22 situation which your bill addresses.

23 It is my very strong opinion that the  
24 bill is inappropriately focused on a closing of the  
25 reporting opportunities for witnesses and potential

1 witnesses to crimes or allegations of abuse. I  
2 certainly recognize and have seen instances in which  
3 the system has been misused. I have seen far, far more  
4 cases in which the system of anonymity and the system  
5 of encouragement of reports of suspected abuse has  
6 worked to the advantage of children. Ours is a system  
7 which comes in a context of a world in which child  
8 abuse was not known. We often speak of the syndrome of  
9 abuse as being in the closet until 1964 or 65. The  
10 syndrome of intrafamilial abuse, particularly in  
11 certain ethnic groups, remains in the closet.  
12 Unfortunately, all too often.

13                   The legislative and regulatory scenario  
14 set up by the Pennsylvania legislature we think has its  
15 problems in terms of service delivery but is effective  
16 in terms of the encouragement of reporting of abuse  
17 with its appropriate--we think necessary--protections  
18 against malicious reporting. There are, as the Chair  
19 is well aware, there is law for the malicious use of  
20 process. There is tort law for defamation and  
21 otherwise for the unlawful use of process. There is a  
22 vehicle in most of these cases which lie in the  
23 domestic relations courts, namely that that evidence  
24 comes forward to the judge who makes decisions in the  
25 best interests of the child.

1                   And so as I've seen personally on  
2 occasion, the court makes note of what it finds to be  
3 the false or otherwise inappropriate reporting of an  
4 event. And that event and that reporting becomes part  
5 of the court's calculus in defining the best interests  
6 of the child. That's the way this information should  
7 be brought forward. What we would look to instead of  
8 the criminalization of false reporting is a commitment  
9 of services to children and families where a report is  
10 made. In a family in which a report has been made,  
11 that family is almost, by definition, in need of some  
12 form of treatment and intervention. There's attention  
13 going on in that family which caused that report to  
14 happen. I asked from the child's perspective, what's  
15 going on in that household that someone had to call in  
16 a case? That someone felt some need to call in a case?  
17 What's going on there? And the experience of that  
18 child and the experience of those adults.

19                   Another way that the Chair might ask the  
20 question, what do these parents want to happen to this  
21 child? The law as it's proposed, 826, would add to the  
22 numerous investigations events of testimony and  
23 intrusion in the life and experience of this child  
24 another round of investigation and examination and  
25 cross-examination in the presumed prosecution of the

1 false report. That extra hearing for the child will  
2 almost without doubt be traumatic and invasive. What  
3 we know is every event in a courtroom is unfortunate  
4 and potentially traumatic for the child. That the law  
5 gets at or attempts to get at persuasion is, for me,  
6 upsetting. There is no way to effectively get at that  
7 child's experience. It's hard enough getting at the  
8 event of abuse when it occurs.

9           What this law looks to do is to get  
10 inside that child's mind in perhaps every case. In a  
11 sense adds to the protocol of abuse investigation  
12 action protocol that asks, is this a malicious report?  
13 The protocol as it now stands looks to the child's  
14 experience. Is there evidence of abuse? Does the  
15 person making the report have reason to believe in  
16 their professional opinion that abuse has occurred?  
17 That's the appropriate scope and focus of the question.  
18 What did this child experience, and you heard over and  
19 over again, I'm told, in yesterday's hearings,  
20 certainly this morning you will continue to hear that  
21 law suits and prosecutions such as are envisioned by  
22 House Bill 826 will chill reports and will be  
23 vexatious. They are not going to limit the number of  
24 experience of children in the system, they're going to  
25 increase the number of intrusions in the life of this



1 child and family.

2 I can tell you, Mr. Chairman, that  
3 reporters, required reporters, nonrequired reporters  
4 who have questions call us every week. I talk to them  
5 constantly. One of the functions, the informal  
6 functions of our agency, is to provide a community  
7 service resource to folks who are sorting through the  
8 experience which they've had. They see a set of  
9 events, they talk to a child, they want to know, is  
10 this something I should report? They are hesitant even  
11 in the clear cases. They're confused about whether to  
12 intrude in the life of this child. They struggle.  
13 They struggle at every call. And I'm not talking about  
14 what I think is the rare spouse or partner in a  
15 domestic situation who is trying to add to his or her  
16 case in the custody proceeding or is trying to do  
17 damage to their partner or ex-partner. Those will  
18 always be a part of the domestic relations context in a  
19 world in which there is divorce and child abuse and  
20 emotional decay. I'm talking about the vast majority  
21 of reports which are made by professionals. And it is  
22 that system which needs the protection of good faith  
23 reporting and of a free and open, in a sense, economy  
24 for the reporting of cases.

25 I suggest to you lastly that you

1 suggested at the outset that there is a truth here to  
2 be heard. It is our experience that the truth lies in  
3 the reality, the unfortunate reality of child abuse in  
4 our community and in our culture. We have to have a  
5 way to get at that truth. We've spent the last 30  
6 years prying open the closed doors which have kept  
7 child abuse a secret. I have heard countless children  
8 recount in court and in personal interviews horrible  
9 scenes with the persons who they thought loved them.  
10 We need a way to get at those truths. And that is, in  
11 fact, the truth of the experience of a child. That  
12 their trust was violated. It's that trust that this  
13 law will invade once again in I think a most troubling  
14 way.

15 We would urge you to withdraw your  
16 support for this bill, to turn what is undoubtedly your  
17 good faith commitment to the needs of children and  
18 families to the venue of service deliveries, to the  
19 venue of appropriate vehicles for reporting, to the  
20 venue of staffing so that abuse investigators are not  
21 overwhelmed, that they do not get shortshrift, so they  
22 do not take days or weeks to call people back. We ask  
23 you to turn your attention and your emotion and your  
24 legislative authority to that experience.

25 Thank you.

1                   CHAIRMAN CALTAGIRONE: Thank you. And  
2 since this is the city of freedom and liberty, let me  
3 ask you some questions now.

4                   MR. CERVONE: Please.

5                   CHAIRMAN CALTAGIRONE: Because I would  
6 like to share with you, contrary to your emotion and  
7 sensitivity, and only because you're working in an area  
8 where you're paid to do what you're doing and this is  
9 your advocacy, I understand that, I appreciate that.  
10 But I 100 percent, and I get very close to issues. I'm  
11 handling or will be handling a potential impeachment of  
12 a Supreme Court Justice, possibly the Attorney General.  
13 I get very close to those issues too. I'm very  
14 sensitive. Believe me, anything that I get close to I  
15 guess maybe I get too close to it, I get a little  
16 sensitive about issues, but when I see people's rights  
17 trampled upon, I get very emotional about that because  
18 that's not what we are all about as a people.

19                   MR. CERVONE: As do I.

20                   CHAIRMAN CALTAGIRONE: Okay, now let me  
21 share with you, I have literally been flooded with  
22 calls, letters. I'd like for you to come to my office  
23 in Harrisburg and I'll share with you just some of the  
24 stuff that we've gotten in. People are afraid to come  
25 forward. I've heard from attorneys, judges--privately,

1 not publicly, privately--about these issues of false  
2 reporting. The buzzword, and you used it here, as they  
3 used it in Pittsburgh, as they used it in Harrisburg,  
4 "chilling effect." Good buzzword. "Chilling effect."

5           You know what we also heard though, too,  
6 even from some of the agency people, and they  
7 absolutely agreed, what standards are there for these  
8 employees of Children and Youth Services around the  
9 State? There are no standards. There are no basic  
10 qualifications. They vary from county to county.  
11 There is absolutely no State standard. No licensing.  
12 No continuing education. I understand this costs money  
13 to do these things. What I would suggest, in my humble  
14 opinion, is cut their staffs in half and double their  
15 salaries of those that remain so they can do an  
16 effective job and really do what they're being paid to  
17 do, not double, triple, and quadruple the staffs, as  
18 they have been doing in the last several years in  
19 several of the counties around our State. I've been  
20 looking at those figures and I think to myself, this is  
21 strange, this phenomena. What's going on here?

22           I agree with you, where there is abuse,  
23 it has to be addressed. But I also am very troubled by  
24 the fact, and this comes from the agency people, and  
25 this was testified to in Harrisburg, which we're having

1 the transcript transcribed by our stenographer, 60, 70,  
2 even 80 percent in counties unfounded. That's  
3 troubling, because what that begins to show is a  
4 pattern of people calling in reports. And you're  
5 saying, well, we want more reports. We want more  
6 people calling in and reporting as much as they can.  
7 One of the people from the Department of Welfare  
8 testified about his life experiences as a father, as a  
9 divorced husband. His involvement in various areas of  
10 life, which is interesting, but in many cases the  
11 transitional workload of people in Children and Youth  
12 Services, it's like a turnstile. They don't stay, in  
13 most cases. They come, they go, they come. They're  
14 probably some of the lowest paid staffs in county  
15 government across the State. They don't have anything  
16 holding them to make a career out of that. And there's  
17 burn-out, as there is in many jobs.

18 We heard cases yesterday, and we'll hear  
19 some today I'm sure, you won't be able to stay I know,  
20 but there are people here that I'm sure are going to be  
21 testifying not only in divorce and custody cases. See,  
22 this is where it's troubling, because we had people  
23 testify that were falsely accused in Harrisburg  
24 yesterday and in Pittsburgh and we could have swamped  
25 any one of these hearings with a thousand people,

1 believe me, with a thousand different cases, at any one  
2 of these hearings. We're just on the tip of the  
3 iceberg. I know that it's difficult for people within  
4 the business to appreciate what we've been hearing.  
5 Neighbors--

6 MR. CERVONE: If I may.

7 CHAIRMAN CALTAGIRONE: --neighbors  
8 falsely calling in reports.

9 MR. CERVONE: You've raised a number of  
10 points. We would be glad to address some.

11 CHAIRMAN CALTAGIRONE: Okay. I just want  
12 you to think about these issues, because it's very,  
13 very troubling that people say there is absolutely no  
14 need for this legislation, we need to broaden the  
15 legislation like 1001 to give more reporters and more  
16 fodder and give us more money and more people, and I'm  
17 thinking to myself, wait a minute here, what about the  
18 rights of those that have been accused? We've had  
19 teachers, yet yesterday it was testified under oath and  
20 it had to go through the entire court process, and  
21 you're saying, well, when somebody comes into the  
22 system, you have an ad litem attorney appointed, you  
23 have counseling services, you have all these reams of  
24 people that are provided by the agency. The person  
25 that is being accused, though, has to spend his or her

1 own money defending themselves. They have to retain an  
2 attorney, in most cases, retain an attorney and go  
3 through the process of fighting the system. Everything  
4 that they do it costs them money. And in addition to  
5 that, they are billed by the agency for many things  
6 that are incurred not of their making but of the  
7 agency's making if they're forced to go to family  
8 guidance counseling, treatment, whatever. That family  
9 then incurs those additional expenses.

10 Now, how do you make somebody whole that  
11 has been falsely accused or falsely charged? And if it  
12 is true that there are so many unfounded, you know,  
13 then does that mean that there's evidence of a lot of  
14 malicious reporting or just, you know, how does that  
15 translate into what we're talking about here today?  
16 I'm interested in the safeguards. You're saying, well,  
17 this bill is not needed. It's not my bill, it's  
18 Representative Jerry Birmelin's bill from Wayne County.  
19 It's his bill. I don't even believe I'm a cosponsor on  
20 the bill, as I recall.

21 MR. KRANTZ: No.

22 CHAIRMAN CALTAGIRONE: I don't think I  
23 am. But I'm for justice. I'm for justice. And I  
24 don't think people should be a doormat for any agency,  
25 for any area of government. I personally think that

1 government sticks its nose in too many areas where it  
2 doesn't belong now and what they're wrestling with in  
3 Washington and what we'll be wrestling with in  
4 Harrisburg, which will impact on this issue, do we  
5 increase taxes and where do those taxes go then to fund  
6 agencies like this to get more power to do more of what  
7 they're doing? And if we're serious about shrinking  
8 government and shrinking our costs to the taxpayers,  
9 then we've got to cut taxes, we've got to cut spending.

10 And I'd like to start in this particular  
11 area. Be my guest.

12 MS. YANOFF: Representative, if we could  
13 possibly share this, you've said many things. The  
14 first is that if I were a legislator and I saw a county  
15 was running 80 percent unfunded, I would hold a  
16 hearing on that county right away. I don't think that  
17 either of us would support that. Nationally, reports  
18 come in generally they range around 40 percent, between  
19 40 and 50 percent funded. That has been the  
20 experience in Philadelphia, which is currently  
21 approximately 46 percent.

22 We would support, I believe I will speak  
23 for my colleague, we would certainly support more  
24 training and certification. Absolutely that is  
25 something that we have argued for, more training and



1 more certification of workers. We don't see how we can  
2 double the salaries and cut the workers if we still are  
3 supposed to have a decent workload so that in fact  
4 those kids can get some care. Those kids that are  
5 legitimately in the system. So in terms of that, we're  
6 not sure how you can do that unless you're really  
7 willing to both double the salaries and in fact keep  
8 the staff, and I don't think that that's where you're  
9 coming from, right?

10 CHAIRMAN CALTAGIRONE: Oh, no. Cut the  
11 staffs in half.

12 MS. YANOFF: Well, I don't think you can  
13 do that and do 1 to 20 or 1 to 25 or 1 to 30, whichever  
14 the standard says is too high, but, I mean, the reality  
15 is that we can't see how you can do that. I think that  
16 this is a very painful issue and there are many --  
17 there's much suffering about it. In this city the  
18 school district does not report cases to DHS generally,  
19 because they feel they're too swamped. The child has  
20 to be so desperate. We think that that's so bad for  
21 the child, that if you see a child coming to school  
22 every day that it looks -- that is hungry and  
23 ill-clothed, that that doesn't get reported here.

24 So I'm saying to you that what we don't  
25 see is a problem of overreporting here. Where there is

1 that 80 percent, I think those hearings need to go on.  
2 Absolutely. I think where you've got social workers  
3 who are not trained, I think that has to be a public  
4 policy change.

5 CHAIRMAN CALTAGIRONE: Well, I'm  
6 suggesting--

7 MS. YANOFF: And I want to say that I'm  
8 not part of the system. We are an advocacy  
9 organization.

10 CHAIRMAN CALTAGIRONE: No, no, I  
11 understand that.

12 MS. YANOFF: Much like Children's Defense  
13 Fund.

14 CHAIRMAN CALTAGIRONE: But who advocates  
15 for the parents and those who have been abused by the  
16 system? You know, this was pointed out in Harrisburg.  
17 You have the victims' rights groups, the crime victims  
18 groups, the rape victims groups. You have all of these  
19 different advocates, okay? And you do. And all the  
20 different children groups or the Children and Youth. I  
21 mean, they've got full-time lobbyists in Harrisburg and  
22 Washington advocating for more money for these  
23 agencies.

24 MS. YANOFF: But you're saying--

25 CHAIRMAN CALTAGIRONE: And these are

1 people that have attacked and besmirched, and the  
2 people that have gone through it that have been  
3 testifying before us are saying there's something  
4 wrong. And I'm saying, wait a minute, who is  
5 advocating for them? They don't have paid, full-time  
6 lobbyists like the counties send up to Harrisburg  
7 asking for more and more money and they get legislation  
8 put in then so that we would qualify for these changes  
9 so that they would qualify for these changes that  
10 they're talking about in 1001 to give them more  
11 authority, more money.

12 And we keep saying, you know, when is it  
13 going to stop? I mean, the intrusion into the family's  
14 lives, and this is a family issue, are we all about as  
15 a country and a people for allowing government to  
16 continue to intervene in the family and do we want more  
17 of it or do we want less of it? And these are policy  
18 decisions that at some point are going to have to be  
19 made, and who is going to be held accountable? Because  
20 we are all taxpayers, we are all citizens. Not only of  
21 this Commonwealth but of the country. And is it right  
22 for government to be getting into all these different  
23 areas?

24 Now you're saying from your point of view  
25 and your perspective, yes, we need to do more of it,

1 there's a lot of abuse out there, there's a there's a  
2 lot of abuse out there, we've got to help more of these  
3 children, there's a lot of horrendous things. These  
4 are public policy issues that have to be debated fully  
5 and aired publicly, but you have to show both sides of  
6 the issue. You know, with everything that we do, it  
7 costs us in our freedoms and in our taxes. And this is  
8 what the raging debate is going to continue to be about  
9 both in Washington and in Harrisburg with these budgets  
10 that we're going to be dealing with, because it costs  
11 us money, in addition to rights. Now, how do you  
12 balance these things? And please, I say this in all  
13 honesty, these are difficult, difficult issues. I know  
14 there are no easy solutions to them. But you've got to  
15 understand where these other people are coming from.  
16 And, you know, I know they are chomping the bit to  
17 testify here today.

18                   And I'm going to tell you the other part  
19 of this too that's really scary, and I think as a  
20 counselor you can appreciate this, how many people were  
21 intimidated about not showing up that we lost  
22 yesterday? I mean intimidated.

23                   MR. KRANTZ: We had a total of 13 percent  
24 that canceled out due to the fact of I call it  
25 intimidation either from courts. Someone today

1 canceled out due to the fact that their district  
2 attorney advised them not to testify as it would affect  
3 their case. This I find horrendous. The Attorney  
4 General's Office wrote to the Children's Hospital of  
5 Philadelphia and the Children's Hospital of Pittsburgh  
6 to go against the bill. Why? Why is the Attorney  
7 General fighting the legislature? Who knows.

8 MR. CERVONE: Well, we know. We know. I  
9 can tell you, we know.

10 CHAIRMAN CALTAGIRONE: People are afraid  
11 to come here today. We had some that canceled out  
12 because of retaliation from the agency people that  
13 they're dealing with. Now, don't you think that that's  
14 horrendous?

15 MR. CERVONE: What I think is horrendous,  
16 Mr. Chairman, with all due respect, what I think is  
17 horrendous is the child who tells me a story at age 5,  
18 describing an incident with her father where the  
19 details of that story could not possibly have been  
20 known to that child but for having lived it. What I  
21 think is horrendous are my three clients who all were  
22 tested positive to venereal disease of the throat.  
23 Their father was the alleged perpetrator.

24 CHAIRMAN CALTAGIRONE: They should be  
25 prosecuted. I have no problem with that.

1 MR. CERVONE: What I find horrendous is a  
2 system that would suggest, and those three children,  
3 those three children have never been able to tell.  
4 Were we not to have, and that is not a case in which  
5 reporting per se a malicious reporting was ever an  
6 issue, but were we to have a system in which we could  
7 not find out about those cases, we would be terribly  
8 unbalanced, terribly unbalanced against the needs of  
9 children, fathers, and mothers. The

10 Attorney General, from what I can imagine  
11 is their position, Children's Hospital, from what I  
12 know to be their position, the other witnesses who have  
13 come forward in opposition to this bill speak against  
14 this bill, as do we, because it's the wrong response to  
15 what may be a problem.

16 CHAIRMAN CALTAGIRONE: You know it's a  
17 problem and I know it's a problem.

18 MR. CERVONE: I have met alleged child  
19 abusers who I have come away from the conversation  
20 saying they probably didn't do it. I have met alleged  
21 child abusers who have told me clearly, vehemently,  
22 with all the emotion that a witness could ever muster,  
23 that they didn't do it, that they were falsely accused.  
24 And I know otherwise, because I heard the other  
25 witnesses. In these cases, in all of these cases, we

1 can't go back. Either the very rare prosecutorial case  
2 in which we have a videotape, as is the case in a  
3 recent Philadelphia case--

4 CHAIRMAN CALTAGIRONE: That was one of  
5 the points. The videotaping, this was pointed out by--

6 MR. CERVONE: I don't mean a videotape  
7 testimony, I mean a videotape of the events.

8 CHAIRMAN CALTAGIRONE: All right.

9 MR. CERVONE: Because what we're really  
10 talking about, it's most important to understand that  
11 what we're talking about when we get at "the truth" is  
12 what happened between that, if anything, between that  
13 child and the alleged perpetrator, and what we can't  
14 get at we can't get back in time. So we're left to our  
15 other devices.

16 CHAIRMAN CALTAGIRONE: Well, let me say  
17 this: You know as well as I do that in a court of law  
18 you have the right to face your accuser. It is not  
19 true in this instance. You know there's different  
20 standards, different formats for the protection of the  
21 child, supposedly.

22 MR. CERVONE: The Child Protective  
23 Service Law sets up a different mechanism. And you  
24 really need to address the CPSL in the context of the  
25 overall scheme of investigation of reports,

1 investigation, inquiry, and prosecution or discharge.

2 CHAIRMAN CALTAGIRONE: Why don't they do  
3 a videotaping at the time that the caseworker is doing  
4 the interview with the child, and this was mentioned by  
5 several attorneys yesterday, so that that can be  
6 referred back to and you would have some evidence,  
7 because you had no real evidence.

8 MR. CERVONE: I would suggest to you that  
9 that's a topic that one should study very carefully  
10 with research, examination of the jurisdiction which  
11 has been used in a very, in a fair forum that is really  
12 an informed forum. That is like so many other of the  
13 of the issues that I know you have in mind that you've  
14 voiced. These are issues that are certainly beyond  
15 826.

16 CHAIRMAN CALTAGIRONE: But we could amend  
17 826 to do anything and everything we want it to do.

18 MR. CERVONE: I don't think it's a good  
19 bill, I don't think it's a good vehicle for that. I'm  
20 not sure it's--

21 MS. YANOFF: Actually, we have not taken  
22 a position reporting 1001.

23 CHAIRMAN CALTAGIRONE: Well, the State  
24 organization has.

25 MS. YANOFF: But we're not -- we actually



1 are not and we don't rubber stamp.

2 CHAIRMAN CALTAGIRONE: Well, then why  
3 don't they hold public hearings? I would suggest that  
4 you take this back to your group and groups statewide  
5 and ask them to do what I'm doing and hold some public  
6 hearings on that bill that the chairman refused to do.  
7 I don't understand what's wrong with holding public  
8 hearings like I'm doing. I've been slated by people in  
9 Harrisburg in Children and Youth Services because I  
10 wanted to oblige my committee. I just wanted to vote  
11 the bill out, debate it on the floor of the House like  
12 we did in the last session, you know. Some of the  
13 members wanted to have public hearings. Okay. We  
14 voted. So I--

15 MR. CERVONE: I would suggest to you the  
16 folks that are afraid to come forward on 826 are as  
17 many of those who fear reprisal from reporting as they  
18 might be as you and your staff suggest the fear of  
19 reprisal for the disclosure of the problems with the  
20 system.

21 CHAIRMAN CALTAGIRONE: Absolutely.

22 MS. YANOFF: I just want to say just that  
23 neither of us are associated with or are a part of a  
24 larger State association. We both are independent,  
25 representing independent nonprofits. We -- I wanted to

1 just urge that the State continue to err on the side of  
2 protecting the child, that in the *parens patriae*  
3 historic responsibility, we have to provide more  
4 protection for those who are not adults than it has and  
5 for those who are weaker than for those who are  
6 stronger and adults. And the analogy to rape victims  
7 is not appropriate. I'm sorry, the analogy is to  
8 accused rapists, not -- the child is the victim in  
9 abuse.

10 CHAIRMAN CALTAGIRONE: I never said  
11 anything different from my opening remarks that we have  
12 got to do everything humanly possible and those who  
13 have committed those violent type crimes against  
14 children should be thoroughly prosecuted. I have never  
15 deviated from that. What I am saying to you is that  
16 when it's being used as a weapon in an arsenal with  
17 attorneys in divorce and custody, and Counselor, you  
18 know it as well as I that they do in fact advise  
19 clients to use these weapons as tools of destruction in  
20 contested divorce and custody cases. Wrong as it may  
21 be, it is a weapon to be used in the arsenal and it is  
22 certainly used. It is not right. It's not right, but  
23 it's done. Now, that's wrong and I think we all would  
24 agree that that's wrong.

25 How do we make someone whole? In cases

1 that we've already heard in Pittsburgh and Harrisburg,  
2 cases that we're going to hear today of people that  
3 were falsely accused, and we're so concerned about the  
4 rights of children. What about the rights of the  
5 people that have been falsely accused? How do you make  
6 them whole? How does society deal with that? How do  
7 you put together a family that has been destroyed? How  
8 do you give them the financial well-being that  
9 somebody's lost their job, their reputation? Their  
10 lives have been physically, emotionally, mentally  
11 forever torn apart because somebody somewhere wanted to  
12 do them harm. We heard this over and over again, and  
13 I'm thinking to myself, it's wrong. And I know what  
14 you're saying, we've got to protect the children, we've  
15 got to protect the children. What about the people  
16 that are being falsely accused? How do we protect  
17 them?

18 MR. CERVONE: I'm a parent, Shelly's a  
19 parent. I don't know if you are.

20 CHAIRMAN CALTAGIRONE: Yes. I am a  
21 parent.

22 MR. CERVONE: I prefer a system, I prefer  
23 a system in which my child has the protection which the  
24 current system affords. If there were an opportunity  
25 somehow for a person who's been wrongly accused to step

1 back from that accusation and say how can we do this,  
2 how can we allow these reports to come forward because  
3 I need my child protected. We consider it a kind of  
4 necessary fault of the system to the extent that you  
5 would find it that we promote reporting. And that we  
6 sort them out judiciously, cautiously, professionally,  
7 and thoroughly. That's the investigative scheme of the  
8 CPSL. That's the mind of the law. And it seems to me  
9 that's the mind of the parent who has ultimately the  
10 child's interests. The parent who says, I don't care  
11 what it takes, even if I'm going to be jailed, I don't  
12 care what it takes for my child to be cared for. Now,  
13 I know that's difficult for somebody to--

14 I think I've said enough.

15 AUDIENCE: Too much.

16 CHAIRMAN CALTAGIRONE: Please, please.

17 MR. CERVONE: We appreciate the  
18 opportunity to testify and to answer your questions.

19 CHAIRMAN CALTAGIRONE: I appreciate your  
20 testimony. I really do. I think one of the things  
21 that we can all agree upon, whether you're in favor or  
22 opposed to any legislation, and I've dealt with more  
23 volatile issues than this over the prochoice, prolife  
24 issues, product liability, just to name a few, tort  
25 reform, court reform, impeachments that will end up

1 with my committee, I get the whole gamut and it's not  
2 easy. And none of these jobs are easy or these  
3 decisions. I do appreciate your testimony and if you  
4 do have any suggestions or there are some things that I  
5 think we do have questions on and it's developing  
6 standards, qualifications, ongoing education. I think  
7 that is at the very least I think should be an area  
8 that we can work with.

9 MS. YANOFF: Absolutely.

10 MR. CERVONE: Thank you.

11 CHAIRMAN CALTAGIRONE: Thank you very  
12 much for testifying.

13 Rama Kaira.

14 AUDIENCE: I would encourage you to stay.  
15 This is your work. If you're truly concerned about  
16 children, get a broader perspective.

17 MR. CERVONE: I assure you, I've heard  
18 it.

19 CHAIRMAN CALTAGIRONE: Rama. We'll  
20 continue with the hearing, and if you have written  
21 statements that you'd like to share with us, I assure  
22 you we will make duplicate copies of everything that we  
23 have and when this is transcribed we'll make sure that  
24 members of the committee have it for their own  
25 edification.

1                   While Rama is getting his material set  
2 and getting set up, let me just say to those of us that  
3 are here today, and I don't know, I guess it's the  
4 first time I'm meeting almost all of you except for the  
5 one I personal I met yesterday in Harrisburg, I have no  
6 particular axe to grind with this legislation, but it  
7 bothers me that people can so glibly talk about our  
8 rights and take them so glibly. I don't hold it that  
9 way. I'm not a civil libertarian. I have my own  
10 agenda about various issues, but it sure as hell  
11 reminds me of Nazi Germany with Hitler and imposing his  
12 will on the people. And if anybody can't see that from  
13 the testimony that we're getting and what we're hearing  
14 from one end of the State to the other, then they're  
15 blind, deaf and dumb.

16                   (Applause.)

17                   CHAIRMAN CALTAGIRONE: I mean, I am sick  
18 and tired of hearing the nonsense that there's no  
19 problems, there's no problems, there's no problems. I  
20 clearly told them that in Harrisburg and Pittsburgh  
21 that if they would like to see a demonstration of the  
22 numbers of people that have been abused, maybe that's  
23 what it's going to take to open people's eyes as to how  
24 much false reporting is really going on and how the  
25 system is really being abused. And we need to educate

1 those people in Harrisburg, different legislators, that  
2 have the mind that it is not going on and everything is  
3 fine and we need to give them more authority and more  
4 money.

5 But Rama, go ahead.

6 MR. KAIRA: My name is Rama Kaira. I'm a  
7 first generation immigrant and by profession I'm an  
8 engineer. I work for a large corporation in this area.

9 I am an excellent example of an American  
10 dream realized and lost to an American tragedy in my  
11 short time that I've been in this country. I have been  
12 falsely accused of sexual abuse of my daughters, and  
13 that was in the context of a custody hearing. And I  
14 was expecting that because I was recommended for  
15 custody of my daughters. I have been taking care of my  
16 daughters for about a year until that time. Also, my  
17 ex's attorney had given a real threat to my attorney  
18 citing this kind of technique in a previous case that  
19 he had used to send kids to a mental hospital for the  
20 weekend and prepare them for a rehearsed testimony, and  
21 that's how he had won the custody of those kids.

22 Even though I was expecting that, my  
23 custody hearing was set for December 14, and that was  
24 Monday. On December 11, I get this call from Children  
25 and Youth Services, and that was Friday, about 3:00

1 p.m. That's when I got the chilling effect. That was  
2 the chilling effect. Look how I'm recommended for  
3 custody of my two daughters and look at the timing of  
4 this situation. On Friday afternoon, when I won't be  
5 able to do anything over the weekend, I get this call.  
6 I demanded the caller that I be given a lie detector  
7 test so we get to the matter of truth in this case.  
8 She finally talked to her supervisor and she got her  
9 supervisor to agree to see us the same evening. And  
10 after all those people, I used to have a very bad  
11 impression of Children and Youth Services. There are  
12 some good people in Children and Youth Services. This  
13 lady went out of her way to see us that same evening.  
14 And we went there, we talked to her, we explained how  
15 the situation. I had transcripts from an earlier  
16 hearing in which the custody evaluator had testified  
17 that my ex had abused the kids. So that was a  
18 documented proof that she was the one who was a child  
19 abuser and not me. I was only being framed in this  
20 case.

21 *She determined the charges were unfounded*  
22 *and she promised me to give me an unfounded letter for*  
23 *Monday morning's court hearing. And then also she*  
24 *suggested as a cautionary measure that I take these*  
25 *girls to some doctor and have them examined, even*



1       though she was very much satisfied but for my  
2       protection she had suggested that.

3                 From that point on my nightmare began,  
4       sir. Right from that office I went to a Montgomery  
5       Memorial Hospital in Norristown to have these children  
6       examined. Nobody wanted to touch them. All of that  
7       weekend I took these girls from doctor to doctor, and I  
8       didn't want these girls to be examined by a male  
9       doctor, I wanted these girls to be examined by a female  
10      doctor so the trauma is minimized. As it is they were  
11      going through a trauma and then I didn't want them to  
12      be examined by a male doctor. I called all the  
13      hospitals in this area, all the doctors, nobody wanted  
14      to touch those girls. Maybe it was for better in their  
15      prospect that they were spared of even that trauma.

16                Monday morning I went to CYS office to  
17      get that letter. Even though she had assured me that,  
18      I had this lingering doubt in my mind that there may be  
19      a problem, there may be a problem, and until I had that  
20      letter in my hand I was praying and praying for my  
21      daughters. That's all I did. Finally, and  
22      fortunately, I had a letter before the custody hearing.

23                I reached the custody hearing Monday  
24      morning, I gave the letter to my attorney, and at that  
25      time my attorney took the letter to the judge's office.

1 To cut this story short, sir, in this case I was given  
2 the custody of my daughters, I still have custody of my  
3 daughters. But if I had not met with this lady who was  
4 so genuine and so right in CYS, it was a matter of  
5 luck, that's all there was to it, I could not have the  
6 custody of those daughters. And I didn't want to let  
7 custody of my daughters to court. I was asking the  
8 court to give those children to more responsible person  
9 who can take better care of those kids. I didn't win  
10 anything by getting custody. It's more responsibility  
11 for me. I am to work harder for that. But I was found  
12 to be more responsible parent. In fact, the judge had  
13 written in his opinion that Mr. Kaira has effective  
14 parenting skills and the children have thrived and  
15 prospered under the present arrangement. The decision  
16 came in the middle of January 1993, because at the  
17 hearing we did not get the decision. We got the  
18 decision afterwards, and the saga continues.

19 Since that time, during this year, I've  
20 been accused of abuse because the calls have either  
21 been made to police or to CYS about five or six times  
22 in four months. She does not want to quit because the  
23 system helps her. The system plays into her hands.  
24 And it plays into some men's hands, too. It's not that  
25 I'm here putting my ex-wife down or putting ladies down

1 or putting families down. I'm here for the children,  
2 not for fathers or not for males or against females.  
3 I'm here for the children. My children have gotten  
4 hurt. Many other children have gotten hurt by this  
5 system. And I'll show how the system is flawed. My  
6 data is only gotten from the 1992 child abuse report  
7 and I can show the system is seriously flawed.

8 Now comes the part of the malicious  
9 reporting, sir. My ex had gotten in touch with one of  
10 the neighbors with whom I have little disagreement over  
11 certain issues but I can't pick a fight with her or  
12 anything. We just disagreed on certain things. So my  
13 ex sensed that and she befriended one of my neighbors.  
14 Now she wants to come pick up the girls and drop them  
15 back. She has no business befriending my neighbors  
16 other than to try to defame me, and that's exactly what  
17 she has done. So she got this lady from my  
18 neighborhood to call the police and again making  
19 accusations of abuse. And this lady wrote me a letter  
20 after I found out about it and I didn't want to  
21 challenge her or anything, she still wrote me a letter,  
22 sir, and I have all this material with me and I would  
23 like to give you copies of all that, sir. Part of this  
24 letter says, and it's really malicious: "I have watched  
25 so many nationalities such as yours come to this

1 country and immigrating as you, you are of white race  
2 and become instantly racist against blacks. You are no  
3 better than I am."

4 These statements clearly show that this  
5 person is malicious. She has some sort of inferiority  
6 complex from me or from somebody. This person has  
7 problems, and in order to get back at me, she made  
8 these accusations. There are a lot of malicious  
9 accusations and I have proof of that.

10 Now, the subsequent conference with CYS  
11 are not pleasant, not like the first one. In fact, I  
12 talked to one lady at CYS and immediately she asked me,  
13 how could you have custody of your children? Who gave  
14 you custody of your children? I want to talk to your  
15 attorney. I was terrified by this, saying, wait a  
16 minute, some of these people have hidden agendas about  
17 fathers having custody of their children. What is  
18 going on? This place is infiltrated by feminists who  
19 have hidden agendas. Instead of these people being  
20 only concerned about the welfare of the child, they are  
21 concerned about how come fathers have custody of their  
22 children?

23 Now, this whole thing has devastated my  
24 life. I used to think I have nerves of steel until I  
25 got this atom bomb. That's how it is known in the

1 circles by attorneys and social workers. Now, we all  
2 know atom bombs can evaporate steel, and that's exactly  
3 what happened to me.

4 While some of the police reports that I  
5 got from the police department, after — they would not  
6 give me police reports. If I'm accused of something, I  
7 should be entitled to those police reports. They  
8 wouldn't give them to me. Even now there are some  
9 police reports, they wouldn't give them to me. They  
10 said that you have to go get subpoenas. I took  
11 subpoenas there and they still won't give me all the  
12 reports. I don't have the right to find out what I'm  
13 accused of. That's a shame. That's an absolute shame.  
14 But I got one of the reports, which was written as a  
15 result of this accusation, and this report sets, and  
16 this is written by a detective, Angie, my older  
17 daughter's name, she's 11, and the report says, "Angie  
18 appears to be brainwashed, almost to the point of being  
19 programmed to hate her father." Ever since the final  
20 decision came, sir, my ex has started working upon  
21 those girls, absolutely. Horribly. If I continue the  
22 report, sir, again. "At one point Angie stated that no  
23 one should have a dad, and that when she gets married  
24 she is not inviting her dad to the wedding. After she  
25 gets married she's getting a divorce," unquote. That's

1 what the detective's report says. I have a copy of  
2 that. I'll give you that too, sir.

3 Now, I have some material here, sir, some  
4 papers that let me get these papers here because I'll  
5 be reading from some of these papers, the very last  
6 one. It turns out that the agencies that are chartered  
7 to take care of children, they are destroying the  
8 children. Let me quote something from one of those  
9 reports. "A court appointed panel of 13 experts  
10 reviewed the entire Illinois child welfare system." I  
11 don't — there was no study made like that for  
12 Pennsylvania are, sir.

13 CHAIRMAN CALTAGIRONE: I've asked for  
14 one. Yesterday.

15 MR. KAIRA: It's number one, sir, on the  
16 page. "A court appointed panel of 13 experts reviewed  
17 the entire Illinois child welfare system and their  
18 handling of the 23,000 children in custody. The report  
19 establishes that the agency charged with preventing  
20 child abuse and neglect is itself abusing and  
21 neglecting thousands of children." Are we that far  
22 from Illinois? Just because we have this agency in  
23 Pennsylvania it would be perfect and it's not nothing  
24 to do? It may not be like the agency in Illinois? I  
25 don't think so. We've got some of the same

1 shortcomings right here. And if you read some of the  
2 other things from the paper that is there, the alleged  
3 child victims and real victims of sexual misuse. Now  
4 I'm going to quote, "If adults make a mistake and treat  
5 nonabused children as if they had been abused, it is  
6 not benign." Smith 1992, and their references are at  
7 the back. A psychotherapist describes a letter brought  
8 to him on the fourth visit by Stephanie, a 17-year-old  
9 psychotherapy client. And here the letter goes: "I am  
10 so miserable, Dr. Smith, I need your help now. As you  
11 know, I have told you how my mother and I just don't  
12 like each other. We fight and argue all the time, but  
13 I have never told you why. When I was little, 6 I  
14 think, I dearly loved my dad. I think he and I were  
15 very close and did many things together. I know my mom  
16 and dad didn't get along but somehow things were all  
17 right between me and my parents. Then one day my  
18 mother told me my father was very sick and needed to go  
19 to a doctor to get well. She told me I would have to  
20 say that my dad had hurt me by touching me in places  
21 that were nasty. She said if I would say this, dad  
22 would have treatment and get better and be a nicer dad  
23 to me and bring me more presents. My mother rehearsed  
24 me that that was what I was to say and then took me to  
25 a doctor in another city and practiced with me again

1 what I was to say and I said what she told me to say.  
2 Later my mom said that dad had to go to hospital to get  
3 the help he needed, but when I was 12 I found out he  
4 was in prison because he had molested me. Once I got  
5 to see dad in prison he told me he had written me many  
6 times, but Dr. Smith, I never received any of those  
7 letters. I think mom burned them. Later mom told me  
8 that dad was living in another State. Just last night  
9 my mom and I got in a big fight and she told me dad had  
10 committed suicide. I feel so bad I am to blame because  
11 I lied for my mom. I hate her, I hate myself, I can't  
12 stand myself, I can't wait to leave home when I get  
13 older. Please help me, Dr. Smith." And there is a  
14 comment by the author of that letter, author of that  
15 paper, it says the next night Stephanie died from an  
16 overdose of her mother's sleeping medication.

17 Let me read a few more things from the  
18 same document, sir. I think they're really relevant  
19 here. "Much has been made to the harm of children if  
20 there is a false negative decision. That is failing to  
21 identify a child as abused when it is true. This  
22 conclusion ignores the damage done to innocent people  
23 who represent the false positive generated by the  
24 system. Also the severity of damage may be greater  
25 when a nonabused child is treated as if abused than



1 when an abused child is not correctly identified. The  
2 justice system must begin to consider this possible  
3 reality and to ask how accuracy of decisionmaking may  
4 be improved."

5           There is another study that is cited from  
6 England here as to how false accusations of child abuse  
7 affect people who have been accused. A study of 13  
8 families that who were erroneously charged of sexual  
9 abuse was recently carried out in England by  
10 Westminster College, Oxford. The study examined the  
11 process of investigation, outcomes, and the effects on  
12 children, parents, and extended families, all suffering  
13 post-traumatic shock. The report also suggests that  
14 the type of counseling required by these families is  
15 unique and the closest model is that of victims of  
16 violence. They are disabled because an external force  
17 has assaulted them and turned their lives apart.

18           Here is another paragraph from the same  
19 document. "Even if allegations are eventually judged  
20 to be false, the family, including the alleged child  
21 victim, will have been severely traumatized by the  
22 allegation. Schultz surveyed 100 families falsely  
23 charged with sexual abuse and almost all reported major  
24 disruption and trauma. Davis and Rapucci surveyed 85  
25 men who had claimed to have been falsely charged with

1 abusing their children or stepchildren. Almost all,  
2 regardless of whether they had been found guilty of  
3 abuse or not, reported a variety of negative effects in  
4 diverse areas of their lives."

5           Robinson, 1991 reported on the Minnesota  
6 families in which 25 adults were accused on the  
7 aftermath for the Scott County, Minnesota, families in  
8 which 25 adults were accused of abusing their own and  
9 other children. The charges were dropped after only  
10 one did go to trial and ended in an acquittal and the  
11 children eventually were returned home. However, the  
12 families all experienced severe dysfunction and  
13 distrust, and perhaps emotional damage to the accused  
14 and the accuser alike. Whiteback remarks, "Acquittal  
15 of charges cannot undo the damage. Even unsupported  
16 charges tend to leave lingering doubt among friends,  
17 family and associates."

18           Personally, I've been devastated by this  
19 whole situation. I don't know how I'm able to manage  
20 to take care of my children and take care of my job for  
21 the sake of my children and be able to function. I  
22 think it's basically because of my prayers. In this  
23 whole situation only God has been with me and no one  
24 else. Your friends fall apart, your friendship circle,  
25 your society falls apart. Everybody turns away from

1 you when you're in this situation. You're all by  
2 yourself fighting an anonymous system which says, no,  
3 you can't do that. It just destroys us completely.

4 real perpetrators, in my opinion, are  
5 worse criminals acting true on positive cases of child  
6 abuse perpetrators should be hanged. They've got no  
7 right to mess with the children who can't take care of  
8 themselves. God has given those children to take care  
9 of them because they can't take care of themselves.  
10 And real child abusers should be punished tremendously.  
11 They should be hanged. But then at the same time, the  
12 people who are abusing children indirectly should be  
13 punished, too. False accusation of child abuse is  
14 indirect abuse of children. It should be treated the  
15 same way. It should not be treated differently. All  
16 fathers -- most of the accusations are made against  
17 fathers. All fathers are not bad. All fathers are not  
18 dead beat dads. Some of us put our lives and our  
19 livelihoods on the line for our children but we do not  
20 get any help or encouragement from any of the agencies,  
21 any of the groups. There are no groups to help fathers  
22 in this whole situation. It is only in America where  
23 gays get more attention than fathers, who want to take  
24 care of their children. Some of them who are forced to  
25 give up are labeled irresponsible.

1                   It is really very hard for fathers who  
2 genuinely care for their children to be able to take  
3 care of them under the conditions of divorce. They  
4 have to deal with enormous divorce industry. That's  
5 what it is. It is an industry which consists of  
6 attorneys, child welfare workers, social workers,  
7 Children and Youth Services. It's an industry. These  
8 children advocacy groups are not advocating for  
9 children. They're advocating for their own pockets.  
10 If they were advocating for children, they would be  
11 looking at this whole situation from children's  
12 standpoint and not from agency standpoint. People who  
13 come here to testify that they get paid while there is  
14 a conflict of interest right there, we have taken time  
15 off from work to be here and to make our voices heard,  
16 and it's not just in some of these cases, as you said  
17 sir, this is just a tip of the iceberg.

18                   CHAIRMAN CALTAGIRONE: That's where I  
19 would hope and pray that the media would start asking  
20 some of the probing questions as we tried to yesterday  
21 in Harrisburg.

22                   MR. KAIRA: Yes, sir.

23                   CHAIRMAN CALTAGIRONE: About getting some  
24 actual facts and statistics.

25                   MR. KAIRA: Yes, sir.

1                   CHAIRMAN CALTAGIRONE: They throw these  
2 numbers around like there's a tremendous increase in  
3 these areas and the facts, from what we're gathering,  
4 don't substantiate the agencies with their bloated  
5 figures. Something's wrong there. We tore them apart,  
6 even the Department of Welfare, on some of the figures  
7 that they were reporting. And when you let that type  
8 of statement go unchallenged, that these tremendous  
9 increases justify their going after additional money  
10 from the State, then that of course portends to the  
11 public that there's a tremendous problem out there that  
12 needs to be addressed. And it just really isn't the  
13 truth of the matter.

14                   But, you know, therein lies the problem.  
15 How do you get the actual statistics unless you do a  
16 complete, unbiased study to gather up the information,  
17 to review these cases that are unfounded in fact and  
18 then take that one step further statewide by  
19 interviewing those families to find out exactly what  
20 has gone on? And I'm sure there are other people that  
21 are going to testify here today that are going to tell  
22 us about, and see, this is where I think a lot of  
23 people think it only involves divorce and custody  
24 issues. We know from the testimony and the letters  
25 that we've received already that there's a lot of false

1 reporting going on for all kinds of reasons. I mean,  
2 it's not only neighbors fighting other neighbors, and  
3 that was testified to yesterday. We had school  
4 officials, for whatever reasons, they overhear  
5 something that's being said and they think that they  
6 have to get involved and they do something, not  
7 realizing that they didn't get the whole story. You  
8 know, it's like taking half a story and printing it and  
9 not having the whole story. I mean, that would make  
10 sense. And, you know, I agree with you, and this is  
11 where trying to educate the public, and we're at a  
12 total disadvantage, because as you saw here today, and  
13 it's like I was saying earlier and I don't want to  
14 continue on very long with this, when you point out to  
15 people that the agency people have a vested interest,  
16 they in fact are being paid, and in many cases the top  
17 people pay paid quite well.

18 MR. KAIRA: Sure.

19 CHAIRMAN CALTAGIRONE: So they're  
20 advocates. They're advocating for more.

21 MR. KAIRA: Yes.

22 CHAIRMAN CALTAGIRONE: Then you have the  
23 stream of people, and we can document this. As a  
24 matter of fact, in Berks County, since we have a  
25 reporter here, I'm going to say this for the record

1 because I'm going to turn it in to the State Ethics  
2 Bureau next week, a director working for Children and  
3 Youth Services and an intake caseworker that worked  
4 during the day for Children and Youth Services and in  
5 the evening worked for a psychological firm that  
6 handles the very cases that are assigned from Children  
7 and Youth Services during the day. Now, if that isn't  
8 an ethical violation of conduct, I don't know what is.  
9 And I talked with the State Ethics Commission about  
10 this and they said absolutely that's an ethical  
11 violation. Now, who's going to do something about it?  
12 I mean, here you have a conduit of people working at  
13 the agency level then working here in the evening at a  
14 psychological firm that's doing a lot of the work for  
15 the agency people. I mean, if that doesn't appear to  
16 be a conflict of interest, I don't know what does. The  
17 State Ethics Commission says that this is absolutely in  
18 conflict.

19 A lot of the people in the psychological  
20 business, psychologists, psychiatrists, and what not,  
21 certain firms get an awful lot of business from these  
22 various agencies in the counties. This whole area of  
23 family law, by the way, and Dave, the executive  
24 director, said to me his opinion is it should be turned  
25 inside out, upside down, that there has to be a

1 reshuffling of the deck when it comes to the family law  
2 area because of the tremendous injustices that are  
3 going on. And you're alluding to them. But we had  
4 asked specifically for some type of a study with the  
5 State.

6 MR. KAIRA: Yes, sir.

7 CHAIRMAN CALTAGIRONE: To gather up this  
8 information from all the 67 counties and do an in-depth  
9 review so we could put together a report like they have  
10 in some of the other States to find out what's really  
11 going on out there. Let's say of the 30,000, 40,000  
12 cases that were reported last year to the State. I  
13 don't know what the actual number is.

14 MR. KRANTZ: 50,000.

15 CHAIRMAN CALTAGIRONE: 50,000 area. That  
16 30,000, 40,000 of them of unsubstantiated, unfounded.  
17 You know, all of a sudden you begin to say, well, you  
18 had the charts. Do you want to get into that?

19 MR. KAIRA: I would like to get into  
20 that, if I could.

21 CHAIRMAN CALTAGIRONE: Okay, finish.

22 MR. KAIRA: Sir, you're absolutely right  
23 about statistics the way they are used in the favor of  
24 Children and Youth Services. They collect a lot of  
25 statistics, but they don't know how to use them



1 properly. There is not a paragraph in this report that  
2 says we collected all these statistics and this is how  
3 we're going to use them to better ourselves.

4 CHAIRMAN CALTAGIRONE: Um-hum.

5 MR. KAIRA: They ask for more money.

6 Now, how many of us go ask for a raise from our bosses  
7 without showing work?

8 CHAIRMAN CALTAGIRONE: Well, you know,  
9 let me just interject one other thing here because  
10 since we're in Philadelphia and Philadelphia has a high  
11 minority population, let me say this. I've heard from  
12 my efforts not only in my own area but in Pittsburgh,  
13 and we're starting to hear from Philadelphia. If  
14 you're working and you have an income, you have the  
15 wherewithal and/or the resources to try to fight back  
16 -- this applies to both men and women, by the way.  
17 We've had as many women contacting us as men about the  
18 abuses that are going on. But if you happen to be poor  
19 and even worse, if you happen to either be black or  
20 Spanish, it's total devastation. You don't have any  
21 resources to fight back. And the travesties of justice  
22 that I've been hearing about with the poor people,  
23 whether you're black, white, or Hispanic, or whatever  
24 other nationality or race you happen to be, but if you  
25 just happen to be poor, they don't have any resources,

1 they don't have any wherewithal to go for help or to  
2 turn to people. And, I mean, somebody's got to look at  
3 that and say, this is appalling, what's happening. And  
4 somebody's got to advocate. And I think, you know, if  
5 a call went out by the legislators themselves at their  
6 own districts to try to get some information about  
7 what's going on in their own back yards, quick enough I  
8 think they'd start to find out that there's horrendous  
9 injustices that are occurring and they are as silent as  
10 the lambs because they don't have the wherewithal to  
11 fight back. It's the system.

12 MR. KAIRA: Yes, sir. You're absolutely  
13 right.

14 CHAIRMAN CALTAGIRONE: Go right ahead. I  
15 had to say that because we're hearing more and more  
16 from poor people too that don't have the resources to  
17 fight back, and it's devastating. I mean, as  
18 devastating as it may be on you and others in this  
19 room, just imagine what it might be on a lot of the  
20 people that just don't have the resources that many of  
21 you may have to have your case fought.

22 (Applause.)

23 MR. KAIRA: I had made.

24 CHAIRMAN CALTAGIRONE: We have two new  
25 Representatives. My subcommittee chairman, Harold

1 James.

2 REPRESENTATIVE JAMES: Harold James,  
3 James, 186th District, south Philly.

4 REPRESENTATIVE HENNESSEY: My name is Tim  
5 Hennessey. I represent the 26th House District, which  
6 is northwest Chester County.

7 CHAIRMAN CALTAGIRONE: Thank you.

8 MR. KAIRA: Sir, I had not too long ago,  
9 I think sometime in February, I had written a letter to  
10 all the State Representatives and State Senators. And  
11 I sent out a little survey and I sent out a copy of  
12 this article from the Wall Street Journal by Richard  
13 Gardner, which points to—

14 CHAIRMAN CALTAGIRONE: I remember this  
15 because I remember the survey.

16 MR. KAIRA: --which points to the scale  
17 of this problem, sir. And then this points to the fact  
18 that some States have to do certain things the way  
19 they've been doing them because of the Mondale Act of  
20 1974. Well, my question to that kind of argument is,  
21 but wait a minute, with respect to -- there should be  
22 checks and balances between Federal government and  
23 State government. Where are those checks and balances?  
24 Why do we have to do exactly what the Federal  
25 government tells us to do? With respect to rights of

1 unborn children, we're ready to challenge the Federal  
2 government and the Supreme Court. What about rights of  
3 born children? We should be taking rights of born  
4 children just as seriously. When Thomas Jefferson  
5 stated in the Declaration of Independence, within five  
6 miles of where we sit today, that we hold these truth  
7 is to be self-evident that all men are created equal  
8 and they are endowed by their creator with certain  
9 unalienable rights, that among these are life, liberty  
10 and the pursuit of happiness, I'm sure Thomas Jefferson  
11 was talking of everybody, including the rights of born  
12 children.

13 Now, it turns out that 20 years ago we  
14 could put a man on the moon but today why do we have to  
15 settle for our children being on the streets and on  
16 drugs? Why can't we be constructive in our ways to  
17 keep our children where they belong and in protective  
18 and caring homes? That should be the first of Children  
19 and Youth Services, not to punish people, not to create  
20 a whole industry and ask for more and more funding. A  
21 large number of children have been victimized by the  
22 divorce industry. We all know that. But we're all in  
23 this together. Just because those industry people are  
24 going to benefit today, down the road we are all going  
25 to lose as a nation. We do recognize the importance of

1 the North America Trade Treaty. We do recognize that  
2 we have to help Mexico and we have to work with Canada.  
3 Why don't we have the same feeling with respect to  
4 families within our own nation? We should have that.  
5 We should take care of each other. As long as we  
6 believe that we can run a society through remote  
7 control and laws like this one, and we want to be  
8 politically correct and acknowledge the fact that we  
9 have to be morally correct and endure some short-term  
10 pain for the long-term gain, as we have experienced in  
11 our growth, we will continue to fail our children and  
12 hence ruin the future of our country, which is held in  
13 the hands of our children. We must have laws and  
14 associated enforcement systems in place to punish the  
15 direct and indirect abuse in this particular manner,  
16 not just our indirect abuse also.

17 Now I think I want to get into this. And  
18 I have some handouts. Sir, I have put together some  
19 charts and some information. All of my information is  
20 based on this report, and I have no reason to believe  
21 that this report is unbiased. Also, there is no error  
22 of any nowhere that this report has been audited for  
23 accuracy. I haven't seen it. It may or may not be.  
24 Now, if you would look at the data here, the red balls  
25 are substantiated reports and the green ones are

1 unsubstantiated reports. From 1981 to 1989 -- 1991,  
2 I'm sorry. Now you see that unsubstantiated ones are  
3 way up there in. It turns out that there are  
4 two-thirds of the report are unsubstantiated and  
5 one-third are substantiated. So for every child this  
6 agency pretends to help, they destroyed two other  
7 families. They turned those families into  
8 dysfunctional.

9                   And this is how it works. If I'm telling  
10 my child to pick up her dishes from the dining table  
11 after she's done eating and the child says, wait a  
12 minute, I figure a way out to get daddy into trouble,  
13 I'm going to call 911. I'm going to call the cops and  
14 I'm going to call Child Protective Services and they'll  
15 come and talk to daddy. The family gets turned into  
16 dysfunctional. Who are we helping? Are we helping  
17 those children? We're not helping them.

18                   CHAIRMAN CALTAGIRONE: We're closest with  
19 our children and our grandchildren and we're the  
20 teachers of the system. And to have them go through  
21 lecturing, and people that have children know, you have  
22 to discipline them at times. There's no getting away  
23 from that. That's part of being a parent. That's  
24 parenting.

25                   MR. KAIRA: That's a duty. .

1                   CHAIRMAN CALTAGIRONE: But when at the  
2 teenager years when they start to exert their own  
3 independence, and those of you that may not have gone  
4 through this yet, you will go through it, you're going  
5 to be in direct conflict with some of the things they  
6 may or may not want to do that you may think are not in  
7 their best interests and you may have to discipline  
8 them. But what you were just alluding to when I was  
9 talking yesterday in Harrisburg, and coming down here  
10 again today, it was interesting that teachers are in  
11 fact advocating for children to report parents, and  
12 that was even testified to by one of the witnesses  
13 yesterday in Harrisburg. I just want to share that  
14 with you.

15                   MR. KAIRA: Thank you, sir.

16                   Sir, we are failing to take care of  
17 children in this country. This is the greatest country  
18 on earth and our children are treated very badly. By  
19 making laws like this, we are not talk taking care of  
20 our children, we're destroying them, basically. I have  
21 some statistics, I don't have any copies, I have some  
22 statistics on girls getting Ph.D.s in physics. There  
23 was an article about women in physics in this country  
24 and around the world. Girls and getting bachelors in  
25 physics and Ph.D.s in physics. As you can see, we are

1 towards the bottom of that list, sir. We are the last  
2 country. Philippines is towards the top of that list.  
3 India is towards the middle of that list, and United  
4 States is towards the bottom of that list. Why can't  
5 we encourage our children to excel in sciences or in  
6 other disciplines where they want to be? We're not  
7 taking care of our children the way we should be and  
8 the way we you're equipped to do so.

9           Now, if I can point your attention to  
10 this graph right here, you can see that unsubstantiated  
11 reports are increasing rather rapidly than  
12 substantiated reports. Now, what I have done basically  
13 is I have drawn a line through these. I have  
14 estimated, drawn a regression line to get a trend to  
15 these two situations, and here are the results of those  
16 trends. Now, in this thing we have substantiated cases  
17 and unsubstantiated cases. Here is the slope of the  
18 line with respect to substantiated cases. Substantiated  
19 cases went up over that period by .87, and  
20 unsubstantiated cases went up by 2.77, over 2.77 over  
21 the same period. Now, what's wrong? We're not saying  
22 that this happened because of all of false reporting.  
23 It didn't happen, all of this, because of false  
24 reporting. It happened because these agencies are not  
25 doing their work right as well.



1                   There are different factors. And there  
2 is one factor that we can do nothing about, and there  
3 is an inherent problem in any system. We have to be up  
4 to their level, beyond which we can't go up anymore.  
5 So we can see with the unsubstantiated cases went up  
6 three times as much as substantiated cases.

7                   Now I said, oh, wait a minute, let me  
8 look at this whole situation with respect to who is  
9 reporting what. And most, a lot of these people are  
10 mandatory reporters, they are required to report the  
11 suspected child abuse by law. Some of them are not  
12 mandatory reporters, and let me try to figure out where  
13 is the problem. Is all of it because of false  
14 reporting, is all of it because of inefficiencies in  
15 the system, or where is that demarcation anyway? What  
16 percentage is because of false reporting and what  
17 percentage is because of inefficiencies in the system?

18                   Now, the false reporting to be coming  
19 from everyone, right in? But malicious reporting can  
20 be coming from anonymous reporters and could be coming  
21 from a friend or neighbor, could be coming from a  
22 parent. That's where malicious false reporting could  
23 be coming from, and I'll show you if that is the case.  
24 Now, let's look at the same thing in the form of  
25 graphs. Now, the first one is anonymous. Here we look

1 at this information in the report. It doesn't make  
2 much sense to us, it is there and they have done their  
3 duty. They have provided the data, it doesn't make  
4 much sense. It is our job to organize the data and  
5 extract the knowledge or information from it. So for  
6 that purpose, I took this data and I ordered, let's see  
7 how are the referrals being made. Who is referring  
8 who? Now as you can see, landmark cases, one dentist  
9 and clergy. And coroner is towards the lower end of  
10 this referring. We don't want dying kids and coroners  
11 saying this kid was probably abused. It should be that  
12 way. That's fine. And the school is highest in our  
13 case. There may or may not be a problem there.

14 Now I'm concentrating on friend and  
15 neighbor and anonymous. Those two referrals are  
16 towards the high end of that scale. Let's look at  
17 their substantiated ratios. If the system was working  
18 perfectly, they would get 100 percent of substantiated  
19 ratios, assuming that all referrals were made with  
20 complete faith. There was no maliciousness in that  
21 account. The quality of information was highest. But  
22 that would not happen, I believe. We would have some  
23 problem even if there was no maliciousness, even if the  
24 system was perfect that would happen.

25 Now, let's look at what's happening in

1 terms of substantiated cases, which is sort of a  
2 measure of effectiveness of the system. Now, if you  
3 look at this, what happened to friends and neighbors  
4 and anonymous cases? They are towards the lower end of  
5 that scale. Why did we allow people to call  
6 anonymously? They are towards the high end of the  
7 scale when we talk about referrals, and when we talk  
8 about substantiation they are towards the low end of  
9 the scale. What is the problem here? Why are most of  
10 those cases false and unfounded? Because if there is a  
11 malicious person who wants to get someone into trouble,  
12 you're allowed to make a call anonymously, you're going  
13 to make a call anonymously.

14 Now let's look at some other disturbing  
15 statistics. And I brought this because it turns out  
16 that fathers get the blame for child abuse. These are  
17 the deaths in 1991. I don't have the report for 1992.  
18 It turns out that I basically had to pull my teeth to  
19 get that report. The report officially came out  
20 Wednesday when I was talking to someone called Mr.  
21 Woods there. I said, report is not out but could you  
22 please fax me the data so I can prepare for this  
23 hearing? They said, no, we have to wait until the  
24 report comes out. First a gentleman called me and said  
25 the report came out yesterday, and if you want some

1 information, I can give it to you on the telephone, but  
2 I can't talk much because I'm busy, I got other things  
3 to do. So I couldn't get much information, other than  
4 that the 1992 deaths with respect to child abuse are  
5 basically the same.

6 Now here is what I was talking about. We  
7 should be able to define why our system is not working.  
8 We want to prevent child abuse. So to prevent child  
9 abuse, we have this system which may be broken right  
10 now, let's try to fix it. Why is our system  
11 ineffective? We want to increase its effectiveness.  
12 So there should be a measure of effectiveness or  
13 inefficiencies of the system, and one of those  
14 measures, there could be many measures, one of those  
15 measures could be the rate of unsubstantiated reports.  
16 I believe if a call is made to ChildLine, that should  
17 be substantiated provided I know for sure the child was  
18 abused and I know this system is perfect, and if I know  
19 for sure the child was abused it is substantiated, we  
20 need to punish the guilty one. Not only are we going  
21 to punish the guilty one, we're going to show the  
22 guilty one that wait a minute, we got to show the  
23 guilty one the right way of taking care of that child.  
24 That should be part of the whole system. As is being  
25 done in a Hawaii. They have lately adopted that

1 approach.

2 Now, that doesn't happen. We have this  
3 problem with respect to substantiated and  
4 unsubstantiated. We have this gap. We want to close  
5 this gap in an ideal situation, but we know no system  
6 is perfect. We won't be able to close this gap  
7 completely. But we want to be able, if we want to have  
8 one family in the process, we don't want to destroy two  
9 other families. We're not helping anyone by doing  
10 that. If you want to help one family, maybe we should  
11 for every 10 families we want to help, maybe 1 gets  
12 turned into dysfunctional, maybe we would say those are  
13 inherent problems in our system. We are not -- God  
14 made us and did not make us perfect, we did not make a  
15 perfect system. We're stepping into God's ways here,  
16 stepping into how the family should be handled, and  
17 that's basically where the problem is.

18 Now let's look at some of these things.  
19 Now, that gap can be attributed to shortcomings of CYS.  
20 We have to address that very carefully, and, sir, you  
21 have pointed out one solution is that we should have  
22 qualified people there. There are no minimum  
23 requirements, and I called children and youth services  
24 on Monday I called them and I asked them, how many  
25 people do you have working who come in contact with

1 these people? What are their educational  
2 qualifications, what are minimum qualifications, what  
3 kind of salaries do they make? I practically got the  
4 runaround. I was transferred from that phone to  
5 another phone to another phone and back to the phone  
6 where I started from. And to this -- as of yesterday,  
7 I did not get any of that information, sir. None.  
8 Because I wanted to talk about some of those things. I  
9 wanted to bring up some of those things.

10 Now, some of that gap is because of  
11 quality of information, quality of information when a  
12 person is making a referral, that information has to be  
13 of good quality for this whole thing. For us to be  
14 able to help our children. That quality of information  
15 is what is the problem. Most of the cases. And it's a  
16 serious problem in cases of custody disputes where  
17 these charges are made to gain advantage in custody  
18 situations. And as I've shown that anonymous callers  
19 as far as referrals are concerned, they are toward the  
20 high end--

21 (The next audio tape started at this  
22 point:)

23 REPRESENTATIVE HENNESSEY: I think  
24 regarding the trends throughout that area is the  
25 comparison I think you were comparing to is roughly a 2

1 to 1 ratio I think you've been referring to it as a 2  
2 to 1 ratio, that out of every three reports, one is  
3 substantiated. The numbers we're suggesting is about  
4 one out of every four reports is substantiated.

5 MR. KAIRA: Well, no, from this I found  
6 out that there is 30-percent substantiation ratio.

7 REPRESENTATIVE HENNESSEY: There's a  
8 difference from--

9 MR. KAIRA: The ratio I'm showing on the  
10 second chart are increased. The unsubstantiated ones  
11 are increasing three times as are substantiated ones.

12 CHAIRMAN CALTAGIRONE: He figures it's  
13 almost 4 to 1.

14 REPRESENTATIVE HENNESSEY: Particularly  
15 the chart, if you can flip back to this for a second,  
16 maybe we can clear this up. In 1982, for example, you  
17 have 5,000 that were substantiated, and 15,000 that  
18 were unsubstantiated.

19 MR. KAIRA: Yes.

20 REPRESENTATIVE HENNESSEY: That's a total  
21 of 20,000, so it's roughly 4 to 1. And as I read the  
22 numbers, assuming the accuracy of your numbers here,  
23 that ratio seems to hold true throughout the chart. So  
24 it's really 25 percent substantiated, not a 32-percent  
25 substantiation rate.

1 MR. KAIRA: So this rate is a little  
2 different. This rate is talking about -- you heard  
3 right about those numbers.

4 REPRESENTATIVE HENNESSEY: Those numbers  
5 are the same. What it's showing there is on the first  
6 year is on the first year on the chart, the lines are  
7 to the far left. You have roughly 20,000 reports of  
8 which just less than 5,000 were substantiated. So  
9 basically what you've done there is you've shown, the  
10 way to get the total number of reports is to add those  
11 numbers.

12 MR. KAIRA: Yes, sir. You're absolutely  
13 right about that.

14 REPRESENTATIVE HENNESSEY: So the  
15 substantiation rate shown in your reports is less than  
16 you're giving yourself credit for or giving the numbers  
17 credit for.

18 MR. KAIRA: Well, but this charge--

19 REPRESENTATIVE HENNESSEY: N, the  
20 substantiation is less.

21 CHAIRMAN CALTAGIRONE: Yes, the  
22 substantiation is much less.

23 MR. KAIRA: So this is not substantiation  
24 rate here. That's not substantiation rate.

25 REPRESENTATIVE HENNESSEY: I know. It's



1 roughly 3 to 1.

2 MR. KAIRA: 3 to 1?

3 REPRESENTATIVE HENNESSEY: Three  
4 unsubstantiated for every one that is substantiated.

5 MR. KAIRA: Yes, sir. What I was trying  
6 to do is I was trying to see this.

7 CHAIRMAN CALTAGIRONE: Which is one in  
8 for--

9 MR. KAIRA: I was trying to see what the  
10 rate of increase was here to the rate of increase here  
11 over this whole time period over these 11 years. Where  
12 is the trend going? Do we get more substantiation over  
13 a time period or do we get less substantiation over a  
14 time period? That's what I was trying to calculate and  
15 that's what I calculated there. See, I think this line  
16 is going up more rapidly than this one. And that's  
17 troublesome. It shouldn't be happening that way. And  
18 that shows that there are some serious problems either  
19 in the system or in the quality of information the  
20 system is getting. Now, it is the system's  
21 responsibility to make sure it gets good quality of  
22 referrals. If they want to do what they're chartered to  
23 do they have to make sure the quality of incoming  
24 information is good. I can't be in business if I had a  
25 factory, I can't be in business if I didn't care about

1 the quality of raw material I'm getting. I would be  
2 out of business. They're not doing that.

3 CHAIRMAN CALTAGIRONE: Good point.

4 REPRESENTATIVE HENNESSEY: I have a  
5 question. You've been using, as I heard you talk  
6 you've been saying that out of every three families  
7 that are reporting, one is substantiated. I think to  
8 strengthen your argument I think the numbers that  
9 you've given us here actually show 4 to 1. Out of  
10 every four there's one that's substantiated, so that  
11 three are unsubstantiated.

12 MR. KAIRA: Yeah. Now, we talked about  
13 this large differences in the referrals and  
14 substantiation ratios are equal to quality of  
15 information, are attributable to quality of  
16 information. Now, we talked about these large  
17 differences in referrals that substantiation rates are  
18 attributable to quality of information and I'm being  
19 very, very -- quite a bit of information we all know  
20 that a lot of that is malicious.

21 Now, there are some suggestions that I  
22 have put together and some of them are against the  
23 recommendations that appear in this report. This  
24 report talks about some recommendations. We'll get to  
25 that. My recommendation is that we should abolish

1 mandated reporting, as Dr. Gardner has recommended in  
2 that article. And this report suggests that the  
3 reporter may not have firsthand knowledge of abuse,  
4 they may not even have to see the child and they could  
5 report. They could call the ChildLine for possible  
6 abuse. That's wrong. Can't do that. You want to  
7 increase the true positive; that doesn't mean you want  
8 to increase the whole ending. That's not the way to do  
9 it. We must not have that sort of system in place.  
10 Also, this report recommends that CYS employees should  
11 have immunity from liability. Wait a minute. Who does  
12 have immunity from liability?

13 CHAIRMAN CALTAGIRONE: Judges.

14 MR. KAIRA: Do you have immunity? How  
15 many here are immune from liability here? If you do  
16 terrible on your job, you lose it. We all expect to  
17 lose it. We don't have immunity from liability. Why  
18 should they have immunity from liability? This bill,  
19 826, or is 836, is meaningless. We have seen and we  
20 will see false accusations of child abuse are tripling.  
21 The crime is horrendous. And we allow the people to  
22 call anonymously. As I have shown, the quality of  
23 information from anonymous callers is very, very low.  
24 We must not have that. We should do away with  
25 anonymous. We don't get much out of it anyway, and we

1 must increase the penalty. The penalties recommended  
2 in this bill is basically a slap on the hand. The  
3 penalty must fit the crime. The crime is much greater  
4 than a slap on the hand, which is, what, equal to  
5 probably illegal dumping or something like that. We  
6 have to challenge the Mondale Act. What is stopping  
7 the State of Pennsylvania to challenge the Mondale Act  
8 of 1974? We can't do it as individuals, the State has  
9 to. We have to do it for the sake of our children.  
10 What is wrong with that? We would be the leader in  
11 this whole nation taking care of our children. Let  
12 others known from the State of Pennsylvania our  
13 children are taken care of. This is where the  
14 Declaration of Independence was signed, Why can't we  
15 believe it today in all those respects when we could be  
16 much more law abiding? That's all I have to say.

17 CHAIRMAN CALTAGIRONE: Thank you very  
18 much. Are there questions?

19 Representative James.

20 REPRESENTATIVE JAMES: Thank you, Mr.  
21 Chairman.

22 I am really impressed with and thank you  
23 for testifying. I'm impressed with the documentation  
24 that you have outlined, though I may tend to disagree  
25 with some of the thoughts. One in terms of anonymous

1 reporting, and I understand your reasoning for saying  
2 that it shouldn't be, but as a retired police officer,  
3 Anonymous reporting can be good if it's used  
4 professionally and correct. And I don't think that's  
5 something that we should take away from doing that.  
6 It's just like one of the problems we had with a lot of  
7 crime in our communities is that people are afraid to  
8 report crimes because it don't affect them, it affects  
9 their neighbor, and then when it affects them they  
10 wonder why nobody didn't report it. And they're afraid  
11 because they don't want to get involved. So we need to  
12 have a mechanism that people can say things. But what  
13 we also need to have is professional agencies that do  
14 the job the way it should be. And I think maybe one of  
15 the problems may be, and you talked about the  
16 investigations. I think, and you said something about,  
17 you alluded to the fact that they maintain their job by  
18 continuing or to come up with these reports. And  
19 that's bad. And we need to change that. We need to  
20 make sure that the people that do the investigations or  
21 that there are people that do the investigations and  
22 that's what we need to work on in terms of agencies. I  
23 would, do you see that like when there's an allegation  
24 made and then somebody comes to check, I don't know how  
25 that process works, but it would seem to me that that's

1 where one of the key areas needs to be strengthened.  
2 How would you suggest that be strengthened?

3 MR. KAIRA: I have a comment on your  
4 anonymous reporting issue, sir, before I answer that  
5 question. Why do we have anonymous reporting? Because  
6 people are afraid to get involved, right? Why are  
7 people afraid to get involved? Because the way the  
8 system is, it doesn't work, right?

9 CHAIRMAN CALTAGIRONE: It doesn't work  
10 properly.

11 REPRESENTATIVE JAMES: It doesn't work  
12 properly.

13 MR. KAIRA: It doesn't work properly.  
14 Why shouldn't we try to fix that instead of creating a  
15 situation in another system? One part of the system is  
16 broken and in order to accommodate that we're willing  
17 to make another part of the system which is going to  
18 have shortcomings but because the other one is broken.  
19 The rate of substantiated from anonymous calls is  
20 lowest. Why is it lowest?

21 REPRESENTATIVE JAMES: Well, I think  
22 that's why my question to you in terms of the  
23 investigation is lowest is because there's no  
24 factfinding. There seems to be a problem with maybe  
25 the investigators or whoever goes out to check those in

1 terms of doing the job professionally. And it could be  
2 because they wanted to substantiate to keep the job.  
3 Like, for example, in the police department, you know,  
4 sometimes good police officers were recognized as  
5 people that made the most stops, that made the most  
6 arrests, that wrote the most tickets, but that don't  
7 necessarily mean that's a good police officer. A good  
8 police officer should be one where there's no crime  
9 around the neighborhood, around where he was  
10 patrolling, and he wouldn't have those kind of  
11 statistics. So the priorities and what they're trying  
12 to substantiate as good is wrong, and I think that's  
13 what we need to straighten out.

14 MR. KAIRA: Yeah.

15 REPRESENTATIVE JAMES: We need so because  
16 somebody makes an allegation, we have to make sure that  
17 there's a professional that checks that allegation,  
18 that checks it in a way that it can be a factfinding.  
19 That's why I'm asking how you think we can include that  
20 aspect. Then we will make sure those anonymous calls  
21 are either substantiated or not substantiated.

22 MR. KAIRA: This problem is much bigger  
23 than the time we have and the one we have right now.  
24 It's a very serious problem with respect to, why do we  
25 have a drug problem right now, so much drug problem in

1 this country.

2 REPRESENTATIVE JAMES: Because there's no  
3 real war on drugs.

4 MR. KAIRA: I beg your pardon?

5 REPRESENTATIVE JAMES: There's no real  
6 war on drugs.

7 MR. KAIRA: Why do people go on drugs?  
8 That's the fundamental question.

9 REPRESENTATIVE JAMES: Profit.

10 MR. KAIRA: It's my job to make sure that  
11 I provide a good, healthy environment for my child to  
12 make sure that my child doesn't even think about  
13 something like that. My child gets high in creativity,  
14 not from drugs. That's what my job is. Am I being  
15 held to do my job? Definitely not.

16 REPRESENTATIVE JAMES: Well, how do you  
17 think, based on your experience, because you seem to  
18 have done a lot of good work in this, and I just want  
19 an idea from you, how do you think that we can improve  
20 the professionalization, if that's the right word, of  
21 somebody that's going to check these facts, based on  
22 anonymous calls?

23 MR. KAIRA: Based on anonymous calls?

24 REPRESENTATIVE JAMES: Right.

25 MR. KAIRA: First the anonymous person



1 has to be met with.

2 REPRESENTATIVE JAMES: Okay, let me give  
3 you an example, and I want you to answer me. You get  
4 an anonymous call.

5 MR. KAIRA: Yes, sir.

6 REPRESENTATIVE JAMES: You are the agency  
7 that received an anonymous call. How would you check  
8 that? How would you check that so we could see the  
9 accuracy of it?

10 MR. KAIRA: I would call, even if I had  
11 to call that parent I would call that parent, meet with  
12 that parent away from home. I would talk to that  
13 person, not that we are calling from Children and Youth  
14 Services and we have received a report against you. I  
15 would talk to that person, maybe you're having  
16 difficulty, you received this call, not talk to the  
17 child. When you talk to children like that they are  
18 under a lot of stress. Children are not comfortable  
19 talking to strangers.

20 REPRESENTATIVE JAMES: So your first  
21 action would to be talk to their parent?

22 MR. KAIRA: Sure.

23 REPRESENTATIVE JAMES: Okay.

24 MR. KAIRA: In a nice, constructive way.  
25 And we all know these agencies do not work in a

1 constructive way.

2 REPRESENTATIVE JAMES: Right.

3 MR. KAIRA: I would talk to their parent  
4 and I would say, if there is any difficulty, how we can  
5 help, not how we want to punish you.

6 REPRESENTATIVE JAMES: Okay. Good point.

7 MR. KAIRA: I think I could divulge a  
8 substantiation. That is the way things are dealt right  
9 now, sir. Now, in terms of procedure, when a call is  
10 made, sir, when the call was made against me for the  
11 second time, I asked the person what the procedure was.  
12 She would not tell me what the procedure is. I asked  
13 that person, you tell me where do we go from here?  
14 What do we do? What are your responsibilities? What  
15 are my responsibilities? Explain them to me. She  
16 would not do that. She said she couldn't tell me that.  
17 Then I asked to talk to her supervisor and I asked the  
18 same question. Her supervisor said to me, how do you  
19 have custody of your children? Who gave you custody of  
20 your children? Let me talk to your attorney. You  
21 know, I think, wait a minute, this place is full of  
22 biased people. They think fathers cannot take care of  
23 their children. Wait a minute, the only way for  
24 fathers to take care of their children is to write a  
25 check for child support. You tell me a place where you

1 can buy fathers' or even mothers' love by money? Who  
2 can sell that and who can buy it? You can't do it.  
3 Father's as well as mother's love cannot be bought.

4 I feel very emotionally about this thing,  
5 but I'm looking at this whole situation from children's  
6 standpoint and we are failing our children, whether we  
7 are mothers or we are fathers, no matter where we are  
8 we are seriously failing our children.

9 REPRESENTATIVE JAMES: Okay, let me ask  
10 you, you talked also about mandatory reporting and I  
11 think that may be a problem somewhere. If you say, and  
12 let's say if we talked about eliminating mandatory  
13 reporting are you saying then that maybe the health  
14 professionals, if they noticed something, should not  
15 say anything?

16 MR. KAIRA: They should.

17 REPRESENTATIVE JAMES: Okay.

18 MR. KAIRA: But then it is up to them and  
19 they should have enough guidelines to insure that they  
20 are providing quality information. The idea is to  
21 provide quality information into the system so they  
22 have quality output.

23 REPRESENTATIVE JAMES: Okay, because on  
24 the mandatory reporting, they are afraid that if they  
25 don't report them they may be sued?

1 MR. KAIRA: That's why they report --  
2 they don't care.

3 REPRESENTATIVE JAMES: So they may report  
4 things that aren't accurate?

5 MR. KAIRA: Yeah. They don't care.  
6 They're just trying to cover themselves.

7 REPRESENTATIVE JAMES: Okay.

8 MR. KAIRA: That's all they're doing.

9 REPRESENTATIVE JAMES: That's something I  
10 heard in doing some health care hearings talking about  
11 defensive, some kind of defensive mechanism?

12 MR. KAIRA: yes, sir.

13 REPRESENTATIVE JAMES: Okay.

14 MR. KAIRA: This whole process, I don't  
15 know whether you studied physics or not.

16 REPRESENTATIVE JAMES: No, no, no, no. I  
17 barely--

18 CHAIRMAN CALTAGIRONE: That's another  
19 hearing.

20 MR. KAIRA: Well, when you try to observe  
21 an event, an observer has an effect on the observed.  
22 It's a fundamental thing. So when an investigation is  
23 made, a damage is done. In your report, and I don't  
24 know, Mr. Chairman, would we be able to get the report?  
25 The '91--

1 CHAIRMAN CALTAGIRONE: Oh, yeah. That's  
2 from the Department of Welfare.

3 REPRESENTATIVE JAMES: So we could get  
4 that.

5 CHAIRMAN CALTAGIRONE: Yeah.

6 REPRESENTATIVE JAMES: You could probably  
7 get that for all of us on the committee.

8 CHAIRMAN CALTAGIRONE: Oh, yeah.

9 MR. KAIRA: 1992 is out also, sir.

10 REPRESENTATIVE JAMES: Okay, we'll get  
11 them both. Because your chart is based on '91.

12 MR. KAIRA: Absolutely. Yes, sir.

13 REPRESENTATIVE JAMES: The people that do  
14 the investigating, are they people that usually work  
15 for the DA's office or work for the child care  
16 agencies, or is this a combination?

17 MR. KAIRA: They work for child care  
18 agencies, sir.

19 REPRESENTATIVE JAMES: Okay. Okay. All  
20 right, thank you, Mr. Chairman. I'm just sorry that I  
21 won't be able to stay for the rest of the hearing, but  
22 I understand the chairman is going to provide us with  
23 all the testimony because I have to go back to D.C. In  
24 fact, I came in from D.C. this morning to support the  
25 chairman and support this. I think this needs to be

1 aired. We need to hear about this kind of information  
2 and to use this information to improve, because I think  
3 you need to hear both sides and this is the only way we  
4 can improve the system.

5 MR. KAIRA: Yes, sir.

6 REPRESENTATIVE JAMES: So thanks, and  
7 thank you, Mr. Chairman.

8 MR. KAIRA: So what happens, a lot of  
9 times in hearings and matters like this, we tend to be  
10 politically correct. We want to find political  
11 solutions. A lot of times we all know that sometimes  
12 we have to take short-term pain for long-term gain.

13 REPRESENTATIVE JAMES: That's true.

14 MR. KAIRA: And sometimes we ignore that  
15 and sometimes there's this tenacity that we're going to  
16 make certain laws, it's like remote control and society  
17 is going to behave like that. That doesn't happen.

18 REPRESENTATIVE JAMES: Well, that's what  
19 the House of Representatives did the other day in terms  
20 of short-term gain for long-term pain when they talked  
21 about eliminating transitionally needy people from the  
22 public welfare. It's exactly what they did. But okay,  
23 thanks again.

24 CHAIRMAN CALTAGIRONE: Representative  
25 Hennessey.

1 BY REPRESENTATIVE HENNESSEY: (Of Mr. Kaira)

2 Q. Mr. Kaira, I think everybody agrees that  
3 the systems that we set up sometimes get out of  
4 control, sometimes very badly so, and what we're trying  
5 to do is find a way to put the system back into  
6 synchronization so that we have the balance that was  
7 originally intended. Let me suggest something to you.  
8 You've shown us these charts and you've shown us that  
9 there's a lot of anonymous reporting that goes on,  
10 although not so much in terms of percentage wise or  
11 actual raw numbers compared to the hospital reporting.

12 A. Yes, sir.

13 Q. And yet on the other chart you indicated  
14 that the credibility, if you will, of anonymous  
15 reporters is rather low.

16 A. Yes, sir.

17 Q. I would suggest to you that that doesn't  
18 necessarily mean that the system is bad. As a matter  
19 of fact, I suggest maybe it tells us that the system  
20 does work and in some cases very well because what it  
21 suggests to me is that when some agencies get anonymous  
22 reports they treat them rather skeptically and don't  
23 believe them. Now, I realize that for somebody here  
24 who has been affected by an anonymous report you're not  
25 likely to line up and read the same chart that same

1 way, but what the chart shows me is that when there's  
2 an anonymous report, it's not often believed, and that  
3 may be the result of agencies actually doing their job  
4 and taking a rather suspicious approach to that kind of  
5 report.

6 As Representative James was saying, you  
7 know, in police work, anonymous reports are sometimes  
8 the only kind of reports you get and they can be very  
9 valuable. They could sometimes help you to crack cases  
10 that you wouldn't crack otherwise. The low  
11 substantiation rate though I think tells me that the  
12 agencies do look at these as a little more seriously  
13 and perhaps don't accept them at face value the way  
14 they might from the reports from the coroner or from  
15 law enforcement or from the school. So I guess we can  
16 look at the same charts and come up with different  
17 conclusions based on that.

18 A. Sure. Sure.

19 Q. Do you have, maybe the report makes it  
20 available to you, how these statistics varied about  
21 counties? I would be interested in knowing how these  
22 statistics varied by county, because the counties have  
23 their own agencies, generally. I would be interested  
24 in knowing whether or not we could find that certain  
25 counties have much higher incidents of anonymous



1 reporting and a much higher rate of believing beyond  
2 this report.

3 REPRESENTATIVE JAMES: That's a good  
4 point.

5 MR. KAIRA: No, they don't have that kind  
6 of detail county by county.

7 REPRESENTATIVE HENNESSEY: Perhaps we can  
8 get that.

9 MR. KAIRA: Okay.

10 REPRESENTATIVE HENNESSEY: Because that  
11 would be interesting to find out whether we have  
12 certain counties that rely more on anonymous reporting  
13 than others, and in others, whether or not once they  
14 get that report that they tend to believe the anonymous  
15 reports more frequently in one county than another.

16 MR. KAIRA: You're right. This is  
17 something that we have to analyze based on the data  
18 that is available and what analysis can be made based  
19 on the data that is available. And I have spent just a  
20 few days doing this, taking time off from my full-time  
21 work and taking time off from my full-time parenting to  
22 put this together.

23 REPRESENTATIVE HENNESSEY: Well, I  
24 appreciate the efforts you put forth and the charts.  
25 I've made some notes on the copies of the reports that

1 you've given me, charts you've given me, because I  
2 think it tends to help me in focusing my question when  
3 I'm talking about or talk with or interviewing people  
4 from the agency standpoint.

5 MR. KAIRA: Yeah.

6 REPRESENTATIVE HENNESSEY: To find out  
7 where they're coming from and what kind of an approach  
8 they take as far as an anonymous report as opposed to  
9 some report that comes in from an institution that they  
10 tend to be, or that these charts would indicate that  
11 are more credible in the long run.

12 MR. KAIRA: Sure.

13 REPRESENTATIVE HENNESSEY: Okay. I think  
14 that perhaps one approach, you know, is as I've been  
15 trying to figure out some solution to this particular  
16 problem, to certainly find out ways when we get an  
17 anonymous report, and perhaps for that matter will all  
18 of these almost any report, to have as early and as  
19 quick a preliminary determination, if you will, as to  
20 whether there's anything substantive to it and then get  
21 it resolved as quickly as possible with as little  
22 disruption to the family. The purpose of the statutes  
23 and the purpose of the House or the government in  
24 setting up these agencies is not to be disruptive to  
25 the families, although I don't know that can sometimes

1 occur.

2 MR. KAIRA: I differ with that sometimes.  
3 It happens most of the time, sir.

4 REPRESENTATIVE HENNESSEY: What's that?

5 MR. KAIRA: These agencies basically  
6 disrupt your family life.

7 REPRESENTATIVE HENNESSEY: Well, you said  
8 that any kind of investigation is going to be  
9 disruptive. I would say, yes, there's going to be some  
10 disruption just in going through the process yourself.  
11 My point is that the agencies were not set up by the  
12 government to create that kind of disruption. The  
13 government generally wants to try to foster a solid  
14 family life. It's counterproductive for us not to do  
15 that. But what we have to realize is sometimes our  
16 efforts go astray and sometimes even the best of  
17 intentions can be twisted and perverted by the  
18 personalities that are hired to do the detail work that  
19 have to be done.

20 So I appreciate the information and as I  
21 said, I will reuse some of the statistics that you've  
22 shown us here to try to focus questioning on other  
23 people when we're hearing from the other side.

24 MR. KAIRA: Certainly, and if I come up  
25 with other interesting information, I'll point them out

1 to you.

2 REPRESENTATIVE HENNESSEY: Well, if you  
3 come up with any information, that difference by  
4 county, I would like to encourage you to give us that  
5 information.

6 MR. KAIRA: Sure. Sure.

7 CHAIRMAN CALTAGIRONE: I want to thank  
8 you personally.

9 MR. KAIRA: I have one comment.

10 MR. KRANTZ: Can I see the book a minute?

11 MR. KAIRA: Yes, sir. I have one comment  
12 with the anonymous calling issue. If we don't do away  
13 with the anonymous calling issue, this bill is going to  
14 be left with a gapping hole. Another thing is, if I  
15 wanted to bring up an incidence of child abuse, I think  
16 I consider personally that could be a noble cause. If  
17 I have any integrity in my judgment, it really is a  
18 noble cause. Why would I want to hide my face? I  
19 would talk to the person directly myself. If you need  
20 some help, I'm there to help you.

21 REPRESENTATIVE JAMES: I'm sorry, I  
22 didn't understand. Who did you say you were?

23 MR. KAIRA: Sir, if I suspect child abuse  
24 at a neighbor's place, I would go talk to their family.  
25 This is what we have lost.

1                   REPRESENTATIVE JAMES: That is what we  
2 want.

3                   MR. KAIRA: That's what I would do.

4                   CHAIRMAN CALTAGIRONE: It presents a  
5 danger sometimes. It depends on the area and the  
6 neighborhood. That's probably where we should be  
7 spending more of our time with money, in helping our  
8 neighborhoods and our schools and our families.

9                   But one thing I did want to ask that  
10 while the Representatives are here, and I wanted to  
11 share with you, too, yesterday at the hearing in  
12 Harrisburg I had suggested that we ask one of the State  
13 agencies, and we could do this through a resolution, to  
14 perform just such a study, county by county, to find  
15 out exactly how these reports that they give us, I  
16 mean, these figures and information that they run by us  
17 to testify to these bloating budgets each year, little  
18 do we know at times whether or not it's really  
19 justified. What I'd like to see on the substantiated  
20 and unsubstantiated reports is a complete, thorough  
21 breakdown and an in-depth study county by county and  
22 they can do that very quickly by getting the  
23 information from the counties, and then of course going  
24 out and researching sample counties to find out, you  
25 know, what was involved, what happened to you, and

1 extract whatever information that they can from those  
2 that had been unfounded, unsubstantiated, and start to  
3 build a case. And I think a sampling of that, which is  
4 done in many areas that we deal with in State  
5 government, can pretty well paint the picture for what  
6 we need to get to make at the decisions.

7 MAN IN AUDIENCE: May I also suggest that  
8 if you undertake that course of action, that the  
9 information that be interpreted outside the agencies.

10 CHAIRMAN CALTAGIRONE: Oh, yes. We have  
11 State governmental agencies that work specifically for  
12 the legislature, like the Crime Commission, even though  
13 people have different views on what they do and what  
14 they don't do, but they answer to us, not the Governor,  
15 not the Attorney General, not anybody else. They  
16 answer specifically. The Legislative Budget and  
17 Review. Those are creatures that we created and they  
18 answer solely to us. So if we mandate that they  
19 undertake a certain study and we fund it and it's  
20 approved, let's say in the legislative body, then that  
21 is controlled completely by us and the people that work  
22 for us in that area. So I understand what you're  
23 saying, yes.

24 WOMAN IN AUDIENCE: Another number that  
25 doesn't seem to be offered is I don't think

1 substantiated and unsubstantiated alone is a good way  
2 to look at this.

3 CHAIRMAN CALTAGIRONE: You're right.  
4 You're right.

5 WOMAN IN AUDIENCE: What I'd like to know  
6 is how many individuals are being harassed again and  
7 again with new allegations.

8 CHAIRMAN CALTAGIRONE: True. And even  
9 with the substantiated/unsubstantiated, if you look at  
10 the legal follow up to this, because if you say, well,  
11 just because it's substantiated by whom, it's drawn up  
12 by the court it could be substantiated or indicated or  
13 founded by the agency, even though there may not be a  
14 court follow-up to that, because that has happened in a  
15 number of cases that we're finding out. So it doesn't  
16 always gel with what you're seeing. You may have 1,500  
17 cases and how many are actually being pursued by the  
18 local district attorneys? As a matter of fact, and I  
19 know from in this one particular county 1,500 cases,  
20 only 78 that are being investigated by the district  
21 attorney's office. Now all of a sudden you see this  
22 number like this, and then you see it like this and you  
23 begin to wonder, well, what are they spending all their  
24 time on if they're only substantiating that one year  
25 alone 78 out of 1,500 cases? There's a lot of false

1 reporting going on or something.

2 REPRESENTATIVE HENNESSEY: Yeah, if we  
3 could get the--

4 MAN IN AUDIENCE: Yeah, if we could get  
5 the breakdown by county and start to get into that and  
6 find out where those problems are and where they have  
7 to be fixed.

8 CHAIRMAN CALTAGIRONE: Surely.

9 SECOND WOMAN: I think it's really  
10 important that even as late as this week, and I called  
11 the University of Pennsylvania, I'm talking about the  
12 social workers get no training in sexual abuse or  
13 incest. Therefore, on what basis are they making any  
14 of these claims? If they're not even being trained as  
15 undergraduates, and a few phone calls to the University  
16 of Pennsylvania is not the only calls I called to  
17 verify. I called a number of--

18 CHAIRMAN CALTAGIRONE: Well, it's not  
19 only that area. I know you came a little bit late, but  
20 earlier the first group of people that testified were  
21 from the Philadelphia agencies and they had, one of the  
22 things we did agree on was the setting of certain  
23 standards, qualifications, salaries, and other criteria  
24 for individuals that are working in these agencies and  
25 everybody has been in total agreement on that, that



1 they're paid too low, the salary is just too low  
2 compared to most other county offices, that that should  
3 be addressed that standards, qualifications,  
4 educational experience, ongoing training, that a lot of  
5 that really should be put in as a requirement. Yes,  
6 sir.

7 MAN IN AUDIENCE: You have a few people  
8 here yet that haven't been up there to tell their  
9 point.

10 CHAIRMAN CALTAGIRONE: We're going to get  
11 there.

12 MAN IN AUDIENCE: That would be nice.

13 (The next audio tape started at this  
14 point:)

15 MALE WITNESS: Are you going to permit  
16 the district attorney to have more information? Is the  
17 district attorney in these cases going to be permitted  
18 to gain information under the act which is precluded in  
19 public disclosure? Is that district attorney going to  
20 be able to get information? Now even? Going to be  
21 able to get information that even on my representation  
22 that I can't get myself in these civil cases? And to  
23 that extent, is he going to be able to share with me,  
24 because certainly my client is the one that is  
25 criminally -- or excuse me, my client is the one who is

1 being charged with the abuse and certainly he'd be the  
2 target of this act. I have no idea who is the person?  
3 Is it the mother, the perpetrator. Is it the mother,  
4 is it the father? I can't say that for sure.

5                   Certainly in every case there's an  
6 indication of who or what was the authority that made  
7 the report. It's not uncommon that right after a  
8 custody action is filed the next day the children -- I  
9 mean, I can almost say that in every one of my cases.  
10 As a matter of fact, I would say most of the active  
11 cases, if not all of them, follow that path, and then  
12 quotes of what the child said is probably in every  
13 single one of them. But who is going to be the  
14 authority that's going to police this particular act?  
15 Is it going to be the courts of its own accord? Is it  
16 going to be me as an attorney, because I believe -- I  
17 don't even know who the accuser is let alone to pass  
18 that information on to the district attorney. All I  
19 know is it just doesn't sound right. But if I can't  
20 get the information, I don't see how the district  
21 attorney should be able to get the information either  
22 and prosecute it there because the same standard holds  
23 true in the civil case. I'm trying to disprove an  
24 abuse. There's no information available to me as to  
25 who in fact made that allegation.

1                   And certainly the chairman brought up the  
2 issue of due process. We never do actually face the  
3 accuser, and if the accuser gives CYS or if the accuser  
4 gives a particular authority a report, is that  
5 authority going to be held to the standard of this  
6 particular act? Is the authority itself -- I would  
7 make one suggestion. On line 1, it says, "A person,"  
8 and I also believe that should include at this point in  
9 time an organization, whether it be Children and Youth  
10 or whatever, if in fact the act is going to held as it  
11 is, and I believe the wording should be, instead of a  
12 report, I believe it should be an allegation. I mean,  
13 we used it in the first side and I think the word  
14 "report" should be replaced in line 1 and 2 on page 2  
15 with the word "allegation," for just that reasoning. I  
16 think that would at least bring into the fact that an  
17 allegation was made rather than a full-blown report,  
18 because allegation comes up in PFA, allegation comes up  
19 in testimony, in testimony before the Court of Common  
20 Pleas, before the Department of Public Welfare  
21 hearings, before Mr. Parcy has indicated appeals are  
22 taken up. It comes up all the time that that  
23 allegation, but yet the person that's on the stand and  
24 I'm questioning as a defense attorney, that person may  
25 in fact be the one that made the report. But I can't

1 even prove perjury let alone prove this under a civil  
2 standard but because I don't even know, I may suspect  
3 but I don't have the right to face this person.

4           Every one of the reports that were given  
5 at those hearings has all the information blacked out,  
6 as you may or may not be aware. Every line is blacked  
7 out with who the reporter is, the address of the  
8 reporter. That creates an onerous standard under a  
9 preponderance of the evidence. I don't see how it's  
10 ever going to happen under the beyond a reasonable  
11 doubt standard because the wording is not as clear as I  
12 think it needs to be. And certainly the analogy that  
13 again the chairman made as far as due process concern.  
14 I think if you look at these sources of referrals again  
15 and you look at, okay, these are all the people that  
16 have called in these particular abuse claims. This is  
17 just CYS that made the analogy. Assuming we took the  
18 word out and made it "report or allegation," then  
19 you're looking at protection from abuse acts actually  
20 could come up just in the context of a custody act. Is  
21 it the intent of this chairman that within the context  
22 of a custody action if somebody that now we know that  
23 that person is on the stand, if that person makes a  
24 false allegation of abuse that could be proved or  
25 disproved in the context of this hearing or some other

1 hearing or a criminal hearing, I don't want to say I'm  
2 somewhat disturbed, but I've been listening now since  
3 10 o'clock and everything's been focused towards CYS.  
4 In reading this it does not say. It happens to be  
5 placed in Title 23 under the 6300s, which would lead a  
6 person to believe it's CYS, or it's just in the abuse  
7 process, but is it the intent of this particular act to  
8 cover everything that takes place in domestic  
9 relations, or is it going to go beyond domestic  
10 relations and any of the other titles? I don't think  
11 that's clear.

12                   Certainly some things are misplaced in  
13 the act and I can't tell you for sure. If you look at  
14 custody contempt, it's under the heading of support  
15 right after the support contempt, but it certainly has  
16 the power of being custody contempt. If it's going to  
17 be in the 6300 series, are we just limiting this to  
18 abuse actions is that come through Children and Youth,  
19 or are we going to cover the entire domestic relations  
20 spectrum as it appears? Certainly in certain cases  
21 where an allegation is made in a custody case, I can  
22 tell you who's making the allegation. It's right there  
23 and we can face them. And if I can disprove it, are  
24 they covered under this act? And then if they are, who  
25 is going to do the prosecuting? The district attorney?

1 I'm really concerned about the fact that under the  
2 umbrella of Children and Youth, and I'm not here to say  
3 anything good or bad about Children and Youth, but  
4 under that umbrella, it's going to be extremely  
5 difficult, if not impossible, and far be it for me to  
6 even comment on anonymous calls, and I could be honest  
7 with you, anybody can go out to one of those pay phones  
8 rights now and implement anybody in this room or  
9 yourselves in it and hang up the phone. Hang up the  
10 phone. Mr. Chairman abused his son. Click. This is  
11 what took place. Click. And in that case--

12 CHAIRMAN CALTAGIRONE: I mentioned at  
13 both the hearings both in Harrisburg and at Pittsburgh  
14 that if you wanted to show the complete idiosyncrasy of  
15 the system or the lunacy of what's going on with that  
16 hotline, anyone in this room, and there's no charges  
17 that you couldn't bring against anybody, right? They  
18 could call or report in on the Governor.

19 MALE WITNESS: Exactly.

20 CHAIRMAN CALTAGIRONE: The Lieutenant  
21 Governor, the Attorney General, Kevin Blaum from  
22 Wilkes-Barre, okay. Secretary Snider, the Secretary of  
23 Welfare. Now, can you imagine, now just think about  
24 it, can you imagine if several thousand phone calls  
25 would start to go in, you know, they would be assigned

1 an incident number, there would be supposedly an  
2 investigation of reports. Okay. You think about the  
3 conclusion. The idiocy of what is going on there. And  
4 they automatically say, well, you know, we fetter out  
5 the nonsensical ones. Oh, do you really? What is  
6 nonsensical? Who is making those judgments?

7 MALE WITNESS: Yeah.

8 CHAIRMAN CALTAGIRONE: What standards,  
9 for the people that are listening, and it's on 24 hours  
10 and who is there on a Saturday night or Sunday night or  
11 Monday night at 2 o'clock in the morning? Okay? And  
12 what determinations are they making? You know, if you  
13 really wanted to saturate the system with a lot of  
14 nonsense, because they can't penalize you, it's an  
15 anonymous call. It's a 1-800 call. Any of the people  
16 that work in Children and Youth Services could also be  
17 called in as perpetrators. I mean, think about that.

18 Yes. Go ahead. I'm sorry to interrupt  
19 you.

20 MALE WITNESS: Mr. Chairman, how serious  
21 would these allegations be taken yourself and people in  
22 Children and Youth being in a position of power?

23 CHAIRMAN CALTAGIRONE: Well, supposedly  
24 they would have to investigate these, you see.

25 MALE WITNESS: Supposedly. But because

1 you're in a position of power.

2 CHAIRMAN CALTAGIRONE: Well, suppose  
3 there are a number of calls that are made on the same  
4 individual, would that be cause for concern for an  
5 investigation? It supposedly would.

6 MALE WITNESS: Let me just follow your  
7 analogy for a minute and let's take it through the test  
8 of 6321. A call was put in on, quote, unquote, to the  
9 Governor or accusing the Governor of the Commonwealth  
10 of Pennsylvania. And we don't know who the person is,  
11 it's anonymous. Does, and this is my point, does the  
12 personnel, now Children and Youth has that in their  
13 hands. Is Children and Youth the person now who makes  
14 the report of suspected child abuse under this act  
15 without having reasonable grounds? Is the report in  
16 and of itself the report that Children and Youth is  
17 going to write up and does Children and Youth have -- I  
18 mean, are they going to be the target now? Do they  
19 have the ball and do they become the subject of this --  
20 I don't have a problem with it if it goes -- I don't  
21 have a problem with somebody calling in anonymously, as  
22 long as Children and Youth becomes the person here who  
23 is going to make the report of suspected child abuse  
24 under this act without having reasonable grounds to  
25 believe the report to be true. If they implicate the



1 Governor in this particular report and I take him to a  
2 hearing and we find out before Mr. Parcy nobody did an  
3 investigation, they don't even have grounds, they don't  
4 even have procedures to do investigations, they just  
5 indicated the Governor, if that's the case, is Children  
6 and Youth now the person that's being defined here as  
7 having the ball and is going to be prosecuted  
8 criminally under 6321, and/or can Children and Youth be  
9 prosecuted criminally under 6321?

10 The last point I want to make, and I  
11 think this is yet another absolutely critical point  
12 that the chairman needs to consider, is that understand  
13 when the report is indicated, it's in and of itself  
14 found that there's enough information of reasonable  
15 grounds. I think that that would give muster, even  
16 though I don't always believe what the indicated  
17 reports say, we certainly have constitutional tests and  
18 checks and balances with that. I don't agree with them  
19 all, but we have them there. The problem is when the  
20 report is founded or unfounded, it eventually becomes  
21 expunged. And to the extent that I tried to get  
22 information on those two particular reports, when the  
23 report is expunged, you cannot even get the information  
24 about what took place.

25 Let's say there's a pattern of abuse

1 charges. Under those circumstances, the defense  
2 attorney, and I am trying to prove, as we've heard  
3 here, six months ago I got the same exact thing took  
4 place to me. I filed a custody complaint. A year  
5 later the same exact thing happens to me, exactly the  
6 same from the exact same timeframe, the exact same time  
7 the exact same allegations are alleged. I've gone back  
8 to try to get that information just to try to prove to  
9 certainly show some sequence of events or to try to  
10 maybe prosecute the person. Expunged. The reports do  
11 not exist. And to that extent, I don't know if they  
12 are expunged how clearly under the laws of the  
13 Commonwealth they are expunged, they are not privy to  
14 the Commonwealth, the district attorney, or anybody  
15 else for that matter.

16 CHAIRMAN CALTAGIRONE: It's been mine,  
17 and I hate to interrupt you again, but you bring up a  
18 very, very good point, where people have said that they  
19 have testified that certain things have been expunged  
20 and yet in certain counties, and maybe a lot of  
21 counties, I don't know, the State testified yesterday  
22 from the Department of Welfare that when it's unfounded  
23 they get rid of the records. I'm just saying  
24 unfounded. But I've been told from a number of people  
25 that even work within these agencies, see they've got

1 some moles in there that have axes to grind and they've  
2 been talking to me, that they in fact are not  
3 destroying the records.

4 MALE WITNESS: I would agree with that.  
5 I would agree.

6 CHAIRMAN CALTAGIRONE: So at the State  
7 level they do supposedly destroy. And I would think at  
8 the State level they do destroy because they have  
9 become so voluminous they wouldn't know what to do with  
10 it, but at the county level, not all counties are  
11 following the law.

12 MALE WITNESS: I agree with you.

13 CHAIRMAN CALTAGIRONE: And they keep the  
14 files on people and here we go with that nonsense about  
15 Hitler and Germany and the KGB and you think to  
16 yourself, what in God's name are they keeping it for?  
17 For who's purpose? You want to jump in in the back  
18 here?

19 MAN IN AUDIENCE: Yeah. The Department  
20 of Welfare, I think they are a little nutsy themselves  
21 because years ago they used to go around and  
22 investigate to see what was going on. They don't do  
23 that anymore. There's kids running this street, they  
24 are naked, they are dirty, you know. Somebody ought to  
25 be investigating the Department of Welfare what they're

1 doing. Or they ought to have somebody to go out and do  
2 the investigation and--

3 CHAIRMAN CALTAGIRONE: Investigate them.

4 MAN IN AUDIENCE: Yeah, because there's  
5 people in my neighborhood, I'm in a Hispanic  
6 neighborhood and you've got a woman there with five or  
7 six children, each kid to a different guy, first of  
8 all, they're all different. You don't know who's who,  
9 you know. And then she's a welfare. She's collecting  
10 welfare, food stamps, and medical and everything.  
11 She's got all these kids. At night the guy sneaks in.  
12 Where does he come from? You see him leaving in the  
13 morning, or you see a guy visiting. He says he's  
14 visiting or he's the brother or he's the uncle or  
15 whatever. That's got to be all investigated. The  
16 Welfare Department is not doing the way they were doing  
17 years ago. If you did something wrong or there was a  
18 man in that house, they investigated you or you were  
19 turned in from your next door neighbor. They came out.  
20 That is what they got to do. You got to find out what  
21 the welfare is doing. They're sitting on their hands.

22 MALE WITNESS: You know, again, I think  
23 that needs to be written in here, certainly. If it's  
24 going to be an exception to the rule, it needs to be  
25 written in here, but I don't know how it's going to be

1 written in, because understand, and I think the  
2 chairman would agree and I don't want to put words in  
3 your mouth, that the majority of the cases that are  
4 going to fall under this purview in the cases of  
5 Children and Youth are going to be unfounded cases  
6 certainly, and if that's the case and we're expunging  
7 all the information, I mean, I don't see how -- they're  
8 contradictory. Because that information in and of  
9 itself may be necessary for the prosecution under this  
10 particular statute. Especially when there's a course  
11 of conduct involved. Yet you may be infringing on the  
12 rights of the particular defendant who actually got the  
13 thing unfounded. I mean, is actually unfounded, and  
14 under the laws of the Commonwealth it's supposed to be  
15 expunged, completely and entirely. Now, whether I  
16 would agree that the county certainly they'll file it,  
17 they don't follow it certainly to the extent that the  
18 State does, but in any event, can the county then  
19 produce information from an expunged file to be used in  
20 a criminal case?

21 CHAIRMAN CALTAGIRONE: Well, I understand  
22 that in fact the very point that you raised has  
23 happened in particular cases from what people have  
24 testified to and have alerted me to that in fact that  
25 very thing is happening, that in cases where basically

1 in domestic but not related, they're not limited, I  
2 should say, to just domestic situations where this is  
3 brought up and rehashed again. And again, you're  
4 thinking to yourself, from what I'm reading and from  
5 what people have said to me, well, how can this be? If  
6 the procedure is that if those records are to be  
7 destroyed or they no longer exist, how are they then  
8 referring back to those records unless they still have  
9 them? Can they then now be prosecuted in some area of  
10 the law, either civilly or criminally, for a violation?  
11 I'm talking about the employees of CYS.

12 That's what I'm saying, that this would  
13 need to be, my own personal feeling is a perpetrator  
14 would need to be expanded to organizations, too. So  
15 in the case of the Governor, we still have some  
16 protection under this stand. Somebody wants to call  
17 anonymously, that's fine. If we're going to put the  
18 onus on Children and Youth to investigate it and to  
19 produce reasonable grounds to go forward and do a  
20 report--

21 CHAIRMAN CALTAGIRONE: Exactly.

22 MALE WITNESS: --then the onus should be  
23 on whoever that is, whether it's CYS, whether it's  
24 whoever the investigating authority is, that's okay.  
25 If they want to call anonymously--

1 CHAIRMAN CALTAGIRONE: Should we revoke  
2 immunity for reliability?

3 MALE WITNESS: Absolutely.

4 (Applause.)

5 CHAIRMAN CALTAGIRONE: Because in all  
6 honesty and sincerity, and there is concern and I can  
7 see it from the other side of point of view.

8 MALE WITNESS: No, I can appreciate that.

9 CHAIRMAN CALTAGIRONE: You've got to be  
10 able to afford them the freedoms to do what they have  
11 to do, and I think there's not a person in this room  
12 that wouldn't agree that we want to protect the  
13 children from real abuse that's going on, irregardless  
14 of what situation it may involve. I think we all are  
15 in agreement with that. Now, to balance that, the  
16 scales of justice, how do you protect the people that  
17 have to do that job?

18 MALE WITNESS: But, sec, there's the  
19 contradictory.

20 CHAIRMAN CALTAGIRONE: Sure.

21 MALE WITNESS: This is going to make it  
22 criminal, but if we look on the scale, here's all the  
23 reports that come in from schools. If there's no  
24 reasonable grounds, is the school going to be held, the  
25 hospital? Forget parents or guardians. Other

1 agencies, law enforcement. All these people who are  
2 somewhat afforded immunity are people who make these  
3 reports. Are we going to just limit this particular  
4 statute to, quote, spouses or people that are outside  
5 the scope of immunity?

6 CHAIRMAN CALTAGIRONE: That wouldn't be  
7 fair.

8 MALE WITNESS: If that's the case, then  
9 it certainly contradicts the fact that they have  
10 immunity.

11 CHAIRMAN CALTAGIRONE: Well, the prime  
12 sponsor of the bill did mention this during the hearing  
13 yesterday, we kicked it around a little bit in  
14 Harrisburg as to whether it should be in Title 18 or  
15 Title 23. And he admitted, and I think rightfully so,  
16 that there would probably be a series of amendments  
17 that would have to be offered to this to hopefully  
18 clean it up, improve it, and define many of these other  
19 issues that are being brought up. Because if we're  
20 just going to play with something and not be serious  
21 about it.

22 MALE WITNESS: I understand.

23 CHAIRMAN CALTAGIRONE: And if we're  
24 hoping to make this law, which I know is my intent and  
25 I know the maker of -- I don't run anything out of my



1 committee unless we're intent on seeing it become law.  
2 I just don't waste my time or the members' time. But  
3 we certainly can do some work on this and I would ask  
4 the legal community and others to give us whatever  
5 assistance that they can, in addition to Children and  
6 Youth Services, because I do think there are some valid  
7 issues that have been raised in each one of these  
8 hearings about standards, qualifications, about ongoing  
9 education, that if we want to start to improve the  
10 system, there are other areas that we have to look to  
11 to improve it. In addition to the, and I've been  
12 making notes and so has counselor--

13 MALE WITNESS: I'm not critical about the  
14 bill. As a matter of fact, I would certainly support  
15 House Bill 826, as many of the people here. I'm  
16 looking at it from a practical standpoint in that--

17 CHAIRMAN CALTAGIRONE: What do you think  
18 about this chilling effect that we keep hearing? I  
19 mean, that word is devastating the prime sponsor of the  
20 bill because he took great offense to that word being  
21 constantly used yesterday, chilling, chilling, chilling  
22 and I'm thinking to myself, everybody is kept out in  
23 cold freezing to death while they're saying that this  
24 little piece of legislation that would try to put a  
25 level effect to the justice and due process is going to

1 have such a chilling effect, you know, and I think to  
2 myself, what are they so worried about? Why don't they  
3 try to help the system and help us to improve it so  
4 that that nonsense is stopped?

5 MALE WITNESS: I certainly would be in  
6 support of it. There certainly are some things that  
7 need to be considered and especially the expungement  
8 issue. I think if the unfounded reports are the ones  
9 that are going to be the real problem, the records that  
10 are expunged, it's being to all be for naught anyway.  
11 I don't see how anybody is going to be able to  
12 prosecute. You can't even get the information for  
13 civil case let alone for a criminal case. And for that  
14 matter, that's the whole reason for expungement. So to  
15 that extent, the guy calls in the false report on the  
16 Governor, goes away and it's founded, unfounded, and  
17 the whole thing is swept under the table. I mean, if  
18 there's a police officer standing there and maybe, I  
19 mean, if that was the actual case that could possibly  
20 prosecute the individual, it's going to be trouble  
21 getting those files. In fact, it goes away.

22 CHAIRMAN CALTAGIRONE: And who is going  
23 to be responsible?

24 MALE WITNESS: Why does it go away? It  
25 goes away to protect the Governor. Because this way

1 this particular report that says the Governor was  
2 accused of abuse isn't going to be used in a criminal  
3 case all over the front page of the Inquirer, because  
4 now people are going to say, well, maybe it is, maybe  
5 the it isn't. It's actually to protect the Governor,  
6 if you think about it. The whole purpose of  
7 expungement is is it founded or unfounded, and the  
8 Governor's name is on this report and we're going to  
9 get rid of it. We don't want it to be used. Now it's  
10 going to be used in a criminal case and you're going to  
11 have lots of problems with that. That's the actual  
12 perpetrator of it. I think there's some good in the  
13 expungement purpose, but it's going to be contradictory  
14 to try to prosecute people criminally when you can't  
15 even do it civilly.

16 CHAIRMAN CALTAGIRONE: No doubt there's  
17 going to be a problem. The question is whether we have  
18 a problem that needs to be addressed and how can we  
19 best address it right now? We try to do the best we  
20 can. If you have any language as you go through the  
21 bill--

22 MALE WITNESS: I would be happy to submit  
23 it to you.

24 CHAIRMAN CALTAGIRONE: Yeah, we would  
25 like to get the best bill we can.

1 MALE WITNESS: Thank you. I appreciate  
2 your time today.

3 MALE WITNESS: I hate to run, but I have  
4 to get back to Chester on another matter.

5 CHAIRMAN CALTAGIRONE: Sure. Thank you.

6 MALE WITNESS: If there were some  
7 questions that you wanted addressed, let me know.

8 CHAIRMAN CALTAGIRONE: Thank you. I  
9 appreciate your time. Thank you.

10 We're going to take a 5-minute break.

11 (The audio tape next picked up at this  
12 point:)

13  
14 CHAIRMAN CALTAGIRONE: This is very  
15 interesting. We're getting just about every county  
16 across the State represented. Like I keep saying to  
17 people, we're just scratching the surface. We've been  
18 flooded with phones--

19 MAN IN AUDIENCE: If you stop the system,  
20 in other words, I think the judicial system is the  
21 prime accomplice of abuse. In other words, the court  
22 can do anything. The mother can do anything. The  
23 father, if he wants to do anything like this, he  
24 wouldn't be sitting here.

25 CHAIRMAN CALTAGIRONE: But you see what

1 happens, let me share this also, and for the benefit of  
2 my colleague here, who is new to the system up here.

3 REPRESENTATIVE HENNESSEY: New in  
4 Harrisburg. I've done this kind of thing. I've seen  
5 this kind of thing for years.

6 CHAIRMAN CALTAGIRONE: But what they do  
7 in Harrisburg to you, if they don't like what you're  
8 doing, they will end up attacking you. This bill isn't  
9 even my bill.

10 REPRESENTATIVE HENNESSEY: And you're  
11 being attacked by it, you say?

12 CHAIRMAN CALTAGIRONE: Oh, of course, by  
13 the social activists and the others who have their own  
14 agenda. They start making it personal, and before you  
15 know it, they start lobbing missiles over at you so  
16 that the press and other people can question your  
17 motivations. You know, and I said to the one lady  
18 reporter that there isn't a single legislator on the  
19 Hill either in Harrisburg, Washington, or any State  
20 Capitol, that isn't requested to put in legislation  
21 either by individuals because of a problem, lobbyists,  
22 or because somebody thought of something because of  
23 some injustice or to try to amend or appeal some kind  
24 of a problem. That legislation is put in. This isn't  
25 my bill. And the committee, as I think you can attest

1 to, it was mentioned by the members, the newer members  
2 really, that they wanted some additional information  
3 and two or three of them said, well, let's hold some  
4 hearings on it, and I have it was voted. Dave Heckler,  
5 Attorney Heckler, made the motion, Representative  
6 Manderino seconded it, and it was unanimous, 20 to 0,  
7 to hold hearings. I mean, and all of a sudden this is  
8 go have getting glued all over me and I'm saying to  
9 myself, it's not my bill. I didn't ask for the  
10 hearings. You know, what's going on here? Why isn't  
11 that reported?

12 The bill, the history of the bill, and I'm  
13 going to repeat it again, in the last session,  
14 identical bill, identical prime sponsor. My name isn't  
15 even on this, but it was voted out 21 to 1. Kevin  
16 Blaum was the only one that voted against it. This  
17 session, identical bill. The flap was, this is where  
18 you got to understand the history of what's going on  
19 here. 1001 will greatly expand the powers and  
20 authority of Children and Youth and the reporters and  
21 everybody else. This goes contrary to that, basically.  
22 And they are trying, others inside and outside the  
23 legislature, to do everything they can to stop this,  
24 but hold no public hearings, mind you, on 1001. Which  
25 I find to be incredible. And in the hearings yesterday

1 in Harrisburg they said, well, we don't feel there's a  
2 need publicly to hold any hearings on that legislation.  
3 Wait a minute. Something that's going to be as broadly  
4 encompassing as that piece of legislation, and it's  
5 about, what, 15, 20 pages, 1001?

6 MR. KRANTZ: Yeah.

7 CHAIRMAN CALTAGIRONE: Somewhere around  
8 there. This is a two-pager, really. One side, the  
9 other side. And yet even with three statewide  
10 hearings, and you want to accommodate people because  
11 there are large numbers of people that couldn't afford  
12 to go to Harrisburg.

13 MAN IN AUDIENCE: That's true.

14 CHAIRMAN CALTAGIRONE: So we went one for  
15 Pittsburgh, one for Harrisburg, one for Philadelphia.  
16 To make it accommodating for the people in those three  
17 regions.

18 WOMAN IN AUDIENCE: Thank you.

19 CHAIRMAN CALTAGIRONE: And they would  
20 only approve, Itkin, the Majority Leader, and I'm not  
21 fighting with him. It was quoted in the paper this  
22 morning that all my party leaders opposed me. That is  
23 absolutely not true. Absolutely not true. The Speaker  
24 of the House talked to me on the podium just this week  
25 and said, you're right on target, Tom. I agree with

1 you 100 percent. The Majority Leader, because he was  
2 pressured by the social activists and the liberal  
3 element of the Democratic Party and some other liberals  
4 not to allow these hearings to be held, to muzzle this  
5 bill, to stifle it, and that's what it's all about,  
6 stifling free debate, that they wouldn't authorize  
7 these other two hearings, and only after I had  
8 suggested to him I would hold hearings with Youth and  
9 Aging, Kevin Blaum's committee. He's just a new  
10 chairman. Kevin at first said, no, I don't want to  
11 co-chair any hearings, and only after the insistence of  
12 the Majority Leader that this would be a compromise of  
13 some sort, I don't know how that's a compromise, that  
14 they would allow us to hold a joint hearing in  
15 Harrisburg yesterday. That was approved. This one is  
16 not approved. Now, does that make sense? I mean--

17 REPRESENTATIVE HENNESSEY: Well--

18 MAN IN AUDIENCE: Well, isn't it your job  
19 to supposed to be doing that, in statutes?

20 CHAIRMAN CALTAGIRONE: Yes. Yes.

21 MAN IN AUDIENCE: Some legislative  
22 oversight to have these hearings?

23 CHAIRMAN CALTAGIRONE: Exactly. I  
24 followed that to the letter of the law, to try to make  
25 sure that when we're developing legislation, now you



1 heard the back-and-forth and we're going to hear a  
2 little bit more this afternoon about why that's needed,  
3 to try to improve the legislation. We don't write  
4 perfect law. We're not rocket scientists that know the  
5 answer to all these questions. I don't think anybody  
6 does. And that's the purpose of trying to have input  
7 to make these bills better so that if they do become  
8 law, it's a good piece of legislation. Okay?

9                   Thanks for your observation and that we  
10 actually are doing our job. Too many people tell us  
11 the legislature doesn't do anything.

12                   REPRESENTATIVE HENNESSEY: They didn't  
13 tell us that at 11:30 the other night on Monday and  
14 Tuesday when we were there.

15                   MAN IN AUDIENCE: Some of the legislators  
16 don't do anything.

17                   CHAIRMAN CALTAGIRONE: Well, that's  
18 probably true. You can't tar us all with the same  
19 brush.

20                   MAN IN AUDIENCE: Well, I could mention a  
21 few names.

22                   CHAIRMAN CALTAGIRONE: Okay.

23                   MR. TARUD: My name is Sol Tarud. I've  
24 been in the divorce process since 1986, and I've been  
25 in support groups for separated and divorced people and

1 I chair Fathers and Children Equality, even though I  
2 have primary custody of my daughter. My concern is  
3 with the system that is basically biased, and I  
4 appreciate this law as a starting point. I don't think  
5 it will change anything, I just think it's a starting  
6 point.

7 My divorce is basically a financial  
8 divorce from my wife. I was cleaned out of the  
9 marriage. I raised my daughter since she was 2 years  
10 old in 1982, and then 1986 after it became evident that  
11 my wife wasn't being responsible as far as financial  
12 goes, so in other words, I believed her as a person who  
13 was honest, I sought the divorce in December of '86.  
14 We were still having physical relations, sexual  
15 relations if you want to call it that, and in June of  
16 '87, six months after the divorce started, she filed  
17 sexual abuse charges against me with Children and Youth  
18 in Luzerne County. I was shocked. I told Children and  
19 Youth, this is rid. There's nothing -- you know, I'm  
20 naive at that point. So they just asked me if I would  
21 cooperate with them, and I said, of course. I believed  
22 in the system. It did work for my case.

23 I brought my daughter up. I was going to  
24 see my attorney in Wilkes-Barre, I live in Hazleton, an  
25 hour away, I brought her up, left her with Children and

1 Youth for two hours while I saw my attorney. I asked  
2 my attorney if these charges proved to be false, what  
3 happens to my wife? They said, oh, her credibility  
4 goes down. Her credibility never went down. In other  
5 words, after I heard about the charges I asked my wife  
6 about it I said, how can you sleep with the abuser of  
7 your daughter? She shrugged her shoulders like it's  
8 part of the game. It goes on all the time.

9 Children and Youth investigated. I was  
10 fortunate that I had professional help. I had gone  
11 through counseling with Dr. Lynn Marcetti of Drums.  
12 She had counseled our family for a couple of years  
13 prior to the divorce starting. So I had her on my  
14 side. There was nothing that happened. It was just  
15 charges brought up and they investigated it. So  
16 finally they said it was unfounded.

17 Six months -- oh, during this time, while  
18 we were waiting for the six-month period to get it  
19 expunged, my wife brought my daughter to Victim  
20 Resource Center, trying to convince my daughter that I  
21 abused her. I went to Victim Resource Center twice. I  
22 said, I'm a so-called abuser, I would like to talk to  
23 you and I'll answer any questions you have. Their  
24 answer to me was, we can't talk to you. It's  
25 confidential. But I said, I have primary custody of

1 the child, why not talk to me? They said, because your  
2 wife brought her in, not you. Therefore, you're out of  
3 it. Finally I went to the attorneys and they finally  
4 stopped this game. The only thing that Victim Resource  
5 Center told me was the following, that your daughter is  
6 unhappy. I told this to my psychologist. The  
7 psychologist said, of course, with what she's being  
8 subjected to she's growing up too fast. She was 7  
9 years old at the time. She just turned 7.

10 So this is what -- in other words, you  
11 can write all the laws you have, but this domestic  
12 relations is unbelievable. In other words, you have  
13 the power, meaning the judges the lawyers, to set  
14 things right. Change custody, take action, don't  
15 accept crap that goes on. That's all it is, it's a lot  
16 of crap. You've heard it over and over. I thought  
17 mine was a serious case. I've seen worse cases. I've  
18 talked to people. I've talked to lawyers. I've  
19 switched lawyers because I thought I was be being  
20 treated right, and I found out I was. Even though I  
21 took a lot of abuse, this is normal for a man to take  
22 abuse. I wish you had a brother or a son that went  
23 through this. I've heard of an attorney in Denver or  
24 somewhere in the midwest that walked into a courtroom  
25 and just shot up everybody. Have you heard of that?

1 MR. KRANTZ: Um-hum.

2 MR. TARUD: What drives a man to do this?  
3 His son was going through a divorce. There's another  
4 case in California where a father went into bed with  
5 his 4- or 5-year old son and lit the bed on fire  
6 because he couldn't see -- his wife says you won't be  
7 able to see your son anymore. He got away, the father.  
8 The son was burned badly. I saw the son on TV recently  
9 with the mother. I mean, of course this is wrong, but  
10 the point is, why are normal minds driven to the  
11 extreme? That's my concern, and I hope you people  
12 would start this examination of the whole process. I  
13 don't understand. There must be an explanation. I  
14 don't see it. I fail to see it.

15 In looking at the system, I've heard of  
16 many cases, I've heard lawyers tell me when I looked  
17 for another lawyer like PFA, I am a member of the  
18 parent association of MMI. When I heard PFA I cringed.  
19 There's a law that lawyers tell me I use it, it's a  
20 lousy law, but it's good for the women. It gets the  
21 husband out of the house, it establishes precedence.  
22 She's got the kid, she's got the house, out goes the  
23 husband. Just by filing it. In other words, I mean,  
24 you're not going to work on that, I understand that,  
25 but I'm saying this chilling effect I don't understand.

1 Let's bring some balance back into the system. That's  
2 all I'm asking for.

3 The other question is why is it when we  
4 go through a divorce all of a sudden the men become  
5 abusers? Everything was fine up to that point and then  
6 they become the abuser. Don't the judges ask  
7 themselves this question? Or does Children and Youth  
8 ask this question?

9 Okay, that's my story on the, in other  
10 words, I've been, it took me three years to get custody  
11 of my daughter. We went through three psychologists.  
12 A family psychologist testified on my behalf. Then the  
13 court-appointed psychologist testified on my behalf.  
14 We went through two sets of hearings. One in one year  
15 he gave a verbal report. That wasn't good enough for  
16 my wife. We went back. I asked, why did we go back to  
17 the same one? He already gave you a negative response.  
18 She said, I've changed. She thought she could fool the  
19 system. The guy still says he's still the better  
20 parent. He's raised her since she was 23 years old.  
21 She goes off in college, I put her through college, she  
22 got a Master's degree at Lehigh, she went on to work in  
23 Long Island. In other words, she did her thing and  
24 became financially independent. I took the hell in a  
25 bag. This is my second marriage. I said, I'm going to

1 make this work, I'm devoted, I'm going to put all my  
2 effort into making this marriage work. I lost  
3 everything.

4                   What's the other point? I'm sorry. I've  
5 talked with Children and Youth social workers and I  
6 say, I asked that question about why do the fathers  
7 become the abusers? And this girl, all she did was,  
8 there's a lot of abuse, I know it's going on. In other  
9 words, it's — what I see is the abuse is Children and  
10 Youth don't do their jobs. We have cases in Hazleton,  
11 Pennsylvania, Wilkes-Barre, in our area three or four  
12 cases of children being killed. One of them was the  
13 case of a baby that was beaten up by the mother and  
14 then the stepfather, or whatever it is.

15                   MR. KRANTZ: Yeah. Yeah.

16                   MR. TARUD: The end result is, the  
17 parents were smart. They would keep the baby awake and  
18 awake. They were notified when the Children and Youth  
19 were going to come and investigate then they wrapped up  
20 the baby, put her to sleep, Children and Youth workers  
21 come and say, oh, he looks so cute. Don't wake him up.  
22 Take off the clothes and look at him. Look at his  
23 bruises. I mean, the people are smart enough there and  
24 Children and Youth seem to have a bias towards the  
25 woman. I mean, are we protecting the child or the

1 woman? That's what I'm concerned about.

2                   And, I mean, I've been before Judge  
3 Muroski and we laugh when we see each other now. I've  
4 been before him so often. He says, I like to keep a  
5 balance in this, but I see the balance pointing 90  
6 percent towards the woman and I don't have any say in  
7 what goes on. In other words, after my wife accused me  
8 of beating her up, of sexual abuse and so on, and I  
9 have pictures of where she scratched my face, a bite in  
10 my arm and I went to the hospital, got a report. We  
11 had a fight the day I filed for divorce, she was mad  
12 with me. She attacks me and then goes out to the  
13 police. I even notified the police I said, a woman is  
14 going to come down and report I've attacked her. So I  
15 said, okay, they called me up, the chief of police, and  
16 says, all right, I'll be down. I just have to check  
17 with the hospital. Got myself taken care of and he saw  
18 the scratches on my face. I look pictures as any sane  
19 man would do and I got a bite in the arm. The hospital  
20 worker laughed. This was funny. My wife bit me. So I  
21 dropped it. My wife left when she heard I was coming  
22 down to the police station. But two years later she  
23 has me in court again. And I don't understand what's  
24 going on. I was supposed to testify, she could say  
25 anything she wanted, and I was to agree that I wouldn't



1 touch her anymore, things like that.

2 So, anyway, what I'm saying, I have is I  
3 don't understand the system. It encourages when two  
4 people have loved each other to go to the opposite  
5 ends. It's incredible. Okay, that's my basic case. I  
6 laugh at what's going on. In other words, when I get  
7 divorced, hopefully within the year, I'll have a  
8 divorce party so I can celebrate.

9 (Applause.)

10 MR. TARUD: These two cases involve  
11 Children and Youth, and the system beats on the father  
12 and the child. If you could read it, I would  
13 appreciate it. I have a couple of copies.

14 REPRESENTATIVE HENNESSEY: Let me just  
15 take the opportunity to say, while the reporter is out  
16 of the room, so this is not for kinds of publicity  
17 purposes, not every lawyer is out there trying to tell  
18 people in divorce actions they should file for  
19 protection from abuse and the child abuse charges as a  
20 way to gain leverage in a divorce case. There are  
21 certainly people out there like that, and we'd all like  
22 the system to be able to identify the spouses that are  
23 willing to do it and the attorneys that are willing to  
24 recommends it to try to find a way to win.

25 There are any number of people out there

1 to abuse the system. We try to identify them, but, I  
2 mean, you can take it at face value, in 20 years of  
3 being a general practice attorney I don't think there  
4 was ever a case where we filed a protection from abuse  
5 -- well, we filed protection from abuse petitions  
6 sometimes when we thought it was appropriate. We never  
7 filed any that we were charged child abuse. Not that  
8 we wouldn't have. If I thought that there was  
9 something that was appropriate.

10 I guess basically what my point is, you  
11 can hear horror stories and it's the kind of situation  
12 where you can probably run out of numbers if you start  
13 handing them out, where people want to come in and  
14 start talking about how bad the system is and how the  
15 system never works. There are attorneys out there,  
16 believe it or not, I'll speak for my profession just a  
17 bit, that don't abuse the system and don't think that  
18 winning at all costs is the ultimate point of going to  
19 court. As a matter of fact, from my experience, most  
20 of the good attorneys will keep you out of court and  
21 get things settled in a way that the family doesn't get  
22 permanently scarred. And the advice I used to give to  
23 people is, look, you can fool the kids all they want  
24 when they are 3 and 4 and 5 years old or 8 and 10.  
25 When they're 16 or 18 years old, if they end up hating

1 you because of what you've done, then you've brought it  
2 on yourself.

3 MR. TARUD: That's very true.

4 REPRESENTATIVE HENNESSEY: And when  
5 you're dealing with people that want to hurt the other  
6 side, and you got a lawyer that will facilitate it, it  
7 will be a bad situation. If you're dealing with  
8 spouses that simply want to get apart and separated,  
9 you can have the kind of situation which I think it was  
10 Mr. Pulcinella said that you know you could have four  
11 parents and eight grandparents, or whatever. It can  
12 work. And so while we're hearing all from one side  
13 today, there are possibilities to get some balance in  
14 the system.

15 It sounds like I've opened up a raw wound  
16 here. Not with you but—

17 MR. TARUD: No, but there must be a  
18 reason why the system is the way it is and that they  
19 see it as fair. I don't see it.

20 WOMAN IN AUDIENCE: The system isn't  
21 working. I'm going to present some of the other side  
22 that it isn't working because basically the system is  
23 not set up with qualified people who know what they're  
24 doing. They're inept.

25 SECOND WOMAN IN AUDIENCE: Well, any

1 rational person would expect, but then the head of  
2 southeastern region would certainly interfere and  
3 rectify or find out or take steps, but then she would  
4 have to admit that there are errors, and she doesn't  
5 wish to admit them. So the easiest thing is to then  
6 just cover up in both sides.

7 REPRESENTATIVE HENNESSEY: I'm not here  
8 to be an apology for the system. The systems always  
9 break down, they always have and always will. But what  
10 we're focusing here is the abuses in the system and try  
11 to find a way to get to the bottom of some of it. But  
12 we're not going to make a perfect system, no matter how  
13 hard we work.

14 WOMAN IN AUDIENCE: No, I think most  
15 people start out and do many things thinking that a  
16 breakdown in the system is an occasional thing. And  
17 then when you unfortunately, and you never dreamed that  
18 you're going to be in the system at all because that  
19 never happens to your family. That happens outside the  
20 family. Then when you are caught up in the system, you  
21 suddenly realize the safeguards, the bottom line is the  
22 safeguarding and the safety and welfare of the child  
23 without parent alienation syndrome. A child can be  
24 very mistreated but will still love that parent. And  
25 when you interfere with that, it does harm to the child

1       itself. And yet the system is set up to break up  
2       families, to allow that interference by people who are  
3       not trained. The bottom line is they're really not  
4       trained. There are no safeguards that in their  
5       emotional well-being. You have, I'm not saying that  
6       there are not plenty of social workers out there and to  
7       condemn the entire system for some. I am sure that  
8       there are probably saints in the system here and there  
9       who are doing all they can, that they are overworked,  
10      but unfortunately I think that they are not  
11      well-trained. I mean, here were phone calls that I  
12      made, and I will save that in my report. They're not  
13      being trained. You can see physical abuse but I hear,  
14      I hate to get my report before it, but--

15                   CHAIRMAN CALTAGIRONE: Why don't we let  
16      you go through and then we'll hear you.

17                   MR. KAIRA: I had one short question on  
18      attorneys you mentioned. There are lots of good  
19      attorneys and lots of bad attorneys like in every  
20      profession, but it turns out in family law we have more  
21      than fair share of bad attorneys. It just turns out  
22      that way. It's easy to get into family law than to get  
23      into corporate law. And we do have a little more  
24      number of attorneys that are not -- don't believe in  
25      integrity, and my personal experience has been that.

1                   REPRESENTATIVE HENNESSEY: I wouldn't  
2 disagree with that to some extent. You got Shakespeare  
3 back in whenever who said kill them all.

4                   MR. TARUD: Once you get divorced you  
5 realize what Shakespeare meant.

6                   REPRESENTATIVE HENNESSEY: Just keep in  
7 mind we're trying to make the system better. We're not  
8 likely to get it to be perfect.

9                   MR. TARUD: I don't know how you could  
10 change the bias in the system though. That's what it  
11 is. Ninety percent of the law is the judge's  
12 interpretation, the caseworker's interpretation. They  
13 feel what they see on Oprah Winfrey, Geraldo, Donahue  
14 represents the American population.

15                   REPRESENTATIVE HENNESSEY: I don't know  
16 too many lawyers or judges who watch that show because  
17 they are usually at work. I don't watch them. I got  
18 better things to do.

19                   MR. TARUD: I've heard the judge say  
20 about too much Catholic schooling and we fought over  
21 what school she would go to. Too much schooling. I  
22 said Catholic, she saw Catholic girls go off the wrong  
23 end and things like that, she saw that on Oprah  
24 Winfrey. Every time a girl comes through and says, I  
25 went to Catholic school and look at what I am now, that

1 girl, and she's up there because she's unusual. She  
2 doesn't represent the primary, you know, the normal  
3 person, pardon me.

4 CHAIRMAN CALTAGIRONE: Okay. Let me just  
5 say this for the witnesses to follow, if we could just  
6 summarize. If you do have written statements and then  
7 state your case, because I know there are probably some  
8 time constraints and some other people that have been  
9 very, very patiently waiting to testify here today.

10 MR. TARUD: All right. The other one is  
11 guys being beat up by the system. If you could read  
12 it, I would appreciate it. And I have supporting  
13 documentation here while you read it. It's quick.

14 CHAIRMAN CALTAGIRONE: We can read it.

15 MR. TARUD: This is very strong. I'm  
16 saying that here's Children and Youth, here's a child  
17 that has been abused and the Children and Youth were  
18 trying to get the child back to the mother.

19 CHAIRMAN CALTAGIRONE: I saw the  
20 pictures. You were trying to get them to do something  
21 about that.

22 MR. TARUD: Who beat up the child, with  
23 her husband.

24 CHAIRMAN CALTAGIRONE: Yeah.

25 MR. TARUD: I mean, this is incredible.

1                   CHAIRMAN CALTAGIRONE: Are you going to  
2 submit those pictures?

3                   MR. TARUD: I submitted those pictures.  
4 I mean, please, this is serious.

5                   I'll show you what Children and Youth  
6 gave to the judge. There are reports here if you want  
7 them of the police reports that came in. They're in  
8 date order.

9                   MR. KRANTZ: And these deal with  
10 Schuylkill County. They were given six months ARD and  
11 then it's off the record.

12                  MR. TARUD: Children and Youth asked the  
13 father to return the child to the mother and the  
14 stepfather, even after their reports. The child was  
15 beat up. He had internal bleeding for two weeks.  
16 That's what they submitted to the judge. Their report.  
17 Just so the people could see it. In other words, their  
18 report on the subject. They said he would have to stop  
19 before they gave him a full report. Who are they  
20 protecting, period? Most of the transcript is in here.  
21 I cite the transcript on the first page where she says,  
22 I beat him up and I just couldn't control myself, I had  
23 a bad day at work, et cetera, et cetera. They both  
24 admitted it. And the ultimate kicker is right now he's  
25 being subpoenaed to go back into court so she could get



1 custody of the kids again.

2 CHAIRMAN CALTAGIRONE: Are you saying  
3 this is what the judge saw?

4 MR. TARUD: Yeah, the judge.

5 REPRESENTATIVE HENNESSEY: So the judge  
6 was all blanked out as well?

7 MR. TARUD: Yeah. And then she files a  
8 petition now on June 1, he's to appear in court because  
9 she wants custody back. She has the original order in  
10 force. How can any intelligent, I don't understand  
11 that. That's what I'm asking. A lawyer is filing a  
12 petition on her behalf, knowing all this is going to be  
13 presented. She even had abuse charges. She said, I've  
14 done well. She already admitted to it. If you want  
15 the whole transcript, we'll gladly make copies, if that  
16 helps you.

17 (The next audio tape picked up at this  
18 point:)

19 CHAIRMAN CALTAGIRONE: Next what I would  
20 like to do is have the next that are going to testify  
21 next come forward, and that would be Sol, John and  
22 Sheila, and I know that John had two other individuals  
23 with him. They can sit right here and we can try to  
24 speed the process up a little bit.

25 REPRESENTATIVE JAMES: Mr. Chairman, if I

1 may make a comment while they're coming up. I just  
2 wanted to say, because it seems that there a number of  
3 people here who are interested in this issue, and I  
4 just want to say that, and I don't know if this was  
5 done, but I think we commend Chairman Caltagirone for  
6 going on and having this hearing. Because it's very  
7 difficult, you know, to have these hearings and then  
8 all of a sudden they not be so-called authorized. But  
9 he took the initiative to go on and have them. And as  
10 I can see, there's a concern. When there's a concern  
11 on any issue affecting any systems or any citizens or a  
12 number of citizens in our community, we need to have  
13 hearings, and I just wanted to commend you and I think  
14 I'm glad that you're going to have it and I welcome you  
15 to welcome you to my district.

16 CHAIRMAN CALTAGIRONE: Thank you,  
17 Representative James. And I also want to thank the  
18 University of Pennsylvania, as I have the University of  
19 Pittsburgh, that afforded us an opportunity to have the  
20 hearings at a location inside the city, because we  
21 weren't sure whether or not we were going to have a  
22 place to welcome us, and I want to thank Representative  
23 James and the University for allowing us to appear  
24 here. Thank you again.

25 If we could start off with John and then

1 Sheila, and I know that there's George and Joseph. I  
2 don't know if they want to also come forward.

3 MR. PULCINELLA: Mr. Callagirone, I was  
4 requested, quite the contrary, I was requested to bring  
5 a couple of people to support the position that I'm  
6 going to present. They're two separate areas so there  
7 tale will be of a broader perspective, in finer detail  
8 than I may perhaps give relative to these issues. So  
9 if they could in conjunction with my presentation or  
10 after my presentation fill in all the gaps that I'm  
11 sure I'll leave, I think they will benefit.

12 CHAIRMAN CALTAGIRONE: All right, we'll  
13 hold any questions until all of you testify and then  
14 we'll open it for questions. So you can start off.  
15 Just identify yourself for the record.

16 MR. PULCINELLA: My name is John  
17 Pulcinella. I'm currently president of Fathers and  
18 Children Equality, a statewide child advocacy group.  
19 We have representatives in 42 of 67 counties in  
20 Pennsylvania, representing tens of thousands of parents  
21 and children who are affected by the domestic relations  
22 branch of our government. When this bill was  
23 introduced, as president of this organization I was,  
24 needless to say, got a number of phone calls, hey John,  
25 great, there's this bill, finally they're going to

1 criminalize false accusations of abuse. And with  
2 reservation I waited until I got my copy of it, I saw  
3 that in fact this bill was limited to only false  
4 accusations of child abuse, which is a very horrendous  
5 offense. Both child abuse is horrendous and false  
6 accusations of child abuse is horrendous.

7 To address the bill specifically, before  
8 I go off on my tangents that I'm known to do, I would  
9 like to say, well, first of all, thank you, Mr.  
10 Chairman, for having the strength of character to buck  
11 the political pressure concerning holding these public  
12 hearings. We thank you tremendously. And thank you,  
13 Representative James and Representative Hennessey for  
14 coming here.

15 Let me start out by saying that the bill,  
16 it's incredible to me that 135 words, 15 lines the  
17 actual text of this bill, has created such an uproar.  
18 That must say something. The false accusations of  
19 child abuse has skyrocketed over the last few years.  
20 To use Mr. Kaira's own statistics, you can see that in  
21 the groups that refer these cases, the two highest  
22 reports come from hospitals and schools, people who  
23 will suffer civil liability if they don't report. I  
24 think that's a key issue. They are covering themselves  
25 and everybody knows that teachers, lawyers, doctors,

1 are all protecting, all practicing defensive medicine,  
2 defensive strategies to protect themselves.

3 Then the next group, the next four where  
4 the reliability factor is the least involve people who  
5 very, very often get involved when the situation is  
6 divorce or custody actions. I think that's important.  
7 And if you add those four together, it outnumbers  
8 greater than the first two together. So I think at a  
9 glance we see there's a major problem here. We can  
10 subtract, I think, the top of schools and hospitals  
11 because they are maybe attune and practicing defensive  
12 measures, and I think that if there's real evidence of  
13 abuse, these people would still report it. But by  
14 making it mandatory, you're implying a liability, a  
15 civil liability, so of course you're going to get more  
16 false reports from there because people aren't going to  
17 take the chance.

18 Let's in fact go to the people that  
19 testified first, I have a couple of comments. As you  
20 can see, I'm not presenting my testimony from a written  
21 text because I don't feel I need to. The issues as I  
22 see them as president of this organization and my  
23 involvement over the last five years in this group  
24 actively, these particular issues, when I say they  
25 don't really affect me, they can never come to play in

1 my case so I feel I have a certain objectivity. We've  
2 talked to tens of thousands of people and you're  
3 correct, there are no funding means to help the falsely  
4 accused at all. So we get a significant number of  
5 those people and regardless of financial ability, I  
6 must say that no one can afford to defend against these  
7 charges. I tried to look at the mechanisms in place  
8 for investigating child abuse and I said to myself,  
9 wait a second, who is in favor of child abuse? Nobody.  
10 Nobody wants child abuse. Should child abuse be  
11 punished? Absolutely. To the fullest extent of the  
12 law. Or greater.

13 I think we have to agree with Rama, they  
14 should be hung, even though our laws don't provide for  
15 that. But what about the false accusations of child  
16 abuse? What does that do to the child? I've been  
17 forced to learn about a system, much unlike any system  
18 that I was taught in school in civics class. God you  
19 could have thrown that case out the window because it's  
20 not reality. Certainly Perry Mason and LA Law isn't  
21 reality. The reality is that we have this agency that  
22 invests child abuse called Children and Youth Services.  
23 We already have testimony, you have much testimony from  
24 other areas of the State that the people that do these  
25 investigations have no qualification requirements, none

1 whatsoever. We know that there's a lot of false  
2 reporting. We know that by their very focus they're  
3 looking to verify the abuse because that's their job,  
4 as verifier. And they've got the qualifications to do  
5 the verifying.

6                   What's the problem here? Wagner and  
7 Wigfield, two noted psychologists out in Minnesota,  
8 have done exhaustive research over the past 20 years  
9 about the false accusations of child abuse, and what's  
10 interesting is in their statistics and their findings.  
11 they have found that the investigation itself is more  
12 traumatic than full child abuse. What are we doing  
13 here? There's got to be some protection for our  
14 children. For our children. Yes, it is a crime to  
15 involve a child in making false accusations. Yes, it  
16 should be a crime. The person making false accusations  
17 should be subjected to penalty under the law.

18                   The problem I have with this bill, and I  
19 support this bill, but that you made the mistake of  
20 saying it could be amended to include anything so I  
21 will give you a hundred amendments. There needs to be  
22 some sanctions. The people that were here said earlier  
23 we have plenty of laws. We have plenty of laws. We  
24 have perjury laws. What a joke. Has anyone ever been  
25 prosecuted for perjury in domestic relations? Never.

1 It doesn't happen. I could pack this room with  
2 hundreds and hundreds and hundreds of people where  
3 perjury, admitted perjury, is on the record, nothing is  
4 done. I have someone here right now who will say where  
5 his own attorney got an expert witness, turned out it  
6 wasn't an expert witness, to recant all the testimony  
7 that caused this man to be taken from his children for,  
8 well, it turned out forever now. Said that she lied  
9 about her qualifications and her knowledge and the  
10 judge never even looked up from the desk.

11 So aren't you concerned about providing a  
12 penalty in the legislature which your intent is  
13 wonderful, but I'm telling you it's not going to get  
14 carried out in the judicial section of this government.  
15 It's not going to happen. Lawyers aren't going to  
16 prosecute it, district attorneys aren't going to  
17 prosecute it, and why? Because the system is  
18 overburdened. I don't want to point the finger at  
19 Children and Youth and say they're all bad. I do not  
20 believe they are all honorable people, but like every  
21 area of government, they're all overworked, they're  
22 underpaid, very little appreciation, and they've got  
23 the spotlight on them. You don't hear about the good  
24 job they do, you hear about the one kid that turned up  
25 dead that they didn't investigate on. Well, no wonder



1 that they're looking to find child abuse everywhere.  
2 Of course they are. They're covering their asses, like  
3 everyone. That's all they're doing. So, what can we  
4 do?

5 And, you know, their qualifications, no  
6 qualifications. The bill says, okay, if it's a false  
7 report, you're guilty of this crime. Well, what  
8 constitutes verification of a false report? An  
9 unfounded finding with Children and Youth? The very  
10 agency chaired and run by people who aren't qualified  
11 to run? I don't understand. So where are we going to  
12 determine what's real and what's not real? I think  
13 what you're going to have is what you have already.  
14 You're going to have the random recommendation that  
15 that may or may not be false that could possibly have  
16 been decided just as easily by flipping a coin, in  
17 absence of any real hard evidence.

18 What else is wrong with Children and  
19 Youth? We have an unaudited body of people who has the  
20 power of God without any oversight or answer to courts.  
21 I have seen child abusers who have been convicted,  
22 spent time in prison, child abusers get the kids back  
23 by alleging child abuse against a custodial parent.  
24 Incredible. And how does it happen? A simple  
25 anonymous phone call possibly, Children and Youth comes

1 on, takes the children away, they're gone, put in the  
2 case of where it's parental battling--and it's a shame  
3 where that happens, and I have a solution for that,  
4 too--put the child back in the hands of the abuser.  
5 I've seen that happen more than once. We saw it here.  
6 He will testify. He's not on the list. It happened to  
7 him exactly. It took him three months to get his kids  
8 back from Children and Youth. Of course, they didn't  
9 have time to write the report, even though they found  
10 it unfounded. Sorry. It's a very emotional issue for  
11 me, as you can tell.

12 So what constitutes confirmation of a  
13 false report? An unfounded report? Okay. There's a  
14 distinction here in this bill between the false report  
15 and the malicious false report. I don't understand the  
16 difference. How can you possibly falsely accuse  
17 someone not maliciously? I don't understand the  
18 difference, quite honestly. I think any false  
19 reporting is malicious intent. But how do we prove it?  
20 That's all I'm asking to summarize what I'm saying  
21 about the bill specifically is please, put some teeth  
22 into it. Don't leave it up to the judiciary to enforce  
23 your legislative intent, because it's not going to  
24 happen. It's not going to put some sanctions in there  
25 and clearly define a mechanism whereby false

1 allegations can be verified. Because it's not going to  
2 happen otherwise. And the bill has great intentions,  
3 but it's just not going to happen in the courts. My  
4 experience with thousands of people tell me that.

5           How can we fix this system? We can fix  
6 this system by taking family and children seriously in  
7 our society. If you look at it from the child's  
8 perspective, if you really want to fix the system in  
9 domestic relations, and that's what this is, it's  
10 amended to Title 23, the domestic relations. I don't  
11 care if that parent is the worst parent. That's mom.  
12 That's dad. Ask the child. That's my mom. That's my  
13 daddy. They don't understand divorce, separation,  
14 custody. They don't understand that. In the child's  
15 ideal world, mom and dad are together forever. Now we  
16 know in our real world that's not true. Two out of  
17 three marriages end in divorces. No longer 1 out of 2,  
18 50 percent. It's 2 out of 3. It affects everyone.  
19 And children are the biggest losers.

20           Nobody is truly advocating for the child.  
21 False accusations of abuse not only in sexual abuse but  
22 also in domestic abuse has been used as a weapon in  
23 divorce. And why is it used as a weapon in divorce?  
24 It's used as a weapon in divorce because it's an easy  
25 way to gain all victories in divorce. It gains you

1 custody, it gets you possession of a house, it gets the  
2 other person put away, out of there, out of the  
3 picture. Never, ever are these allegations made and  
4 custody actions made without disapproval, so the whole  
5 issue of divorce is settled at once. And there are  
6 numerous agencies that will enhance and support the  
7 abuse of this process. And it's a shame, who are the  
8 losers? The children are the losers. How do we stop  
9 this vicious cycle? Easily. Don't make children a  
10 prize to win. Get them out of their hands.

11 Divorce laws are written for the most  
12 part and most of the judiciary that that sits and hears  
13 these cases they're coming from the "Leave it to  
14 Beaver" days of the '50s when divorce was not as common  
15 a problem. Divorce is no longer a marital status that  
16 is stigmatized negatively in society. It affects  
17 everyone. So why not make it an issue of family and  
18 not an issue of law. Let's get it out of the courts by  
19 a real meaningful divorce mediation bill where the  
20 people are compelled to come to an agreement and if the  
21 one party is not warranted, that will then go against  
22 them in any decision. Let's make it real. Let's not  
23 make children pawns to be fought over, where these  
24 allegations can be made to win, and that's what we're  
25 doing. Look, we live in a litigious society where

1 we've got to win, regardless of truth. Perjury is not  
2 even prosecuted, this won't be prosecuted. No way.

3 (Applause.)

4 Divorce is a part of the new family  
5 experience in America. It can't be viewed positively.  
6 Children can have four parents, eight grandparents. It  
7 can be viewed positively. Children can have four  
8 parents, eight grandparents. Look at all this love  
9 that could potentially be available to our children,  
10 this positive input so that they can succeed in life.  
11 Now we don't have that. We have a system where because  
12 of a breakdown in a personal relationship, regardless  
13 of the reason, families are divided and children are  
14 now held up as the prize. And the best you buy and the  
15 more money you can throw at it, the better chance you  
16 have of winning. And guess who loses. The kids. The  
17 kids don't want that.

18 Make shared physical custody a legal  
19 presumption. And tie that together with mandatory  
20 meaningful divorce mediation and you're going to solve  
21 a lot of your budgetary problems too. The courts are  
22 going to empty in family law areas. Children and Youth  
23 won't have nearly the number of cases to investigate  
24 because there's not this prize. And they won't be  
25 coming to you for more money because they won't need

1 it. And maybe they can focus their time on these  
2 people down here where the true abuse is happening and  
3 where the children really do need protection. There  
4 are so many false accusations of abuse, even the  
5 investigators, they don't know anymore. They don't  
6 know anymore. So everybody becomes suspect. So like  
7 they say themselves, continue to err in the favor of  
8 the child. Err, and who is the victim of that error?  
9 Three out of four, we're to believe any of these  
10 statistics that we've seen here. I don't understand.  
11 Children and Youth can come in, take your children, by  
12 their word they can overcome any court order for an  
13 indefinite period of time for any reasons.

14 Our schools are encouraging our children  
15 to turn us in for being parents. I mean, it sounds  
16 crazy. You referenced Nazi Germany. It sounds like  
17 Hitler youth or the KGB, turn in your sisters, turn in  
18 your neighbors. What are we doing to each other? Who  
19 is to be destroyed here? Our children are being  
20 destroyed. Do we care about our children? Yes, we do.  
21 Get rid of all these false reports. Get rid of all  
22 these false reports by getting rid of the incentives  
23 for making false reports. And the incentives for  
24 making false reports too often, too often have to do  
25 with the custody or divorce action. I think any report

1 made during the course of the custody and divorce  
2 action should be looked at highly suspiciously, and  
3 they're not. Not at all. Unfortunately, it is a  
4 nuclear weapon with divorce and it wins all issues and  
5 it alienates children from parents and it destroys  
6 these parents for the rest, the rest of their lives.  
7 We have a court system whose only legal basis currently  
8 for deciding custody is what? Status quo and the best  
9 interest and welfare of the children. Best interest  
10 and welfare of the children. That's a really vague  
11 measure. I mean, who's to determine that? Okay, we  
12 have precedence, we have cases, we have all this law to  
13 decide for us what's in the best interest and welfare  
14 of the children. And I am constantly amazed at one  
15 resource that we are greatly lacking in this country in  
16 our courts and in our government - common sense. Why  
17 do we have to be told how to think as parents? Sure,  
18 there's fringe. There's fringe everywhere and we have  
19 laws to cover that, but the dissolution of the family  
20 and the handling of the custody of children is  
21 affecting everyone because of the few, and that's  
22 wrong. It's wrong.

23 We've got to get this issue out of the  
24 courts again. I didn't plan on getting quite as  
25 emotional as I just did and it has affected my

1 presentation slightly and I apologize for that, but I  
2 have six children, the oldest of which is 9. Five of  
3 those six are products of divorces. It's a blended  
4 family. And I love those five children. I love all  
5 six, but the five who are affected by this, I see a  
6 trauma that they experienced. And I see parents, just  
7 sometimes broken up parents who are willing to  
8 cooperate with each other and make the situation better  
9 but they're too worried about, wait a minute, they're  
10 going to call their lawyer to see if they can negotiate  
11 this for the children if it's appropriate. If it's  
12 appropriate legally. I mean, come on. That is, I've  
13 got something to do tonight, can you take the kids or  
14 would you be available to babysit or can I have them,  
15 I'm going somewhere? Why can't our parents talk to  
16 each other? No, our system doesn't allow it. We've  
17 got to go with the lawyers negotiating in court, all of  
18 whom don't really care about the children.

19 (Applause.)

20 I'm also impressed from all the hearings  
21 that I do attend and people that I talk to, I'm also  
22 impressed by the fact that very often the forces that  
23 from my perspective are working against children seem  
24 so fanatical and close-minded. I don't understand  
25 that. The people that we heard from first today,



1 they're the ones that got me in this mood because I  
2 couldn't believe I was hearing what I heard. That  
3 gentleman here, he knows -- if he truly does what he  
4 says he does for a living, he knows the number of false  
5 accusations there are. Why? Why? What's his agenda?  
6 What are you really doing? He said nine times--I  
7 counted--he said, I'm a child advocate. Well, then  
8 yeah, don't you understand that false accusations hurt  
9 children? No, he doesn't understand. It doesn't  
10 happen. Wait a minute, what's wrong with this man? Do  
11 you get paid for what you're doing? Is this increased  
12 budget going to help you? And I don't get paid with  
13 one penny and the issue doesn't affect me and I'm  
14 outraged. I'm in it because of what I've seen, and I'm  
15 outraged, quite frankly.

16                   You see, I had this, you know, this  
17 stupid belief that our courts--and my first experience  
18 with court, by the way, was with domestic relations,  
19 and I figured, okay, I'm going to go to court, this  
20 beautiful building with marble pillars and this wise  
21 old man with the wisdom of Solomon, gray hair, black  
22 robes, he was going to somehow listen and come to the  
23 best decision here for us easily with no big deal.  
24 What a shock. What a shock. They didn't care about  
25 me, they didn't care about my ex-wife, they didn't care

1 about my children. In fact, we couldn't get in there.  
2 We had to pay big bucks for people to talk to us in  
3 language we don't understand. Is that what our  
4 founding fathers wanted? I don't think so. I don't  
5 think so. But that's the system we've created. We've  
6 created a system that destroys families. We've created  
7 a system that creates deadbeat dads. We've created a  
8 system that seems very insensitive and uncaring. How  
9 ironic, I find, that the very system, the very courts,  
10 the very judges that so nonchalantly break up families,  
11 the effects of which devastate the children for the  
12 rest of their lives.

13                   You've heard enough testimony, I would  
14 just be repeating myself. Other testimony, if I told  
15 you told you, the plethora of life problems that  
16 children experience as a result of divorce and single  
17 parenting, we all know. Isn't it interesting that when  
18 a child turns 18 and exhibits some of the results of  
19 that disadvantaged upbringing, a judge will put them in  
20 jail. What are we doing to our kids? If we don't  
21 think this is all interrelated, we're blind. The  
22 prison population is far overrepresented by children  
23 from single families, single parent families, much more  
24 than should be statistically possible. It is related.  
25 Get this stuff out of the courts. Don't make children

1 a prize to be won and fought over. And get rid of the  
2 brainwashing that happens in between and criminalize  
3 false allegation of abuse, absolutely.

4 I also would like to see that this bill  
5 be expanded to include penalties for false accusations  
6 of domestic abuse, because that also is a weapon that  
7 is really clouding the issue. There are truly battered  
8 people out there that are getting lost in the crowd,  
9 the crowd of people making false accusations, and it's  
10 really a shame. It's really is a shame. We need to  
11 protect, have measures to protect people but we are far  
12 off target, much too far, and all along we are ignoring  
13 victim rights, real victims, and the real victims are  
14 the falsely accused. In no other area of the law I  
15 defy anyone with children, any other area of the law  
16 where you are guilty until proven innocent. And the  
17 punishment is immediate. You're extracted from the  
18 lives of your children. And you're guilty until proven  
19 innocent. Hearsay is admissible. Read the statute.  
20 Hearsay is admissible. No standard of evidence. None  
21 whatsoever. The investigative body is not required to  
22 have any qualification. Woe. I had to look at the  
23 front to make sure it was the United States when I read  
24 this. I couldn't believe it.

25 Thank you very much.

1 (Applause.)

2 MR. MCCOOK: Hello. My name is George  
3 McCook. I'm going to tell you one of the stories of  
4 how sexual abuse allegation can be used to a  
5 disgruntled spouse's advantage.

6 November of 1989, my wife and I had  
7 separated. We had a daughter, Courtney Ann, who was  
8 3-years-old at the time. After our separation I was  
9 seeing my daughter one day a week, every other weekend,  
10 and whenever I was needed to help my wife out in taking  
11 care of my child. It was as peaceful as a situation  
12 could be, considering the stress of divorce and  
13 separation, but it was working.

14 On June 28 of 1990, I went to pick my  
15 daughter up for a regularly scheduled visit and I was  
16 told that she wasn't there, that I wouldn't be able to  
17 see her again and to not bother coming back. And I  
18 continued to make attempts by phone to contact my wife  
19 to try and re-establish the contact between my  
20 daughter. To no avail. On July 19 of 1990, my  
21 attorney and I filed a petition in Delaware County  
22 courts for emergency relief to restore visitation  
23 between my daughter and I. This motion was heard the  
24 following day on the 20th. This was held in front of  
25 judge George Koudelis.

1                   At this meeting, allegations of sexual  
2 abuse were made by my wife's aunt, Christine Antonelli.  
3 She was accepted onto the stand by the judge as an  
4 expert witness with an expert in child sexual abuse.  
5 The credentials that she cited, among many, is that she  
6 was a doctorate in social work, that she had extensive  
7 work experience in this field. During her testimony,  
8 she described the situation that my daughter had  
9 disclosed to her and illustrated it with drawings that  
10 my child has supposedly drawn. When I looked at the  
11 drawings, there was absolutely no question in my mind  
12 as to whether they were drawn by my daughter or not.  
13 My attorney was livid, objecting to her even being let  
14 on the stand let alone these pictures being admitted  
15 into evidence based on the fact that we didn't know  
16 anything about this woman outside of the fact that she  
17 was a relative to my wife. At the end of that hearing  
18 I was not permitted to see my daughter by the courts.  
19 CYS investigation had just begun. As a matter of fact,  
20 CYS wasn't really formally notified until the day after  
21 the hearing.

22                   The hotline was called. The hotline in  
23 Harrisburg was called the evening after we had set our  
24 hearing date by Christine Antonelli. The timing was  
25 very good. In August, I met with CYS, and I liken it

1 to a McCarthy hearing, to an inquisition. It was fill  
2 in the blanks. I was presumed guilty and now they just  
3 needed to fill in the questions to prosecute their  
4 case. I was offered a lie detector test, which I was  
5 more than willing to cooperate with, but I was hoping  
6 that they would also give a lie detector to the person  
7 making the allegations, to my wife and to see if they  
8 could get to the bottom of what was going on. I was  
9 informed by the CYS caseworker and the detective from  
10 CID that my wife was not the one being investigated,  
11 that I was, and that they had no reason to worry about  
12 whether the allegations were true and correct, they  
13 only wanted to find out from me what was going on.

14 On August 18 of 1990, CYS completed their  
15 evaluation and determined that it was an unfounded  
16 case, meaning that there was no evidence to support the  
17 allegations. At this point, with the support of my  
18 family, my stepmother, my father, we decided that we  
19 were going to contract our own expert in the field. We  
20 interviewed several child psychiatrists and  
21 psychologists. We wound up selecting Dr. Marshall  
22 Schechter. Dr. Schechter expressed that he wanted to  
23 meet with both me, my wife, my family, and to try and  
24 get to the bottom of this. My wife refused to  
25 cooperate with this and naturally we needed to obtain

1 court orders. We obtained three court orders and she  
2 still never cooperated. On a petition in front of  
3 Judge Koudelis again for a contempt of court against my  
4 wife for failure to comply with these court orders, the  
5 judge decided that his best action at this point was to  
6 order court-ordered evaluations by Rick Schroeder, a  
7 psychologist. This was to be done both on myself and  
8 my wife.

9           On January 19 of 1991, Rick Schroeder  
10 completed his evaluations. In his report about me he  
11 stated, quote, "I see no clear evidence both in court  
12 records which I examined or on the psychological  
13 evaluation that Mr. McCook is a perpetrator of incest  
14 with his daughter." In my evaluation of his wife, he  
15 concluded that she has a paranoid personality disorder  
16 and he, quote, "seriously questions her allegations,  
17 unquote. On February 14, with these reports in hand,  
18 we filed for another hearing in front of Judge  
19 Koudelis. Again, we were attempting to restore  
20 visitation. At this point it had been nine months  
21 since I had seen my daughter.

22           On February 21, one week after we got our  
23 new court date, another set of allegations of sexual  
24 abuse was filed again with CVS. This again was one  
25 week after we had gotten a new court date. On February

1 28, we have the hearing in front of George Koudelis.  
2 At this hearing we were very limited by time. The only  
3 person that was able to testify was Rick Schroeder. He  
4 recommended restoring visitation. At the end of the  
5 hearing, when the judge was to make his decision, the  
6 judge replied, quote, "I don't feel it would be right  
7 for me at this time based on one-sided testimony, I  
8 don't think I'm in a position to make an order  
9 concerning the supervised visitation that you  
10 requested," unquote. I couldn't even get supervised  
11 visitation, despite one unfounded investigation by CYS  
12 and a court-appointed psychologist saying that he  
13 doubts the claims of sexual abuse and did feel that I  
14 was no threat to my daughter. And what was really  
15 interesting was that the judge felt that this was  
16 one-sided testimony. Dr. Schroeder was picked by the  
17 judge, he was a court-appointed expert to do this  
18 evaluation. Apparently he didn't tell the judge what  
19 he wanted to hear. That's the only thing I could see.

20 As I mentioned before, new claims of  
21 sexual abuse were also filed just prior to this  
22 hearing. CYS decided that they couldn't cope with the  
23 case. They didn't have the expertise to deal with it.  
24 So they decided to farm it out to a Sandra Steicher,  
25 who was a social worker. I must say Sandra Steicher's



1 investigation was pretty thorough. She met with me, my  
2 family, my wife, her family. During this  
3 investigation, there became questions who the  
4 perpetrator might have been. The investigation into my  
5 me by Sandra Steicher was unfounded. CYS issued that  
6 on April 23. The second investigation into me was  
7 unfounded. However, Sandra Steicher felt compelled to  
8 file a CY-47 against my wife's live-in boyfriend,  
9 feeling that there was suspect that he might have been  
10 the perpetrator. It was interesting how the way he was  
11 treated in the system and the way I was treated in the  
12 system differs now.

13                   Meanwhile, all along I have still yet to  
14 see my daughter. My wife's live-in boyfriend is still  
15 living in the house. He's still seeing my daughter  
16 regularly. I was told by CYS that Megan Fulton was the  
17 caseworker. I was told by Megan Fulton that she had  
18 told my wife to keep her boyfriend away from my  
19 daughter. Yet that wasn't happening. He was there in  
20 the house and my daughter was there. After phone calls  
21 to CYS I was informed by them that they're not a police  
22 force and they can't sit there and watch to make sure  
23 that he isn't around my daughter. My attorney made  
24 attempts, I did everything that I felt that I could do  
25 to try and make sure that if this guy was abusing her

1 that the two were separated, but no one did anything.

2 On July 30 of 1991, there was another  
3 hearing scheduled, again trying to restore this  
4 visitation. This hearing lasted two days. Numerous  
5 experts testified. I brought in my people, my wife  
6 brought in her people, I brought in every  
7 court-appointed expert. During this testimony,  
8 Courtney's aunt testified again. In between the time  
9 of the first hearing when she initially testified and  
10 this second hearing we had a chance to compile  
11 extensive information on my wife's aunt and we found  
12 out that she didn't have the educational background  
13 that she pretended to have. She had not completed her  
14 doctorate degree at the University of Pennsylvania,  
15 when she testified that she had. She had no extensive  
16 work experience in child sexual abuse. In fact, her  
17 Master's thesis was on a relationship between spousal  
18 abuse and pet abuse. I didn't see anything in her  
19 records that indicate any kind of expertise in this  
20 field of sexual abuse.

21 On the stand she recanted that my  
22 daughter had drawn these pictures. She said, well, I  
23 drew them. She drew them with my help. I assisted.  
24 Any professional in this field would know that you  
25 don't assist a child in drawing these types of

1 pictures. The judge sat there. She recanted her  
2 education, she recanted her testimony, she recanted a  
3 lot of testimony, and the judge sat there, never looked  
4 up. My attorney stopped at one point and turned to the  
5 judge to see a reaction. There was none. He again  
6 repeated the questions about her testimony and again  
7 the judge didn't stir.

8           At the end of this hearing the judge  
9 decided that the case was too complicated for him to  
10 make a decision. He requested that my expert Dr.  
11 Marshall Schechter make an evaluation and  
12 recommendations to the court. Dr. Schechter conducted  
13 his investigation, made his evaluation and his  
14 recommendations. He recommended that treatment for  
15 Courtney, Joanne and myself, both together and  
16 individually. He recommended that Joanne's family be  
17 prevented from making up stories and planting false  
18 things in my daughter's mind. He also said if the  
19 family did not comply with these court orders that the  
20 child should be removed from the household. This order  
21 was -- this report was submitted to the judge, who  
22 waited three months and there's nothing. I had written  
23 letters to the judge, my attorney wrote letters to the  
24 judge, Dr. Schechter wrote letters to the judge trying  
25 to find out what his ruling was going to be.

1                   In November of 1991, a new petition is  
2 filed in Orphan's court. This is in front of the  
3 President Judge, and it's a petition stating that I'm  
4 not the biological father of my daughter and requesting  
5 a blood test. I was at a point now where my wife had  
6 shown that there was nothing that she was not willing  
7 to do to get me out of her life and out of my  
8 daughter's life. She had to testify on the stand as to  
9 how she knew I was the father of my child. This was a  
10 no-win situation. The court weren't going to make a  
11 decision. I had been in court for 19 months at this  
12 point trying to restore visitation and was never, ever  
13 able to get a decision from the judge. Despite  
14 unfounded reports, despite psychological evaluations,  
15 questioning my wife's stability. I was reminded by the  
16 wisdom of King Solomon and I had to make a difficult  
17 decision. Was I to pursue this, was I to go through a  
18 blood test, was I to subject my daughter to a blood  
19 test? Was I to continue this? Was this an opportunity  
20 to stop the case? I decided at that point that I was  
21 going to go relinquish my parental rights.

22                   In February of 1992, there was a meeting  
23 with the President Judge, at which point I was to sign  
24 the papers terminating my parental rights. I refused  
25 to sign those papers. I disagreed with it. I told my

1 attorney that I will never sign these papers. Despite  
2 my objections, that afternoon President Judge  
3 terminated my parental rights. This matter is now on  
4 appeal in Superior Court, has been there for a year,  
5 and to date the only progress it has made is that the  
6 opinion was issued two months ago by the judge. I'm  
7 still waiting to hear from Superior Court.

8 We pursued several other venues in this  
9 case. The perjured testimony of my wife's aunt we took  
10 it up with the DA. We met with CID and we told them  
11 our case. We had the copies of the testimony. We had  
12 the copies of her vitae. He we had the pictures that  
13 my daughter had allegedly drawn and current pictures  
14 that my daughter had drawn. There was no comparison.  
15 Despite all that we offered to the DA, they didn't feel  
16 that it was enough to prosecute. I believe the words  
17 that were used was that it was a gray area. We went to  
18 the judicial review board with what I felt was the  
19 judge's misconduct and his inability to make a  
20 decision. After three hearings, after incredible  
21 amounts of reports, the judicial review board felt that  
22 there was nothing with the judge who couldn't make a  
23 decision to restore visitation in 19 months. They  
24 basically said that there was nothing that they could  
25 do.

1                   Apparently, no one is liable for their  
2 actions in this case. The judge isn't, the attorneys  
3 aren't, CYS isn't. No one has to answer to anybody.  
4 Meanwhile, I'm denied access to my child. When this  
5 first started I figured, well, it will just take some  
6 time to get to the bottom of it. This system will  
7 work. Maybe I won't see her for a few weeks. After 6  
8 months, 9 months, a year, 19 months, it's now been 3  
9 years since I've seen my daughter. I doubt I will ever  
10 see her again. And what is there left anyway? She's  
11 been turned against me, she's been convinced of lies.  
12 It's a no-win situation. No one will ever win in this  
13 situation. The way you're treated, you're guilty,  
14 you're unable to prove yourself innocent. You can't  
15 walk away from these allegations. You're left in a  
16 position where you have to defend yourself. I didn't  
17 feel that the system was capable of finding the truth.  
18 The punishment that you receive for having these  
19 allegations made against you is that you don't see your  
20 child. I don't think there's anything worse that you  
21 can do to a parent. If I was in jail for murder, I  
22 would still be entitled to see my child. I was accused  
23 of abusing my child sexually by a disgruntled wife. I  
24 was denied access to my child. It has brought a lot of  
25 anger at the system for allowing this to happen. A

1 system that was supposed to intervene. The system that  
2 was supposed to see and know all. It's not there I was  
3 incredibly disillusioned by what happened.

4           CYS is a cursory. They're incompetent.  
5 They're not prepared to deal with these situations. I  
6 don't know if it's entirely their fault. You can't  
7 expect someone with a Master's degree to understand the  
8 incredibly complicated nature of these types of  
9 allegations, and I believe they are only more  
10 complicated when they are false allegations and when  
11 there is a custody battle being waged at the time. You  
12 need more than a Master's degree to delve into this and  
13 to get to the bottom of what's going on. They're not  
14 prepared to do it. CYS illustrated that by not  
15 handling it themselves at the second set of allegations  
16 by having someone on the outside do that. They were  
17 saying right then and there that they couldn't handle  
18 it. My daughter was stolen from me, and she did it  
19 with the courts and false allegations. The courts and  
20 CYS were used by her and they don't even seem to  
21 realize it. She was the vehicle that she used to  
22 obtain her means, and the games that she wanted, and  
23 that was for me to not see my daughter any longer or be  
24 involved in her life.

25           I spent \$3,000 of my own money in this.

1 I don't regret that. I know I've had to deal with it.  
2 I couldn't have walked away from my daughter when this  
3 first started. The financial loss, the emotional loss,  
4 I lost a job over this. It reeks havoc on your life.  
5 My life was a mess for almost two years over this whole  
6 situation. And there is no end to it. My daughter  
7 will still always bear the scars of this. I don't know  
8 what her life is going to bring to her. I don't know  
9 what her future is going to be. What I do know is that  
10 we had a very close relationship, that I enjoyed her  
11 company and she enjoyed mine, that I was a caring  
12 parent and a caring father, and what I know now is that  
13 someone else convinced her that that wasn't true. And  
14 it's got to cause a lot of confusion for a 5-year-old  
15 child.

16 I don't know the answers. I don't know  
17 what to say. I think the system is seriously lacking  
18 when it comes to dealing with this. I think the system  
19 needs some qualified people beyond a Master's level,  
20 beyond a bachelor's level. You need doctors, you need  
21 psychologists and psychiatrists that are qualified in  
22 people's behavior. This is a step in the right  
23 direction. I think that it's got along ways to go. I  
24 know I'm not one of the more common cases, but  
25 nonetheless, they do exist and there are children



1 paying the price for what's going on. And I think that  
2 that's the biggest crime that's being committed.

3 That's all I have.

4 CHAIRMAN CALTAGIRONE: Thank you.

5 (Applause.)

6 MR. LAMONACA: Good afternoon, Mr.

7 Chairman. My name is Joseph Lamonaca. I'm a member of  
8 the Bar of the Commonwealth of Pennsylvania. I  
9 practice in the area of domestic relations and abuse  
10 defense. I'm going to keep my comments today strictly  
11 to House Bill 826 as I see it as a practitioner.

12 I have practiced in this area for quite  
13 some time. I've done many defense cases in the area of  
14 abuse, and as a tool, I'm looking at 826 primarily as  
15 an attorney defending people who have abuse  
16 allegations, which could be anybody in this room or any  
17 member of the chair, for that matter. Initially, I  
18 must state I think it's well-intended. I think there's  
19 some things to be considered. As I read through 6320  
20 on itself and starting with line 9, the first problem I  
21 ran into was an adult. I don't think there's any  
22 question with the judiciary as to what an adult is, but  
23 I think there would need to be some clarification or  
24 definition as to what we're looking at as to whether  
25 it's an individual or an adult. And the reason for

1 that is because, one of the reasons is, and I'm going  
2 to look at sources of referrals, I'm going to refer to  
3 Rama's chart for a minute. As we look to the  
4 referrals, and as you go across the bottom line, any  
5 one of these people could be the individual who is  
6 making a report. In fact, the report itself could be a  
7 coroner, could be the school, could be an individual in  
8 the school. Certainly, the target for unlawful  
9 persuasion or in the case of false reporting would be  
10 those anonymous reports, or in the case of Domestic  
11 Relations spouses. However, any one of those  
12 individuals as either an organization or an individual  
13 could be the person either unlawfully persuading or  
14 making a false report, and it's my interpretation that  
15 I think some definition would need to be in there as to  
16 who exactly we're targeting this particular law to.

17 I also believe in line 11 that the words  
18 "reasonable grounds," which, and I'm going to support  
19 this in just a minute, certainly need to be defined.  
20 Does "reasonable grounds" mean that the person is  
21 required to investigate? If I were to -- if a child  
22 who for the primary cases that I defend, and probably  
23 the majority of them is the child would be the only  
24 witness, the only material witness we have in these  
25 circumstances as to whether mom persuaded, the school

1 persuaded. In that respect, one of problems in every  
2 single case that I try to defend in these abuse  
3 allegations, I'm trying to prove these two points. I'm  
4 always trying to prove, and my client comes to me,  
5 whether it be anybody in this room and says, its  
6 completely false, it never happened, then if I'm to  
7 believe my client and I'm trying to convince either the  
8 Department of Public Welfare in front of Mr. Percy or a  
9 particular Court of Common Pleas that this is the case,  
10 I'm actually trying to persuade one of these two things  
11 has happened. That either there's a false report or  
12 there's a false persuasion or some combination thereof.

13           One of the problems is this wording here,  
14 "reasonable grounds." What is required of a person  
15 that whether it be the school, whether it be mother or  
16 whoever, what is required for them to meet that burden  
17 of reasonable grounds? Do they have to independently  
18 investigate or is it simply enough that they take the  
19 information that they've been given from the child or  
20 whoever, and in this case probably being the child, and  
21 pass it along to the authority being Children and Youth  
22 or the police? Without investigating anything, if the  
23 child says, dad did something to me or mom did  
24 something to me, if they take that quote and pass it  
25 along, have they met the burden of, quote, "reasonable

1 grounds"? That's one of the problems we've had up  
2 until this point is that everybody sloughs it off on  
3 somebody else. The child said this, quote. In the  
4 majority of the cases that I've had before Mr. Parcy,  
5 again in DPW, and I certainly won't mention any case  
6 cites, although if the chairman wishes I'd be happy if  
7 I can get releases from my clients to forward with any  
8 information that you so desire.

9                   Those quotation marks have become one of  
10 the biggest questions we have in any of these cases.  
11 If you look at the CY-48, which are the indicated  
12 reports, and in almost every one of my cases it's not  
13 uncommon to see the child said, quote, that a phrase  
14 about what abuse took place, unquote, and certainly  
15 that would fall within the purview of this particular  
16 statute if in fact that allegation was unlawfully  
17 persuaded or some person performed that or it was  
18 falsely reported as to what the child said. In fact,  
19 those quotation marks are usually just what's passed  
20 the law and it winds up passing its way down from the  
21 reporter to some other source to an investigative  
22 source and we find that sometimes those quotation marks  
23 are not in fact quotation marks. The child may not  
24 have said, quote, unquote, this is not what took place,  
25 but somebody as it went down the line the child

1 indicated that maybe touching certain areas of the body  
2 and it was held as a quote. Is that person to be held  
3 to the standard of this particular act? I don't know.  
4 I mean, in just reading the act, I don't know. If a  
5 doctor or a school nurse passes along a particular  
6 quote to Children and Youth, Children and Youth fails  
7 to reasonably investigate, are they going to be the  
8 target of the act or is it going to the doctor or is it  
9 going to be at some point down the line?

10 Most of the time by the time it gets  
11 within the judicial system with me I can testify that  
12 many people have handled this case from one end to the  
13 other and I don't know to the extent of who's going to  
14 be the target of this particular act. I've looked at  
15 this and I looked it over after I got the facts and I  
16 looked it over and I said to myself, looking at even  
17 the cases that I'm trying to do this now, who would be  
18 the target of the unlawful persuasion, or if reasonable  
19 grounds, who would be the target of the false  
20 reporting? To be honest with you, I haven't been able  
21 to come up with an answer because of the vagueness of  
22 the definitions themselves, provided that does it  
23 qualify that we just pass the information down the  
24 line.

25 Now, the third thing that I wanted to

1 mention, and this just may be a technical issue, but we  
2 go through the first part from line 9 to 12 and we're  
3 going to call that, and that gives the standard of  
4 potentially knowingly causes or persuades a child.  
5 Then line 12 adds malicious intent. Now, in my  
6 interpretation of it, and of course I didn't write it  
7 and I may be wrong, but that adds a significant level  
8 or another level to lines 9, 10 and 11, or excuse me 9  
9 through 12, but yet the grade is lower. So in my  
10 interpretation, the first four lines are going to be a  
11 grade second degree, but now we're going to add now  
12 malicious intent, so we're going to say the act now if  
13 it was done with malice, okay, clearly with malice is  
14 going to be a lower grade. And it's not either/or. We  
15 look at it I it--

16 REPRESENTATIVE HENNESSEY: A misdemeanor  
17 of the first degree is more serious than a misdemeanor  
18 of the second degree.

19 MR. LAMONACA: But in comparison, I'm  
20 looking in comparison between the two grades. I  
21 understand, yeah, it is a higher degree with the  
22 malice. Is the second part of the act supposed to be  
23 either/or, or is it simply going to be increased? If  
24 it's done with malice, then it's simply going to be  
25 increased.

1                   REPRESENTATIVE HENNESSEY: I wasn't the  
2 author of the bill, but it seems to me that if you use  
3 "malicious" you are committing a more serious offense  
4 and subject yourself to greater punishment. I  
5 mentioned earlier that there were no penalties in the  
6 act. By classifying the action as a misdemeanor of the  
7 second degree or a misdemeanor of the second degree,  
8 automatically the penalties for the misdemeanors are  
9 included which says jail, fines, or a combination of  
10 the two.

11                   MR. LAMONACA: Right. Something unique  
12 happens here that this is being placed in Title 23  
13 rather than Title 18.

14                   CHAIRMAN CALTAGIRONE: That was pointed  
15 out yesterday.

16                   MR. LAMONACA: And that's why I'm raising  
17 these issues because it's being placed not only in  
18 Title 23 but it's being placed under 6300s, which is  
19 the Children and Youth section of the child abuse  
20 section.

21                   As I move on to the second part of this,  
22 which is your 6321, false reporting, false reports  
23 could fall within the heading of the 6100s; which are  
24 protection from abuse, which occurs I would say if not  
25 more at least equal to the Children and Youth. It

1 occurs all the time under the PFA. It's not being  
2 placed in Title 18, it's being placed in Title 23.  
3 I've been up and down Title 23 and this is unique in  
4 that they're going to give rise to a criminal statute  
5 new in what has predominantly been a civil statute from  
6 one end to the other. There are certainly civil  
7 contempts and civil penalties associated with Title 23,  
8 but this is the most unique of what now we're going to  
9 be having enforcement and that may create another  
10 question of who is going to do the enforcement to this  
11 particular act?

12 Assume for a minute that, let me just  
13 backtrack a minute, and the reason why I mention that  
14 is because of the standard of proof that everybody else  
15 has brought up. And I won't put my lawyering abilities  
16 on the line, it is extremely difficult under the act as  
17 it's written right now, and again, we're always trying  
18 to prove unlawful persuasion in civil actions, it is  
19 extremely difficult to prove under the civil action by  
20 a preponderance of the evidence that this has taken  
21 place. Once Children and Youth gets involved during  
22 the PFA side, because in civil it's only a  
23 preponderance of the evidence. It's extremely tough to  
24 prove or disprove it with the standard being a  
25 preponderance of the evidence.



1                   Now, it appears, and correct me if I'm  
2 wrong, that this is going to give rise obviously to a  
3 criminal act, and I would imagine then that the burden  
4 of proof, and I guess it just goes without saying that  
5 it's going to be beyond a reasonable doubt. And if  
6 we're going to give rise now to beyond a reasonable  
7 doubt, I really believe that this is going to have to  
8 be spelled out in depth as to who in fact the act is  
9 going to be intended to, who is going to be -- is it  
10 going to be the attorneys? In the case where I have a  
11 client who says it hasn't happened, it can't be done  
12 because it's totally contradictory to the fact that I  
13 can't get reports, I can't get the CY-48. I'm going to  
14 have to go crazy to try to get anything. I never know.  
15 Even during the civil case I never know who the accuser  
16 is, and that's a major issue in a civil case, so I  
17 don't know who the accuser is. I have no way of  
18 proving or disproving or moving forward with any type  
19 of a criminal act let alone civil. It just won't  
20 happen. And so to that extent is it going to be the  
21 district attorneys on responsibility and information  
22 and is the district attorney going to be privileged to  
23 information that I am not going to be privileged to as  
24 a member of the Bar? Again, as with most crimes, if  
25 we're going to put that into the purview of the

1 district attorney or whoever the authority is going to  
2 be, why--

3 (The audio tape cut off and picked up  
4 again at this point:)

5 MR. MORETTI: I don't understand the  
6 system. Here's the date, this is the order of the  
7 court that the judge in Schuylkill County says he's  
8 giving back to the father. He had to go to court to  
9 keep the child. Why couldn't Children and Youth say  
10 the best thing for the child is let the father take  
11 care of it? He had to go to court because he said,  
12 you're going to back to jail if you don't return the  
13 child to the mother.

14 CHAIRMAN CALTAGIRONE: In all honesty, I  
15 have to ask this question, what does this have to do  
16 with 826?

17 MR. MORETTI: What it has to do with 826?

18 CHAIRMAN CALTAGIRONE: Yeah. Because the  
19 question is going to be asked--

20 MR. MORETTI: I don't think it will  
21 change the system. In other words, I want 826 as a  
22 starter. The chilling effect, I would think the  
23 chilling effect would be against, how do you say it, I  
24 think there is no chilling effect. I don't understand  
25 the chilling effect. There is so much false charges

1 that's going on that's accepted behavior on the part of  
2 the women. It's simple as all that. I cannot leave  
3 Hazleton. I'm an engineer and I've got a Master's  
4 degree. And I deliver pizza, I do taxes, I do any work  
5 I can find. I'm 57 years old and I can't get work in  
6 Hazleton because of a blue collar town. There's  
7 nothing wrong with being a blue collar, but the point  
8 is I can't leave Hazleton because the judge's order  
9 says if I choose to leave Hazleton more than an hour  
10 away I have to go back to court to see if it's okay  
11 with the wife, the ex-wife. Well, hopefully soon to be  
12 the ex-wife. I'm stuck. You would never do to a  
13 woman. I'm saying "you" as a judicial system.

14 REPRESENTATIVE HENNESSEY: This order  
15 gives Mr. Moretti, so you, so you don't disagree with  
16 this order because it gives you the custody.

17 MR. MORETTI: No, it's just that I find  
18 it incredible.

19 REPRESENTATIVE HENNESSEY: She wants to  
20 change that?

21 MR. MORETTI: Well, she wants to change  
22 it.

23 All right, I thank you very much. As far  
24 as, I mean, I don't think the law is going to change  
25 anything because the judge, my question is, if -- how

1 do you prove that if I file a charge, I can't be  
2 prosecuted unless it's obviously -- if I file any  
3 charge, it doesn't have to be in child abuse or  
4 anything like that. And outside Domestic Relations law  
5 can I be prosecuted for lying or bringing on false  
6 charges or whatever you call it?

7 REPRESENTATIVE HENNESSEY: We have a  
8 statute that says it's improper and a crime to make  
9 false reports to law enforcement agencies.

10 MR. MORETTI: So why doesn't it apply to  
11 child abuse?

12 REPRESENTATIVE HENNESSEY: To some extent  
13 it may already. The question is whether or not we  
14 should pass or report 826 out of committee after we  
15 amend it to make it this, to make the penalties  
16 stronger and make more of a point that this kind of  
17 thing is a problem that has to be addressed.

18 MR. MORETTI: It should be in domestic  
19 court as simple as all that. Generally both parents  
20 love the child and why tear the child up.

21 REPRESENTATIVE HENNESSEY: I don't think  
22 that it's intended to be tried in domestic relations  
23 court. I thought it was criminal.

24 MAN IN AUDIENCE: From what I understand,  
25 the concept of Children and Youth, it's supposed to be

1 -- it's supposed to be Children and Youth. So the  
2 agency lost the consent of children. It's supposed to  
3 be Children and Youth, so don't they do anything, why  
4 didn't they do anything for my 3-year-old son that was  
5 beat up, why didn't they do nothing for me? Children  
6 and Youth helped the mother. They gave her six hours  
7 of intensive programs, they called. One hour a week  
8 they went to her house. Now she graduated. Now she's  
9 cured. Sexual molesters never will be cured. Really.  
10 Probably 5, 10 percent go through intensive therapy  
11 will be cured. The basic nature of a human doesn't  
12 change.

13 CHAIRMAN CALTAGIRONE: She would like to  
14 testify.

15 MR. MORETTI: Thank you very much.

16 CHAIRMAN CALTAGIRONE: Thank you.  
17 Appreciate your time.

18 MS. BEHR: Chairman Callagirone, members  
19 of the committee and guests, before I start, this of  
20 course is not really very long. What I did wish to  
21 say, since I am -- my name is Sheila Behr, and I'm  
22 currently teaching kindergarten here in the city of  
23 Philadelphia, and I've done so for 22 years. I have 63  
24 credits above my Master's degree as well as a  
25 supervisory certificate, and my classroom has been

1 described in "What Works in the Classroom, Practical  
2 Strategies," edited by Walls and King, and also in the  
3 Helen Oakes Newsletter, formerly published here in  
4 Philadelphia.

5           Before I start, I did want to make two  
6 comments. One on the anonymous phone calls. If people  
7 don't make the calls anonymously, they can still call  
8 and say they're somebody else. They can call  
9 purporting to be me. There's no check-up on who is  
10 calling and that the person is indeed the person who  
11 they claim to be. There's no follow back or follow-up.  
12 So anyone can say that, and I would be remiss in my job  
13 as a teacher to not explain at least here in  
14 Philadelphia, the system by which children are  
15 reported. Teachers do not call Children and Youth.  
16 There's a chain of command, and that consists of going  
17 to the principal or the counselor and they are the ones  
18 that report. In physical abuse, because it's so much  
19 more obvious, that might be more obvious to report. In  
20 terms of sexual abuse, teachers are woefully just as  
21 children as youth are, we are not really trained in  
22 that area either. We are not trained to recognize the  
23 symptoms, we are not trained to recognize the child.  
24 Fortunately, here in Philadelphia, some years ago I was  
25 given a book on sexual abuse recognition. This was

1 long before our problems started in children, but it  
2 was left to my discretion as to whether I read it,  
3 which I did, but that does not mean that every teacher  
4 in the system read it.

5 One of the symptoms to recognize a child  
6 in the classroom is withdrawal and shyness from his  
7 classmates. Unfortunately, if that issue isn't  
8 addressed in subsequent years, another teacher might  
9 take that withdrawal and with the child becoming a  
10 loner would recognize that as the child's personality  
11 when indeed it was not. So I did want to make those  
12 points because I think when we get into the area of  
13 school reporting, it's important to know that I do not  
14 believe that teachers are any more adequately, even  
15 though we're mandated reporters, taught to report or  
16 recognize problems in the children in terms of sexual  
17 or incestuous relationships.

18 In our case, I support Bill 826. I wish  
19 it were stronger. It's vital to keep people from  
20 making false accusations because then what happens is  
21 uncoached children are not believed. And people say,  
22 invariably the wrong way that they are the ones being  
23 coached. Presently social workers from Children and  
24 Youth Services are not adequately trained to make  
25 judgments concerning allegations of sexual abuse or

1 incest. Indeed, local universities do not offer any  
2 training in this area. If universities do not teach  
3 anything about this subject, how do workers learn to  
4 recognize symptoms, do interviews, et cetera? Experts  
5 in the field know that trust must be established for  
6 disclosure to take place, yet CYS questions the  
7 children in the home with no safeguards or protection  
8 offered to them. These workers have some in-service  
9 courses offered, but by whom are they taught and what  
10 steps are taking to insure mastery of content? What  
11 type, if any, internship is there? No one would  
12 entrust his child to the knife of a surgeon who had  
13 only observed or taken in-service courses. Why then do  
14 we allow social workers to decide issues that the  
15 psychiatrists take years to learn?

16           Since social workers have immunity from  
17 prosecution, they may make any decision that they wish,  
18 including avoiding the board certified psychiatrist's  
19 report. They may do this with impunity, even though  
20 the law requires investigation by law enforcement  
21 officials. By law, an investigation must be launched  
22 within 24 hours of the filed report. The children may  
23 be forced to stay in an abusive situation for days  
24 permitting coercion or coaching, either/or, of the  
25 children. And therefore, a true assessment of what the



1 situation is is not being met.

2 Rape crisis has informed me that CYS  
3 frequently finds many cases unfounded, only later to  
4 discover that the children are seriously injured. CYS  
5 workers are so deficient in their knowledge of the law  
6 that they have testified in court that for a case to be  
7 founded, a child must be maimed; they have also  
8 testified that for a sexual abuse case to be founded,  
9 the perpetrator must gain sexual gratification. In  
10 addition, a Philadelphia CYS supervisor in a speech to  
11 a group of Main Line women stated that any party can  
12 obtain a guardian ad litem. She did not know that a  
13 judge must appoint such a guardian ad litem, it is not  
14 an automatic procedure.

15 Judges, as well as the public, believe  
16 CYS workers are unbiased and concerned with the  
17 children's welfare. Unfortunately, too often this is  
18 not the case. Even more unfortunate is the fact that  
19 the internal notes of CYS workers are not available to  
20 the families involved. Therefore, anything may be  
21 written without the input of concerned parties. It is  
22 the only place where you may not meet your accuser.  
23 Whether the charges are false or true, you don't know  
24 what is being said or what is being written. Under the  
25 cloak of confidentiality, no information is released to

1 those most involved. If by some accident these notes  
2 are obtained, the lies are evident. And I have some of  
3 those notes. The confidentiality clause protects only  
4 CYS, not the children. In addition, in direct  
5 violation of the law, CYS will frequently have ex parte  
6 communication with the judge.

7           It is important to note that social  
8 workers act upon reports without thorough, expert,  
9 outside professional investigation. When they do so,  
10 they are, in effect, both perpetrators and abettors in  
11 the emotional, physical, and sexual abuse of our  
12 children. A child willing to disclose abuse, if you  
13 will protect me, quote, unquote, to a psychologist  
14 appointed to his case by CYS was never permitted to do  
15 so because the case has already been reported as  
16 unfounded. When asked how he knew this without having  
17 ever interviewed the child the psychologist says CYS  
18 said so. It is obvious the case histories are  
19 pre-determined and CYS gets what it pays for. Since  
20 CYS experts' income is determined by the agencies'  
21 referrals, a clear conflict of interest exists here.  
22 Indeed, a child who had been told and demonstrated to  
23 an expert at Bryn Mawr Hospital how he and his brother  
24 had been masturbated in the bathtub was made to  
25 apologize to the perpetrator for having disclosed by

1 the same psychologist.

2 Child rights and organizations all over  
3 the country believe that children are most frequently  
4 given to an abusive parent. The Children and Youth  
5 Services of Philadelphia County and of Montgomery  
6 County operate under a professional provisional license  
7 because of the poor quality of service that they are  
8 rendering. We must stop child abuse by the  
9 perpetrators and those agencies that are supposed to  
10 protect the children but do not. We must erase child  
11 abuse from the home and hopefully from everywhere by  
12 all perpetrators, be they parent, social worker,  
13 judges, the entire system. Thanks.

14 (Applause.)

15 CHAIRMAN CALTAGIRONE: Can we have the  
16 next presenters come up? I think we also have yours to  
17 present and we have Ronald Williams, and Edward  
18 Onichimowski, and Elaine Collado. If we could get  
19 everybody that is going to make, is there anybody else  
20 back there that's going to make my any presentations  
21 yet? If not, we'll try to have everybody go and we'll  
22 go with any questions afterwards.

23 MS. COLLADO: Good afternoon. My name is  
24 Elaine Collado, and I'm here on behalf for my  
25 granddaughter. And at 3 years old she had informed me

1 that her mother's boyfriend has sexually molested her  
2 and due to that, I live in Philadelphia and my daughter  
3 lives in Jersey, and my granddaughter out of three  
4 years of her life spent three years in my home in  
5 Philadelphia, her and her mother, every day, and for  
6 the past year since February '92 they've been in  
7 Margate, New Jersey, with this man who is not the  
8 baby's biological father, and unfortunately, the baby's  
9 biological father I can't contact him because it  
10 wouldn't do any good for the child because he is an  
11 alcoholic, he takes drugs and sells drugs. There's no  
12 sense in going in that route.

13           The family -- I personally called DHS in  
14 Philadelphia and reported this. They informed me I had  
15 to call Family Service in Jersey and report it, which I  
16 did so. This was on October 6th of 1992. I never  
17 heard anything. The child remained with me. Her  
18 mother kept coming to Jersey, her mother works in the  
19 casino down in Atlantic City, and her boyfriend, Frank  
20 Malloy, works in the casino also. It's just amazing  
21 how Family Services asks DHS to interview my  
22 granddaughter because she was here in Philadelphia as a  
23 favor or however they work it. DHS got in contact with  
24 me. The social worker, Gloria Gooding, came to my  
25 house to interview my granddaughter, and the whole time

1 she was there my granddaughter kept saying, well,  
2 grandmom, don't talk, don't tell. And the social  
3 worker was saying to her, well, why don't you tell me?  
4 And she said, no, I'm afraid, I'm afraid. I'm afraid.  
5 So the woman said, well, let's not force her anymore.  
6 I'll come back another day, shortly. And within a  
7 week. Okay, fine. That was only on, it took place  
8 November 9, and that same evening I had gotten a phone  
9 call from Christina Brock from Family Services in New  
10 Jersey who has only been assigned the case for four  
11 days, because I had checked all this out. I have proof  
12 of everything that I'm saying. She informs me that she  
13 wants me to know that my daughter is going to come back  
14 to Philadelphia to take her daughter back to Jersey to  
15 this Frank Malloy's house. She just wanted me to know  
16 this, that she will be there the next day. I said,  
17 wait a minute, what kind of investigation did you do?  
18 Did you talk to the baby's pediatrician, who was in  
19 Philadelphia? Did you talk to any of the services that  
20 the baby was taken to in Philadelphia? Well, no, she  
21 didn't know anything about that. The only one she  
22 spoke to was Frank Malloy, who definitely of course  
23 said he didn't do this. My daughter, who's in denial  
24 of it happening, and that was it. And I said, I  
25 suggest you get some facts and talk to these other

1 people. She says to me, and when she called me it was  
2 20 minutes to 5:00 in the evening. She said to me,  
3 listen, okay, now it's 5:00 o'clock. She said, my  
4 hours are 9:00 to 5:00 and I want to get home like  
5 everybody else. I said, well, that's fine. She said,  
6 well, give me the phone numbers and I'll get back to  
7 you tomorrow. She was very angry with me because I  
8 questioned her. Okay, fine.

9 I felt in my heart that I did everything  
10 I could possibly do for my granddaughter. There was no  
11 more I could do. I sat her down beside me and I said  
12 Candace, mommy is coming. She's going to take you back  
13 to New Jersey. That's all I said. She said, she calls  
14 me Mom-Mom. She said, Mom-Mom, is Frank going to be  
15 there? This is how terrified this child is of this  
16 man. And I don't lie to my granddaughter. So I said,  
17 yes, he's going to be there. With that, she threw  
18 herself off the couch, was banging the back of her head  
19 on the floor, smacking her face, kicking and screaming,  
20 scared the hell out of me that I picked her up, I  
21 rubbed her head, now she's crying, I'm crying, I'm  
22 like, my God, what is going on here? I had raised  
23 three daughters on my own, myself, and have done a very  
24 good job of doing so. I put them through Catholic high  
25 school, they went through two years of college, which

1 they had dropped out, which was on their own.

2                   What it amounted to is that my daughter  
3 is doing drugs. She's down in this fast lane in  
4 Atlantic City and has gotten hooked up with the wrong  
5 people. When I was hugging my granddaughter, I  
6 couldn't even think straight. I mean, I through  
7 clothes in the bag that like I had one sock, I didn't  
8 even have underwear for her. I was just so totally  
9 upset. And with that, I got her in the car, she was  
10 still crying and screaming because she didn't  
11 understand what I was telling her that she was wasn't  
12 going back. I kept trying to tell her, Candace, I'm  
13 going to make sure you're safe. You're going to be all  
14 right. With that, I have a friend that I've known her  
15 for 40 years, and she came into my mind because she had  
16 just called me a week before with giving me a new  
17 address that she had moved and I took my granddaughter  
18 and we ended up on her doorstep crying, this friend of  
19 mine is remarried, I don't even know her new husband.  
20 I thought, God, they're going to think I'm crazy. And,  
21 you know, being there, you know, thank God the husband  
22 was very nice and he was like more people should get  
23 involved and they don't, but you and your granddaughter  
24 can stay here as long as you like. And I said, I just  
25 want to, what my intentions then was the only thing I

1 could see is tomorrow I have to get her an attorney. I  
2 need to get my granddaughter someone to deal with this,  
3 to listen.

4 So with that, the next day I called the  
5 Philadelphia Bar Association, because I haven't dealt  
6 with attorneys and I didn't know anything about this.  
7 First, I had an accident last year and I have a  
8 herniated disk. So I have an accident lawyer. I  
9 called him and he referred me to call the Philadelphia  
10 Bar Association because he didn't really know anyone  
11 that does that. I called there, they hooked me up with  
12 this Nancy Kanter. And I informed her that as of now  
13 I'm with my granddaughter in hiding but I'm in  
14 Philadelphia. And I'm here because to try to keep the  
15 safety for my granddaughter. What can you do? And I  
16 gave her all the information and she said, okay, she  
17 said, now don't tell me where you are. I said, I  
18 didn't intend to. She said, okay, well, then you're  
19 going to have to call me back, but in the meantime,  
20 I'll do the footwork. Now, which she was very nice  
21 because I didn't even give this lady any money. I  
22 hadn't even laid eyes on her. But she went over to DHS  
23 in Philadelphia and to talk to Gloria Gooding to find  
24 out if what I told her was the truth. Gloria Gooding  
25 said, yes, but she said, look, we don't understand.



1 Her supervisor was there also, and they said, we don't  
2 understand that Family Services in New Jersey called us  
3 and asked us to get involved and investigate with this  
4 child. We informed them that we need one more time to  
5 talk with this child and they said never mind, we have  
6 no founding. So forget it. So the lawyer said, well,  
7 as a courtesy to the child, would you interview her if  
8 the grandmother brought her in? And Gloria Gooding  
9 said, yes, she would do that. And her supervisor said,  
10 yes, she could do that.

11 So when I had called the lawyer and she  
12 told me to do this, I said, now I thought to myself,  
13 this could be a set-up, okay, I'm walking into a trap,  
14 but I will do anything for my granddaughter. So if  
15 this means, you know, I can't, I have to take a chance.  
16 I look my granddaughter, thank God there was no trap,  
17 but I look her there, my granddaughter was with Gloria  
18 Gooding, the DHS in Philadelphia, the Department of  
19 Human Services, she told Gloria Gooding that this man,  
20 Frank Malloy, sexually molested her not in words but in  
21 a 3-year-old words. She said, okay. But then they  
22 explained to my lawyer and myself that they do not have  
23 jurisdiction over New Jersey. So Philadelphia really  
24 can't do anything, even though the child told them.

25 Now, I don't understand that. So I get

1 back to Family Services, no, they closed the case.  
2 There's no findings, that's it. They don't want to  
3 hear nothing about it. I wrote a letter to Governor  
4 Casey, I've never got a response. I sent everything  
5 certified mail. I sent a letter to Governor Florio.  
6 He advises me that he sent -- I didn't get a letter  
7 back from him, it was from a commissioner that they're  
8 going to get in touch with the director Nicholas  
9 Scolaria, which I got in touch with his secretary back  
10 in December and she informed me that there was nothing  
11 that they could do. Okay, so now Governor Florio is  
12 involved in it. But still there's nothing that can be  
13 done. I went to Family Services. I spoke to the  
14 manager down there, a David Otis, and you know what  
15 he's telling me? Well, unfortunately, you know, you  
16 really kind of have to wait until the child is  
17 penetrated. What are you talking about? What about  
18 AIDS? And he's like, what do you mean what are you  
19 talking about AIDS? I said, we don't know nothing  
20 about this man. I don't know anything about him. My  
21 granddaughter, you're saying wait until he penetrates  
22 her and then come back? You know, you're talking about  
23 her life and everything here. What are you talking  
24 about?

25 Well, okay, now he's going in another

1 direction. Well, if you see bruises on her. What are  
2 you talking about now bruises? My daughter put a smoke  
3 screen up. The sexual abuse with this man has never  
4 been brought anywhere. She took me to court for  
5 custody. She's always had custody of her child.  
6 Nobody ever fought for custody because she has custody.  
7 She took it into court as a custody issue. I'm totally  
8 amazed. I borrowed \$2,500 for the lawyer, we get into  
9 the court and my daughter gets on the stand, she admits  
10 to the boyfriend drinking a lot, doing drugs, herself  
11 drinking and doing drugs on the stand, and I'm looking  
12 at the judge like, oh, well, she's done it now. No  
13 response. But she continues to say that since this all  
14 happened with the baby, they quit. They don't drink  
15 and they don't do drugs anymore. But this man has  
16 drank and done drugs ever since she met him in February  
17 of '91, but now December of '92 since this all came  
18 about they quit. They don't do this anymore. Okay?  
19 Unbelievable, and it's 61 pages of the testimony and I  
20 never got to take the stand. My lawyer was so  
21 concerned about his skiing trip to Vermont, and the  
22 good thing for me was I couldn't recall everything  
23 until I just sent for the copy of the transcript that  
24 cost me \$137 and on the end of it there's my lawyer  
25 saying to the judge, oh, I have this skiing trip in

1 Vermont.

2                   So it's all there. Everything I've been  
3 saying is there. My daughter saying about the drinking  
4 and the drugs is all there. But my lawyer and her  
5 lawyer talked, they made some deal, and he came back  
6 and said to me, well, look, they're going to drop the  
7 charges. What are you talk have talking about, what  
8 charges? What are you talking about? I don't  
9 understand. Well, they're going to drop everything but  
10 you're not allowed to see your granddaughter or call  
11 her on the phone. You're not allowed to have any  
12 contact with her. I said, wait a minute, I don't agree  
13 to this. He said wait, Elaine. You paid me, I'm your  
14 lawyer; he said, let me explain something to you. We  
15 just do this now, a week to 10 days we go back in for  
16 grandparent's visitation. What are you talking about?  
17 Well, I'm handling this like I would handle a divorce  
18 case. What divorce? What custody? None of this was  
19 ever the issue.

20                   It's just been so, it's unbelievable.  
21 And the whole thing is I haven't been able to get any  
22 kind of help, I haven't seen my granddaughter in five  
23 months. And she, you know, I worry every day, I pray  
24 all the time for her life to make, I don't know, I  
25 watch the news, I see these parents killing their

1 children. I get scared. I don't understand why -- I  
2 mean, I've gotten into like the law don't work, well, I  
3 want to take care of this myself, okay. My other two  
4 daughters are like, mom, don't do anything. Go by the  
5 law. Let's do this, but we want to go into court and  
6 we want to testify. I went to the FBI agent at Sixth  
7 and Arch. I walked in there, I wrote the complaint,  
8 they got the agent out, Christopher Salvatore. I spoke  
9 with him and he said, look, let me tell you now, this  
10 is not a Federal complaint, but since you walked in my  
11 office, you've made it my business. So let me help you  
12 out. He called Family Services in New Jersey. He  
13 talked to Christina Brock and when she found out he was  
14 the FBI agent, she didn't want to talk to him. She got  
15 her supervisor. Okay. The supervisor talked to him.  
16 He said, and I stood there the whole time and he said,  
17 all I want to know is did you interview this child?  
18 No, we didn't. DHS in Philadelphia is supposed to do  
19 it. Okay. Well, DHS in Philadelphia did do this but  
20 you people have the jurisdiction and you closed the  
21 case. Well, we don't find any findings. But DHS did  
22 talk to the child. She told them. Well DHS in  
23 Philadelphia has the case open. No, they don't. He  
24 said, wait a minute, the grandmother is right here. He  
25 asked me, I said no, DHS does not have the case open

1 because they said it belongs in Jersey. They don't  
2 have the jurisdiction. The natural mother is in  
3 Jersey.

4 So, I mean, I just don't understand the  
5 system. I mean, where is the rights for my  
6 granddaughter? She's not able to see me, I'm not able  
7 to protect her. You know, nothing is being done about  
8 it. And now the lawyer, I fired him. He won't give me  
9 any of my money back. So I made a deal with another  
10 lawyer here in Philadelphia, I'm supposed to get about  
11 \$30,000 for my accident case. And I told this lawyer,  
12 take it all. Take the whole \$30,000. I just want my  
13 granddaughter safe. You know. But what I want is, I  
14 want to go into court, DHS has to go in there and  
15 Gloria Gooding says she would be more than willing.  
16 She even talked to the FBI agent and told him the same  
17 thing. And she said to me, look, even though your  
18 granddaughter told you and she told her two aunts, she  
19 told other people doesn't matter. The most important  
20 person is that social worker at the DHS in  
21 Philadelphia. She's the most important person. And he  
22 is 100 percent for that child. But because of the  
23 jurisdiction thing, she let us know that she needs for  
24 her and the records to be subpoenaed into court. Well,  
25 so that means we got to get a court hearing together.

1 Well, the lawyer I had informed me, well, no there's  
2 not going to be a court hearing. We're just going to  
3 go, I'm going to go in for a conference, just her  
4 lawyer and me and we're going in for a conference and  
5 that's it. Well, my other two daughters and myself, we  
6 don't agree. And you know, there's no protection for  
7 the child.

8 CHAIRMAN CALTAGIRONE: Well, this is part  
9 of the reason that we're looking at not only the issue  
10 of false reporting, but on the other hand, and we've  
11 said this at each of the three hearings, that it seems  
12 to be obvious that where there is blatant abuse, and  
13 we've had two cases now, why aren't they intervening  
14 and why aren't they doing something about it? And  
15 these are different counties. I mean, this isn't just  
16 one or two counties.

17 MS. COLLADO: Right, but any person that  
18 makes a false statement should be prosecuted.

19 CHAIRMAN CALTAGIRONE: But they do go  
20 after, and evidently very zealously, from what we're  
21 hearing, and we heard it yesterday, we're hearing it  
22 today and we heard it last week in Pittsburgh, those  
23 calls that are made. You know, it seems like it  
24 depends on whose ox is getting gored. It doesn't make  
25 sense. Now here you have a pretty good case. We also

1 heard a lot of cases the agencies are working  
2 overzealously and we also heard that many agencies  
3 aren't working at all.

4 MS. COLLADO: Not only that, but her case  
5 is the same way here in the State of Pennsylvania. You  
6 could go to one county, that perpetrator could go away.  
7 They moved from Montgomery County to Philadelphia. I  
8 have to prove that it's a crime now in Philadelphia.  
9 What I want to know basically is like where do I go  
10 from here? What do I do? I mean, because I have to be  
11 60 and under to stop--

12 CHAIRMAN CALTAGIRONE: That's what we're  
13 trying to find out. House Bill 826 was basically  
14 dealing with false reporting. We have allowed a lot of  
15 other testimony and we really have -- I have given  
16 people a great deal of leeway in presenting their  
17 concerns. To be perfectly honest with you, to answer  
18 your question, I don't know at this point. You know,  
19 there's a lot of unanswered questions in all of these  
20 areas, and that's what we're trying to get a handle on.  
21 I can't say that we're going to come up with all the  
22 solutions. I don't know. But we will have this  
23 transcribed and we will share it with members of the  
24 committee.

25 MS. COLLADO: I mean, everywhere I turn I



1 run into a brick wall.

2 REPRESENTATIVE HENNESSEY: Is your  
3 granddaughter down in New Jersey now?

4 MS. COLLADO: She's down in New Jersey.

5 REPRESENTATIVE HENNESSEY: Is that where  
6 the hearings are supposed to be held?

7 MS. COLLADO: It was held down in  
8 Atlantic City.

9 REPRESENTATIVE HENNESSEY: Well, you're  
10 talking about a new hearing coming up I thought?

11 MS. COLLADO: I don't even know about  
12 that.

13 REPRESENTATIVE HENNESSEY: What about the  
14 conference you're talking about?

15 MS. COLLADO: That was supposed to be on  
16 April 23 in Atlantic City, but that didn't take place  
17 because I fired the lawyer.

18 REPRESENTATIVE HENNESSEY: The same one  
19 you had up here?

20 MS. COLLADO: no, the one in Jersey. I  
21 only had that one at the time. I fired him and now I  
22 have one in Philadelphia, but the deals work in  
23 Philadelphia and New Jersey. So if it has to be dealt  
24 with in Jersey, she can go there. But the thing is, I  
25 just had such bad experience with that lawyer that I

1 don't know about this lawyer now, you know, because I  
2 put the money upfront. She talked to my accident  
3 lawyer, they made a deal that you know, okay, she'll be  
4 paid, but in the mean time, I don't see anything  
5 happening.

6 CHAIRMAN CALTAGIRONE: Okay.

7 MS. COLLADO: Except that my  
8 granddaughter is still in high risk.

9 CHAIRMAN CALTAGIRONE: Could we move on?  
10 If you don't mind, we have the doctor, and both of you  
11 wanted to testify too.

12 MS. COLLADO: One more thing I would like  
13 to say is that my daughter tried to say that I wanted  
14 custody, which was not the issue, and that I was crazy.  
15 I spent \$500 extra to go and have a psychological  
16 evaluation done and I'm no more crazy than you are.

17 CHAIRMAN CALTAGIRONE: Well, you better  
18 watch that. I've been labeled that. I'm not certified  
19 yet.

20 MS. COLLADO: I mean, they tell children  
21 to tell and when they tell, what happens? She got  
22 punished. She's not allowed to see me. I got  
23 punished, I'm not allowed to see her. I have no way of  
24 protecting her. Where is the law? Where is the  
25 system?

1 CHAIRMAN CALTAGIRONE: Doctor.

2 DR. DUNSMORE: Thank you. Mr. Chairman,  
3 Mr. Hennessey, Mr. Krantz and guests. I'll try to be  
4 brief. I'm Dr. Richard Dunsmore of Coatesville,  
5 Pennsylvania, a retired internist and cardiologist who  
6 practiced in Chester County for 32 years. During these  
7 years, on many occasions I heard painful tales on  
8 isolated patients concerning false accusations of  
9 sexual or physical abuse of children. Having complete  
10 faith in our democracy and democratic system, I  
11 initially did not take these complaints seriously.  
12 Subsequently, personal experience as well as interviews  
13 with numerous people has totally changed my mind. The  
14 repetition of history is a well-known phenomena, and  
15 who would have predicted that in 1993 the Commonwealth  
16 of Pennsylvania would permit the hysteria and ignorance  
17 that was exhibited in the Salem witch trials of 1692?

18 House Bill 826, if passed, would redress  
19 some of these violations of the constitutional rights  
20 of our citizens who are currently fettered by a  
21 governmental body that assumes guilt before innocence.  
22 Falsely accused on five separate occasions of both  
23 physical and sexual abuse of my grandchildren, eventual  
24 exoneration did not relieve the months of frustration,  
25 anxiety, and despair that these accusations produced.

1 Only the innocent, falsely accused can convey the  
2 personal distress and anger so generated.

3 In our county, many schools have posted  
4 squeal boxes. If a student receives a poor grade, you  
5 may be assured that his teacher may well be reported  
6 for classroom abuse, thus inviting inquiries by  
7 Children and Youth Services. If your neighbor dislikes  
8 your dog or you have a boundary dispute, a complaint  
9 against you for abusing your child will ensure weeks  
10 and months of harassment by Children and Youth  
11 Services. Worst, we also found some innocent victims  
12 are badgered by CYS and urged to plead guilty in order  
13 to avoid jail terms. This is followed by enrolling the  
14 victim in a CYS-designed program to rehabilitate the  
15 victim at a personal weekly cost, the payments  
16 expanding the coffers of the accusing agency.

17 Based upon false information, children  
18 are often removed from loving families and are placed  
19 in remote locations and in substandard living  
20 conditions. These have been characterized by our group  
21 as orphanages for children with parents.

22 The frequency of these accusations with  
23 deleterious results to children and families has led to  
24 over 50 families in Chester County to band together and  
25 form Families For Freedom. It is our concentrated

1 effort to acquaint our legislators with the problems.  
2 We strongly support House Bill 826 as a first step  
3 toward the restoration of democracy by setting forth  
4 punishment to those who would abuse the system with  
5 frivolous or malicious accusations.

6           Following this, we would encourage the  
7 removal of power-mad supervisors who are more  
8 interested in increasing Commonwealth and Federal  
9 funding to enhance their private fiefdom rather than  
10 concentrating on the care of our children and keeping  
11 the family intact. Furthermore, it is essential to  
12 eliminate poorly trained, poorly motivated caseworkers.  
13 Devious psychologists and lawyers, Masters and judges  
14 feeding at the public trough with little or no concern  
15 for children and their families.

16           It has been well-documented by us that  
17 most cases of false accusations are initiated by  
18 misguided zealots and vindictive spouses, but add to  
19 this list the ill-trained, self-important caseworkers  
20 who are aided and abetted by a secret closed court  
21 hearing with ensuing deleterious results.

22           Those opposed to bill 826 are captured in  
23 Lady MacBeth's advice to her infamous husband: "look  
24 like the innocent flower but be the serpent beneath  
25 it." She further suggested, how difficult it is to

1 wipe away the stain of violent politics, although it's  
2 appropriate to note that she quickly boasted, "What  
3 need we fear who knows it when none can call our power  
4 to account."

5 Thank you.

6 (Applause.)

7 CHAIRMAN CALTAGIRONE: Thank you, Doctor.

8 MR. ONICHIMOWSKI: Good afternoon. My  
9 name is Edward Onichimowski. I'm a resident of  
10 Pennsylvania, Philadelphia, and I'm a registered voter.  
11 I'm here today because I'm a victim of a false  
12 accusation of child abuse and a Protection From Abuse  
13 order.

14 A little background of my case. Less  
15 than three years ago, I entered into the world of  
16 divorce and a custody battle that all I wanted to do  
17 was be a father to my children. I've been in the court  
18 system and I've been in front of hearing officers, bail  
19 bondsmen, Masters, magistrate's, motion judges, judges,  
20 filed appeals to Superior Court. I just went through  
21 my 30th court appearance, and I have another one the  
22 end of this month. My wife was found from 1990 I've  
23 seen my children six days in 1990, two days in '91,  
24 five days from '91 to June of 1992, where my wife was  
25 found guilty of five contempts of all these custody

1 orders. She was sentenced to jail and fined moneys,  
2 but all the punishments were dismissed if she complied  
3 with the order. She was trying to change venue up in  
4 Bucks County because she wasn't getting anywhere in  
5 Philadelphia, and I had a stay granted to keep my venue  
6 in Philadelphia.

7 Approximately three months later, I was  
8 accused on a PFA of the abuse. I've been accused of  
9 taking my children to bars drinking, doing drugs with  
10 them. I was accused of shooting rifles and guns at my  
11 daughters. I was accused of going to kill my wife,  
12 physically abusing my children, beating them with  
13 sticks, leaving them home alone, phone threats,  
14 stalking, and sexual abuse of my daughters on  
15 protection orders. I've never been found guilty and  
16 I've never been arrested yet.

17 On October 23, 1992, my wife alleged that  
18 she called the police and made reports of these  
19 threats. On October 24th of 1992, my wife alleged that  
20 she made police reports to the South Hamilton police  
21 officer alleging physical and sexual abuse.  
22 Approximately October 27, 1992, my wife, with the  
23 assistance of the Bucks County Legal Aid Society, filed  
24 a petition from relief under the Protection From Abuse  
25 Act alleging physical and sexual abuse. On November

1 11, I had a hearing scheduled in Bucks County before  
2 the Honorable Judge Kane. My wife was assisted by pro  
3 bono lawyer Mr. McCue, Meg Groff, and I believe an  
4 Eileen Manwaring, which I believe is from Women's Place  
5 or Women Against Abuse.

6 I had a continuous hearing granted from  
7 November 18. On November 18, the hearing was held  
8 before the Honorable Judge McAndrews, which he found  
9 merit to submit the hearing for a full hearing. On  
10 February 5 of 1993, I had that hearing, and I made an  
11 agreement to consent without admission to take this  
12 protection order. During the trial, I always  
13 maintained my innocence vehemently and unconditionally  
14 denied the allegations. I had evidence, witnesses to  
15 prove and support my innocence. But the reason I  
16 consented to the agreement was because I was advised by  
17 counsel that if she seeks a protection order, she will  
18 get it. And the judge, with counsel, had an  
19 in-chambers conference and the judge, after reviewing  
20 her record in Philadelphia, stated during the hearing,  
21 warning my wife of her word against mine. He cautioned  
22 her against frivolous accusations. He stated about  
23 getting electronic answering devices there by raising  
24 the standard of evidence of her word against mine. So  
25 I had to take the protection order and again being



1 denied access to my children.

2           These protection of abuse orders are  
3 tools used to discredit fathers and deny them the  
4 rights to be fathers. I do have a Constitution of the  
5 Pennsylvania Article I, Section 1, I won't get into it  
6 but I do have certain rights and I feel my rights were  
7 being violated. I have a right to be happy and I want  
8 to be a father to my children. I have a right to my  
9 reputation and that was tarnished by being accused.  
10 According to the law in Title 23, Chapter 26, we have  
11 laws governing reporting procedures, investigating of  
12 the reports, and persons required to report the  
13 suspected child abuse. All these people, the  
14 attorneys, social workers, Legal Aid, everybody, there  
15 was never any reports done. Nothing was ever reported.  
16 The police were called, Meg Groff from Womens Service,  
17 there are supposed to be procedures on reporting within  
18 24 hours, an oral written report, investigating report,  
19 there's supposed to be 24 hours of commencement of  
20 investigation. The investigation has limitations after  
21 30 days, they're supposed to be founded or unfounded or  
22 indicated. I never had a report. But I didn't get to  
23 see my kids. Chapter 63, it states the purpose for  
24 these laws, one of which to ensure the well-being of  
25 the children and to preserve and stabilize family life.

1 By false accusations, what we have are deliberate and  
2 willful criminal actions of child abuse that are  
3 exploiting the children, destroying the protective bond  
4 between parents and children and corruption of parental  
5 love, and raising our children and parents in fear of  
6 all manifestations of affection.

7 I have notes of testimony, protection  
8 reports and evidence to support my testimony today.  
9 And I just want to know where the accountability is.  
10 We're talking about the immunity in this bill. I think  
11 we should have accountability. And that's all I have  
12 to say.

13 CHAIRMAN CALTAGIRONE: Thank you.

14 MR. WILLIAMS: Good afternoon, Mr.  
15 Chairman, distinguished legislators. My name is Ronald  
16 Williams. I'm a member of the Pennsylvania Bar, the  
17 Eastern District of Pennsylvania United States Court of  
18 Appeals, and the New Jersey Bar. I have been a public  
19 defender in the city of Philadelphia, and I was also an  
20 Assistant City Solicitor in the city of Philadelphia.  
21 I also carry the title of a victim of false reporting  
22 of domestic violence and child abuse.

23 I welcome you to Philadelphia and thank  
24 your committee for beginning to investigate the issue  
25 of false reporting of child abuse. While this

1 represents a significant beginning into a problematic  
2 area of domestic relations, and I pray this bill will  
3 pass, I don't believe that the false reporting exists  
4 only in child abuse. The problem has expanded into  
5 false allegations of domestic violence as well. This  
6 area also needs attention. The result in false reports  
7 of domestic violence are no less devastating than the  
8 results of false allegations of child abuse.

9 In reading House Bill 826, I am  
10 especially concerned because I see that it applies  
11 strictly to the issue of child abuse. I would  
12 encourage the panel to hold the same sort of hearings  
13 and to propose a bill to the general body dealing with  
14 false allegation of domestic violence as well. I've  
15 listened to the first group of witnesses that testified  
16 this morning. They made some points in regarding  
17 protections which are afforded to people who would be  
18 identified as victims, I call them victims of false  
19 reporting. They first alleged that the tort law would  
20 protect these people. Let me tell you, I filed a  
21 malicious prosecution, abuse of process action against  
22 my wife, who is a -- my wife is a Deputy Attorney  
23 General for the Commonwealth of Pennsylvania. Okay? I  
24 listened to, with great interest, the comment by the  
25 legislator that he does not believe that attorneys for

1 the most part would go out and encourage people to file  
2 false reports.

3 REPRESENTATIVE HENNESSEY: I said that  
4 there are some that won't.

5 MR. WILLIAMS: Let me tell you that I'm  
6 an attorney, have been a criminal attorney, a civil  
7 attorney, a real estate attorney, any kind of attorney  
8 you can imagine. My wife is also an attorney. I've  
9 had attorneys, she has an attorney. We've had at one  
10 point I've even had my father representing me, who was  
11 a retired Commonwealth Court judge. And as a result of  
12 all of this, the attorneys still propound false  
13 allegations of abuse.

14 Going back, I have filed a malicious  
15 prosecution of process action. However, when a person  
16 is accused of abuse, they are identified immediately,  
17 they are put up a red scarlet letter. No matter what  
18 venue or form you go into to prosecute or to seek  
19 vindication of your rights, you find that often cases  
20 you do not prevail.

21 I don't believe that filing a tort action  
22 would remedy something which is criminal in nature, and  
23 that's false allegation of abuse. I have listened to  
24 the same witnesses testify that the family court itself  
25 would afford protection and therefore there's no need

1 of proposing criminal sanctions for people who bring  
2 forth false reports of abuse. I would tell you that  
3 I've been in family court twice, criminally prosecuted  
4 in family court twice. The first time I was convicted.  
5 We immediately appealed it to the criminal division,  
6 the conviction was overturned. I can submit to the  
7 panel a certified copy of the acquittal in the first  
8 criminal prosecution.

9 CHAIRMAN CALTAGIRONE: Is this for our  
10 files?

11 MR. WILLIAMS: I can make you a copy, if  
12 I may.

13 CHAIRMAN CALTAGIRONE: Okay.

14 MR. WILLIAMS: I have then gone to, the  
15 day after the acquittal in this case we had a custody  
16 hearing in family court, my wife came in and made  
17 additional charges of false abuse or additional  
18 allegations of false abuse. The custody hearing was  
19 prevented. We appeared before a family court judge who  
20 had taken it upon himself to make phone calls regarding  
21 my character to third parties who had no association  
22 with the case. We asked that that family court judge  
23 recuse himself. He denied the recusal motion. He went  
24 forth and convicted me again on other charges. We are  
25 now before the Court of Common Pleas on a trial de

1 novo. We expect that the same results will occur in  
2 that case.

3           The point I'm making is that the family  
4 court judges themselves take the testimony of the  
5 female in most cases and take it as the absolute truth.  
6 In fact, the family court judge that heard my case  
7 specifically ruled I don't -- I had three witnesses,  
8 she had none. The family court judge ruled  
9 specifically that I don't care how many people come in  
10 and testify for you, I believe your wife and that's it.  
11 We are now waiting to have the appeal heard before the  
12 Court of Common Pleas criminal trial division.

13           I don't believe that House Bill 826  
14 should be an amendment to Title 23. I think that House  
15 Bill 826 ought to be amended to put it into the Title  
16 18 Criminal Code provisions. I look at the entire bill  
17 itself as I guess another provision which is in the  
18 Crimes Code right now which is Title 18, Section 4904,  
19 dealing with false reports to -- false unsworn reports  
20 to authorities which are typically amended to civil  
21 cases. I have yet to hear as both a criminal lawyer,  
22 civil attorney, of a case where a person was prosecuted  
23 for making unsworn false statements to authorities. I  
24 would greatly ask that the panel consider amending  
25 Title 23 to include a provision which would take

1 prosecutorial discretion out of it. I think the  
2 problem would be once it gets to the district  
3 attorney's office you would oftentimes have district  
4 attorneys in various counties refusing to prosecute  
5 this sort of provision. I think there ought to be  
6 something built into the act itself that mandates  
7 prosecution where you can identify false reports of  
8 abuse.

9 I'm dealing -- excuse me, I'm dealing  
10 with an emotional issue and also attempting to be an  
11 attorney and professional. I listened to the issue of  
12 immunity, whether we should continue to have immunity  
13 for people who make reports. The difficulty with  
14 immunity is it gives them impunity. They know when  
15 they make reports that there will be no ramification  
16 from making a false report. In fact, I've even had my  
17 wife when I filed my abuse of process malicious  
18 prosecution action with the courts she submitted a  
19 motion for preliminary objections claiming that I have  
20 immunity, so what, even if I did do these things I have  
21 immunity. The trial court overruled the preliminary  
22 objections and said, no, this should go forth to trial.  
23 It did in fact go forth to trial and got before the  
24 factfinders. She brought in the same charges, and I  
25 have yet to hear what the disposition would be.

1           My point is that immunity takes the fear  
2 element out of the false reporting of abuse. The  
3 parties believe from the outset that so what? My  
4 ~~objective is to get custody, my objective is to win in~~  
5 a domestic relations battle because of the previous  
6 bills propounded by the legislature I can say anything  
7 I want to say and prevail, because I will not be  
8 subjected to criminal prosecution or civil prosecution.

9           MR. ANDRING: Under what bases does your  
10 wife claim immunity? Because she is an assistant AG  
11 for a State agency

12           MR. WILLIAMS: No, she claims immunity by  
13 the statute itself. I believe in 23, Section 6100  
14 series it specifically reads that anyone who makes  
15 reports shall have immunity from civil or criminal  
16 prosecution. So the basis of her immunity is not her  
17 job per se but rather the fact that she is making these  
18 reports, and therefore should be protected as a result  
19 of legislation. And I said, the Court of Common Pleas  
20 cannot buy the argument, but I think the argument is  
21 going to be thrown up even in the instance of with the  
22 passing of this bill. I would recommend that the  
23 immunity be -- right now, it's an absolute immunity. I  
24 would recommend that the legislature take the immunity  
25 statute and make it even a qualified immunity or



1 eliminate the actual immunity itself.

2 In addition to that, I look at this  
3 statute and I have some difficulty, it's already been  
4 addressed, but I guess there's some difficulty with  
5 burden of proof. It's beyond my understanding how we  
6 can prove that or how a district attorney would be able  
7 to make a case beyond a reasonable doubt of false  
8 accusations of abuse just based on this statute alone.  
9 I think there needs to be some presumption which is  
10 built into the statute that if certain actions are not  
11 taken place or a quorum of evidence is not produced,  
12 that there will be a presumption that that alleged  
13 abuse is in fact unfounded and therefore false.  
14 Otherwise, I see no way that we're going to be able to  
15 prosecute this act.

16 I listened to the first witnesses also  
17 testify about a chilling effect that it would place on  
18 bona fide reporters of abuse. My concern is that the  
19 chilling effect attaches to the victims of the false  
20 reports. Once they're accused, they have no rights.  
21 The accusers have all the rights in the world. As the  
22 chairman has pointed out, they're protected by numerous  
23 social service agencies, they are protected by the  
24 courts, and they're even protected by the legislature.  
25 I would recommend that that be given some serious

1 consideration and that this bill be passed and that it  
2 be reviewed and amended in accordance with the  
3 suggestions that I placed forth. Thank you very much.

4 CHAIRMAN CALTAGIRONE: Thank you.

5 (Applause.)

6 CHAIRMAN CALTAGIRONE: We'll conclude  
7 this hearing today, and I appreciate those that have  
8 testified and the University for allowing us to be here  
9 today. Thank you very much. Thank you.

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