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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON JUDICIARY AND  
COMMITTEE ON AGING AND YOUTH

In re: Joint Public Hearing on House Bill 826

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

Thursday,  
May 6, 1993  
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN, JUDICIARY  
COMMITTEE

HON. KEVIN BLAUM, CHAIRMAN, AGING AND YOUTH  
COMMITTEE

MEMBERS OF COMMITTEES ON JUDICIARY  
AND AGING AND YOUTH

Hon. Jerry Birmelin	Hon. Kathy Manderino
Hon. Louise W. Bishop	Hon. Robert D. Reber
Hon. Peter Daley	Hon. Katie True
Hon. Gregory Fajt	Hon. Anthony H. Williams

Also Present:

William Andring, Chief Counsel, Judiciary Committee  
Ken Suter, Republican Counsel, Judiciary Committee  
David Krantz, Executive Director, Judiciary Committee  
Jane Mendlow, Research Analyst, Aging and Youth  
Committee  
Sharon Swartz, Republican Executive Director, Aging and  
Youth Committee  
Kirsten Hardy, Republican Research Analyst, Aging and  
Youth Committee  
Margaret Tricarico, Staff, Judiciary Committee

Reported by:  
Ann-Marie P. Sweeney, Reporter

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1                   CHAIRMAN CALTAGIRONE: Good morning. I  
2 would like to welcome everyone to the joint hearing of  
3 the Judiciary and Aging and Youth Committees. I'm Tom  
4 Callagirone from Berks County, chairman of the  
5 Judiciary Committee, and for the record, I would like  
6 to have my co-chair for the hearing introduce himself  
7 and then the members and staff that are present, and I  
8 know that there will probably be others coming to join  
9 us, and then we'll go into the schedule of  
10 presentations and opening remarks.

11                   CO-CHAIRMAN BLAUM: Thank you, Mr.  
12 Chairman.

13                   My name is Kevin Blaum, chairman of the  
14 House Aging and Youth Committee, from Luzerne County.

15                   REPRESENTATIVE TRUE: I'm Katie True,  
16 Lancaster County.

17                   REPRESENTATIVE BIRMELIN: Representative  
18 Birmelin, Wayne County.

19                   MR. ANDRING: Bill Andring. I'm Chief  
20 Counsel to the Judiciary Committee.

21                   MR. SUTER: Ken Suter, Republican Counsel  
22 to the Judiciary Committee.

23                   REPRESENTATIVE REBER: Representative Bob  
24 Reber, Montgomery County.

25                   MR. KRANTZ: David Krantz, Executive

1 Director of the House Judiciary Committee.

2 MS. MENDLOW: Jane Mendlow, Research  
3 Analyst, Aging and Youth Committee.

4 MS. SWARTZ: Sharon Swartz, Republican  
5 Director of the House Aging and Youth Committee.

6 MS. HARDY: Kirsten Hardy, Republican  
7 Research Analyst, Aging and Youth Committee.

8 MS. TRICARICO: Margaret Tricarico,  
9 Secretary of the Judiciary Committee.

10 CHAIRMAN CALTAGIRONE: Child abuse is a  
11 very serious crime and the State must do everything in  
12 its power to protect children. The State also must do  
13 everything it can to guarantee that those who harm or  
14 threaten children face stiff penalties such as  
15 imprisonment. We must insure the safety of our  
16 children, who make up our future.

17 However, our country is founded upon  
18 individual rights and liberties. Due process of law  
19 stands as one of our most important rights. Our laws  
20 must protect those who cannot protect themselves, like  
21 children. We also must insure that our laws are not  
22 abused, that they are not used for revenge or to do  
23 harm to the innocent.

24 We hold this hearing today on House Bill  
25 826, the legislation that would amend the Domestic

1 Relations Code to add the offenses of unlawful  
2 persuasion and false reporting in relation to someone  
3 who intentionally uses a child to make a false report  
4 of child abuse. There are questions on whether such  
5 legislation is necessary. Last year, last session, the  
6 Judiciary Committee held hearings to closely examine  
7 the State's domestic relations laws and the problems  
8 affecting our Commonwealth's family court system. One  
9 topic that continually arose often was dealing with the  
10 State's divorce and custody codes. Some testimony  
11 focused on how parents fought over the custody of the  
12 children without thinking about what was truly in the  
13 best interest of the child. We heard several cases in  
14 which one vindictive parent tried to hurt an ex-spouse  
15 by falsely reporting child abuse. Such a report would  
16 insure that the other parent lost custody and contact  
17 with his or her children.

18 The State has no power to stop such false  
19 reporting. People falsely accused of child abuse face  
20 immediately losing their children and their lives  
21 without the true due process of law. They face the  
22 financial and other burdens of having to defend  
23 themselves against charges without merit. They often  
24 are tagged as guilty as soon as the charges are lodged.  
25 They can lose their jobs, their reputations, and their

1 lives because someone decides to ruin them by falsely  
2 reporting child abuse.

3 Children are also hurt in many cases such  
4 as this. They become pawns in a power struggle. Their  
5 feelings of love and devotion are often tested.

6 Children and Youth Services in each  
7 county receive and investigate thousands of child abuse  
8 reports yearly. Every report must be considered  
9 seriously and examined thoroughly. However, State  
10 child abuse investigators risk being overburdened with  
11 cases of false reporting. Many cases that  
12 investigators look into are found to be without merit  
13 or are obviously false. Many children could be hurt if  
14 investigators must focus their time on cases that are  
15 false or without merit instead of cases in which there  
16 is truly child abuse.

17 The State has laws and penalties against  
18 those who falsely report crimes such as rape. It has  
19 laws against those who falsely report a fire, because  
20 such reports can put people at risk. False reporting  
21 of child abuse also can put our children at risk. It  
22 also could tear relationships apart between a parent  
23 and a child. Again, we must insure that our children  
24 are protected. We also must insure that our laws and  
25 our child protective system is not abused. These

1 hearings will hopefully show a true solution to this  
2 problem. Thank you.

3 The prime sponsor of the bill,  
4 Representative Jerry Birmelin, who had introduced the  
5 bill in the previous session, which was reported out of  
6 this committee, has reintroduced the bill and he is  
7 with us here. He is a member of the committee and  
8 Jerry would like to make some remarks for the record.

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

11 The purpose of this hearing and the one  
12 that was held last week and the one I assume is going  
13 to be held tomorrow rather than be canceled is to hear  
14 from the very same people who deal with this problem  
15 day in and day out. And it is a problem. Some of the  
16 people who will be testifying today will, I'm sure,  
17 tell you that we have a very serious problem, and  
18 whether or not my legislation addresses that remains to  
19 be seen. And you will also hear from some people who  
20 say that my legislation, if passed into law, would not  
21 solve any problems but create more. So you'll have two  
22 extremes of arguments today, I'm sure.

23 It is the purpose of this committee to  
24 receive testimony from all who have a concern about it  
25 today, to sift through what they have to say, to

1 compare it with what other statements are made, to find  
2 out whether or not it has merit, and if it has merit,  
3 to act on it.

4           The legislation, House Bill 826 that we  
5 have before us today that this hearing is being  
6 centered around, is not something that just grew up out  
7 of the ground over the last few months, it's something  
8 that has been developed over a period of years. It  
9 developed in two previous sessions, winnowed, altered,  
10 changed, tried to specifically address the problem of  
11 false malicious reporting without at the same time  
12 creating another problem.

13           I have met with and talked with dozens of  
14 Children and Youth Service workers, people who feel  
15 they've been abused by the system itself. I received  
16 many letters even just recently from people who have  
17 very strong feelings on this type of legislation, and  
18 I'm here to say that today I think there is a problem  
19 that is not currently addressed in law that has to be  
20 addressed, and that perhaps we can find a way to do  
21 that and that these hearings will help us to do it.

22           Legislation that is written in House Bill  
23 826 is not one of the Ten Commandments, so I don't feel  
24 that I cannot change it. However, I will not change it  
25 to alter its basic purpose and intent. If there is a



1 way that we can accomplish what we are trying to do,  
2 and that is to prevent the unlawful persuasion of  
3 children and the false malicious reporting that is  
4 occurring today, and do it differently than House Bill  
5 826, I'm all ears. I'm open to any suggestions. And I  
6 would ask of those of you who are here already this  
7 morning and are prepared to testify, that instead of  
8 simply taking the approach that you are opposed to this  
9 legislation and throwing rocks at it, but if you would  
10 tell me what you would do to solve the problem, I would  
11 appreciate that. And I think a positive approach to  
12 this hearing and the results that we're looking for  
13 will best serve the Commonwealth and the people that  
14 we're elected to serve, and I'm sure all of you have an  
15 interest in being here this morning. So I would  
16 encourage you in that spirit to do it in a positive  
17 way, to share with the people who are here and the  
18 media, the legislators, what you think can be done.  
19 And perhaps at the end of this public hearing we'll  
20 have gained much, learned much, be able to move forward  
21 and to accomplish much in the future.

22 So I thank you for your attendance, for  
23 those that are testifying; for the Chairman for having  
24 meetings, for Representative Blaum as well, as the  
25 Chairman of the Aging and Youth Committee, for the

1 ongoing dialogue that he and I have had on this topic,  
2 and we look forward to hopefully being able to  
3 accomplish some good for the people of Pennsylvania by  
4 the time we're done.

5 Thank you, Mr. Chairman.

6 CHAIRMAN CALTAGIRONE: Thank you,  
7 Representative Birmelin.

8 We'll start off with our first testifant,  
9 who will be Dr. David Sloane. Doctor.

10 DR. SLOANE: Thank you, Mr. Chairman,  
11 fellow committee members.

12 First of all, let me applaud your efforts  
13 in addressing the Child Protective Services Law, which  
14 I believe is in great need of reform. I believe that  
15 Bill 826 begins what I see as a massive effort required  
16 to correct serious problems, serious injustices, and  
17 serious harm that is being done to the families of our  
18 Commonwealth.

19 I had the pleasure yesterday afternoon of  
20 hearing an address by United States Justice E. Mac  
21 Troutman at a law day luncheon, and as he focused on  
22 the 30-year decline in social values, the increase in  
23 violent crime, the increase in the divorce rate, the  
24 increase in illegitimate and battered children, he  
25 placed the focus for this on decline in family values.

1 And I see the issues that we're facing here today as  
2 essential to that point. I believe that the process of  
3 attempting to protect our children has gone completely  
4 amuck, and as a result, in an attempt to save  
5 legitimately endangered children in our Commonwealth,  
6 we are destroying hundreds, perhaps thousands, of  
7 families each year.

8           There is no question but that the report  
9 of child abuse is a horrible, terrifying thing to occur  
10 to a family. And there's no question but that the  
11 unfounded report, the one that is placed maliciously,  
12 willfully with the intent to cause harm to the subject  
13 of that report, must be stopped. And I totally concur  
14 that penalties for such malicious reporting are needed.  
15 But I would go further. I see a serious concern in the  
16 way these reports are handled once they have been  
17 submitted.

18           I have had the opportunity in my practice  
19 as an attorney to deal with numerous families of all  
20 walks of life that had been the victims of abuse by the  
21 very agencies designed to protect our children from  
22 this. My concern, what I have seen so rampant and in  
23 so many places, is that there are no standards, no  
24 professional guidelines, no requirements, and  
25 absolutely no accountability for those charged with the

1 protection of our children. Once a report is turned  
2 in, whether it be true or false, that report winds up  
3 in the hands of individuals with no stipulated  
4 requirements of training, sometimes little or no  
5 experience in dealing with children, making decisions  
6 that are virtually irrevocable, acting with a disregard  
7 for the due process rights of families that is  
8 absolutely unbelievable. And as they do this, the harm  
9 they are doing to the children themselves is in many  
10 cases far greater than the harm that is alleged on the  
11 part of the supposed perpetrator.

12 I have submitted to you, Mr. Chairman, a  
13 letter outlining my concerns. I'm not going to repeat  
14 all of them here today. One of the things I have  
15 included in that is a very detailed proposal for what I  
16 feel are needed changes in the Child Protective  
17 Services Law. They focus on several key issues.  
18 Perhaps the central one is the issue of accountability.  
19 I as an attorney, in my previous career as a licensed  
20 practicing psychologist, I was held accountable. Every  
21 physician in this Commonwealth, every dentist, every  
22 optometrist, every chiropractor, has professional  
23 standards that he or she must adhere to. If they do  
24 not, they can be punished. Even the President of the  
25 United States cannot do wrong without being subject to

1 impeachment and removal from office. And yet across  
2 the Commonwealth, across the nation, caseworkers,  
3 supervisors, workers in various Child Protective  
4 Services, operate with no guidelines, no professional  
5 standards, and absolutely no recourse. They are  
6 protected and shielded by governmental and sovereign  
7 immunity, and they act often with total disregard for  
8 the genuine needs and the genuine well-being of the  
9 children that they are there to protect.

10 I have personally dealt with situations  
11 that are an absolute travesty. I have seen children  
12 torn from their families with absolutely no reason. I  
13 have seen a mother of five children, realizing that she  
14 has a drug and alcohol problem, seeking professional  
15 help for herself, turn to a family within her church to  
16 care for her children while she was in detox and rehab.  
17 The moment she did that, a Children and Youth Service  
18 worker came in and seized the children. In order for  
19 them to be returned even to a family member for care,  
20 they had to be adjudicated dependent. The mother still  
21 does not have those children back in her possession,  
22 despite the fact that she has gone through  
23 detoxification and rehabilitation, found a job, really  
24 turned her life around. The children are now in the  
25 clutches of a Children and Youth Service.

1           I have seen such an agency following up  
2 on a report that was based on third and fourth order  
3 hearsay disrupt the lives and destroy a family for  
4 ongoing periods in excess of a year. Ironically, the  
5 very child whose secondhand reporting of the story that  
6 led to this horrendous experience for the family has  
7 herself filed a report of child abuse against the  
8 caseworker that was involved, who literally imprisoned  
9 her in an office for 3 1/2 hours without feeding her,  
10 threatening her that unless she cooperated with the  
11 investigation and told things that she wanted to hear,  
12 that the children would be placed with foster parents.  
13 This child was actually put in a room while one of the  
14 Children and Youth Services workers sat there and made  
15 the telephone calls to arrange the foster homes for the  
16 child. This type of activity must not be permitted to  
17 continue.

18           I am the last person who would ever come  
19 before this group or any group to advocate weakening  
20 the laws that protect our children, but we must at the  
21 same time protect those children not only from the  
22 threat of harm from a parent or a caregiver, but we  
23 must protect them from the process itself. Removing a  
24 child from his family needlessly is a great harm and a  
25 great danger to that child. They may never recover.

1 Accusing a person of abusing a child may ruin their  
2 life forever. Certainly, we must protect the children,  
3 but if we fail to protect their families, we are doing  
4 a much greater disservice. We would not execute 100  
5 suspected murderers just to be certain that we got the  
6 right one; nor should we destroy 100 suspected abusers  
7 just to be certain that the one doesn't slip away. We  
8 must protect the children, but we must protect the  
9 families. We must hold everyone in this process  
10 accountable for their actions. We must define rigid  
11 professional standards for them to adhere to, and if  
12 they do not, there should be no immunity, there should  
13 be no protection.

14 Thank you, Mr. Chairman.

15 CHAIRMAN CALTAGIRONE: Thank you, Doctor.

16 If it's agreeable with Chairman Blaum,  
17 we'll do Attorney Boyer next and then we can open it to  
18 questions.

19 MR. BOYER: Thank you, Chairman  
20 Callagirone.

21 My name is Brooke Boyer. I practice law  
22 in Reading, Pennsylvania, and as a matter of accident,  
23 while I was representing a client in a civil rights  
24 matter, I was informed that his daughter was having a  
25 confrontation with Children and Youth Services. That

1 was the first case which I heard. I've been hearing  
2 additional cases over the past 12 years.

3 In his introductory remarks, Chairman  
4 Callagirone has mentioned the concept of due process.  
5 Again, there is an extremely difficult situation here.  
6 It is perfectly right and correct that the law spends  
7 every effort to protect children, and while doing so,  
8 we must not trample the due process rights of  
9 individuals. And it is particularly important that the  
10 individuals of whom we are speaking are parents who  
11 provide the families in which the basis of education,  
12 our society and protection of children is based.

13 Now, when one represents a parent in a  
14 child abuse hearing, one must understand that the  
15 activities of which parents are being charged form the  
16 most grievous crimes in our Crimes Code. They are  
17 certainly grievous felonies. They consist of such  
18 items or can consist of such items from very small  
19 matters up to aggravated assault, recklessly  
20 endangering children, rape, statutory rape, and deviant  
21 sexual intercourse. The problem is when we think of  
22 due process, we think of those procedures which are  
23 usually found in criminal court - the right to an  
24 attorney, the right to confront witnesses - the very  
25 keystone measures of what we consider fundamental



1 fairness, which is the principle of due process.  
2 However, when these same charges are brought in family  
3 court, none of those traditional rights apply. There  
4 is no right to an attorney. Certainly one can have an  
5 attorney, but certainly one is also not provided.

6           Probably the gravest problem is in a  
7 criminal situation, one can confront the witnesses  
8 against them. In a juvenile context of a child abuse  
9 hearing, especially in a sexual abuse hearing, the main  
10 accuser is a child, perhaps a very small child, 3, 4, 5  
11 years old. And the evidence that you often get in  
12 these hearings is not what the child said. In fact,  
13 great pains are kept to keep the child from ever  
14 appearing in these hearings. And yet, we have seen  
15 proper to allow the hearsay testimony of a child in  
16 these hearings. Specifically, 42 Pa.CSA 5986, entitled  
17 hearsay, will allow anyone to come in and testify as to  
18 what a child said outside of the courtroom.

19           Now, when one is faced with such  
20 testimony, it often comes from a caseworker. But I've  
21 also seen it come from foster siblings. You sit there  
22 and you hear this person describe that this child told  
23 me on such-and-such a day that my daddy -- well, a  
24 quote would be -- well, I don't want to quote. That  
25 he's committed some form of sexual deviant intercourse.

1 And defending this person, you obviously have no  
2 ability to cross-examine the witness who said this.  
3 This is a hearsay, outside-of-court declaration. It is  
4 certainly not allowed in any other type of criminal or  
5 civil proceeding that I am aware of, and the reason  
6 that we cause witnesses to come in is not so much that  
7 we necessarily disbelieve them, but we get the  
8 opportunity to inquire into the circumstances, to  
9 understand precisely what is being said. We also give  
10 the accused person the right to hear what is being said  
11 against them. But in the juvenile court proceeding,  
12 what we have is a person who relates a conversation  
13 which allegedly took place somewhere else on some other  
14 day, who knows what the circumstances are.

15 Now, apparently this issue has troubled  
16 the courts. There is recently a case known as A.Y. vs.  
17 the Department of Public Welfare, in which the context  
18 arose in a DPW expungement hearing. The caseworker  
19 testified that certain acts were committed outside the  
20 courtroom. The DPW hearing officer found that these  
21 were reliable statements. There's no particular  
22 evidence as to why they were reliable, and thus, on the  
23 basis of that, a 23-year-old psychology graduate who  
24 had planned a career in child care basically has lost  
25 any ability to do that in the State of Pennsylvania.

1 Now, recently, the Supreme Court has granted a petition  
2 to review this case and it's currently in front of the  
3 Supreme Court and it's docketed to 25 Western District  
4 1991.

5 On the other hand, in another case, In  
6 the Interest of Tina K., which is cited at 568 A.2d  
7 210, in the case of a dependency hearing in front of a  
8 Common Pleas Court, the same issue arose as to whether  
9 or not these outside statements could be admitted into  
10 evidence. And the judge on the Superior Court, McEwen,  
11 found that the particular provision, 5986, does not  
12 work with our fundamental notions of due process. The  
13 basic problem is again these are criminal acts which  
14 because, just because they are in another context do  
15 not fulfill the right of an accused person to  
16 confrontation. And his holding is that this 5986 now  
17 has a judicial gloss on it whereby there must be an  
18 affirmative showing that the child is either too  
19 traumatized to testify or otherwise unavailable. I  
20 believe that this is a very worthwhile judicial gloss  
21 on 5986. However, I believe it should be placed in the  
22 statute itself.

23 There is one other recent innovation  
24 which I have seen in child abuse hearings. I've done  
25 them now for about 12 years, and for the first 6 or 7

1 years, this type of testimony was not provided. Today  
2 we have people who claim to be experts in the  
3 investigation of child abuse. The problem here, as  
4 David Sloane has put forth in the context of the  
5 caseworker, there are no standards prescribed for  
6 caseworkers. Just as there are no standards prescribed  
7 for caseworkers, there are no standards prescribed for  
8 professional child abuse investigators. Basically,  
9 these are people who a child is brought to them, an  
10 investigation is made, and they give expert opinion  
11 that based on what the statements that the child has  
12 made, that they indeed believe that child abuse has  
13 occurred. Again, we have a hearsay problem. No one  
14 ever confronts the child, no one ever hears what the  
15 child says. We are stuck with a witness who says, "my  
16 expert opinion, from what I've heard from the child, I  
17 believe that child abuse has occurred."

18 Perhaps this is not totally the type of  
19 evidence we wish to exclude, but what I would propose  
20 is that if indeed this type of evidence is received,  
21 that there should be firm standards both on the  
22 qualifications of the person who claims to be an expert  
23 in these matters, and also that these interviews must  
24 be formalized and videotaped. Today the technology is  
25 such that videotaping is very inexpensive and highly

1 available. It would be my position that before this  
2 type of evidence can be introduced at a dependency  
3 hearing, that a tape be made available, and indeed the  
4 trier of fact should have the opportunity to view the  
5 tape and also to have the accused person's own expert  
6 witness give their opinion based on what the tape  
7 shows.

8 Now, once a child is adjudicated  
9 dependent, it's not the end of this hearing. What  
10 takes place, and this is under 42 Pa.CSA 6351, there's  
11 a provision for a review hearing. Now, Dr. Sloane has  
12 testified that--and it's quite often the case--you'll  
13 have a crisis in the family. A mother or some other  
14 parent has a crisis with alcohol, a crisis with drugs,  
15 they do what they can, they clean up their act, the  
16 original problem which caused the child to be dependent  
17 no longer exists. The problem now is, number one, they  
18 have to wait six months until there is another hearing  
19 to decide whether or not the child should be returned.  
20 There is another problem. At the dependency hearing,  
21 the standard is clear and convincing evidence. Now, in  
22 the criminal hearing it is beyond a reasonable doubt,  
23 the highest standard in criminal law. Clear and  
24 convincing is the highest standard in the civil law.  
25 That is, the Children and Youth Services must prove

1 with clear and convincing evidence that a child is  
2 presently without proper parental guidance and control,  
3 and that such guidance and control is not immediately  
4 available. However, once the child is declared  
5 dependent, the parent comes in six months later, the  
6 standard of proof changes.

7           Now, the standard of proof in our custody  
8 disputes between one parent and another parent is what  
9 is in the best interest of the child? Again, when we  
10 have parents disputing who has custody of a child, it  
11 seems appropriate we decide what is in the best  
12 interest of the child. However, once the child has  
13 been declared dependent, we are still faced with the  
14 opportunity as the State which opposes a parent as to  
15 custody. Ordinarily, the standard which we use is the  
16 clear and convincing standard in a dispute between a  
17 parent and a non-parent. However, once a child has  
18 been declared dependent, the standard, the lower  
19 standard, what's in this child's best interest, governs  
20 whether or not we return the child. And what I see too  
21 often, unfortunately, is a contest now emerges not  
22 between a parent and the State, but now we have a  
23 conflict between a parent and a foster parent. The  
24 foster parent has had the child for six months. The  
25 foster parent has grown to love the child. The child,

1 indeed, perhaps has grown to love the foster parent.  
2 This may also be forwarded by the action of the  
3 Children and Youth Services. We ordinarily see that a  
4 mother or a father is granted visitation with the  
5 child. However, very often, again on the testimony of  
6 a foster parent who may claim that following a  
7 visitation, the child becomes upset, the local Children  
8 and Youth Services will use that as an excuse to  
9 petition the court to cease visitation between the  
10 parent and child.

11           What happens now is a period of  
12 estrangement, so when this mother in David Sloane's  
13 case, the mother who had straightened her life out,  
14 comes back to court and says, I'm ready, I would like  
15 my child back, what now comes to part is a contest  
16 between a parent and a stranger. The contest now is,  
17 well, what is in the child's best interest? And it may  
18 well be that the Children and Youth Services take the  
19 position that, well, this child has become a stranger  
20 or has become bonded to a new person; therefore, even  
21 though you have cleaned up your life, parent, you are  
22 no longer going to have your child because your child  
23 has become a stranger to you. I would again urge that  
24 this notion of we lose the presumption that a parent  
25 should retain custody of a child, which presently

1 exists in the law, must be changed. There must be a  
2 presumption that the parent regain custody of the  
3 child, and I think it is terrible that we, as time goes  
4 by, we set up contests between parents and non-parents,  
5 and very often because of estrangement the non-parent  
6 wins.

7           It is very difficult representing parents  
8 under these circumstances. Quite often there are  
9 problems of certain official things that are not  
10 provided which lead to the problems of loss of due  
11 process. There's also the practical problem that most  
12 of the people who run afoul of the Children and Youth  
13 Services are people without financial means. We see,  
14 for example, Woody Allen gets accused of child abuse.  
15 The child abuse investigation is held at the medical  
16 school at Yale. We have people with the highest  
17 professional credentials, people take extreme care.  
18 There is money available; no expense is spared.  
19 However, in the cases which I see, and most of the  
20 other lawyers that do this see, there is no money to  
21 pay the lawyer, there is certainly no money to pay an  
22 expert to present the parent's point of view.

23           If I were not to focus on the law that we  
24 have now and make a suggestion, previous suggestions  
25 have not -- would not cause the spending of any money.



1 I have one now that I might suggest would cause the  
2 spending of money. Under our Mental Health Procedures  
3 Act, when someone is sought to lose their freedom  
4 basically by being committed to a mental institution,  
5 the law provides that the county will pay for an expert  
6 witness to prepare their case and also to testify. I  
7 would like to make the modest proposal that such a  
8 provision, if it is placed in the laws which we're  
9 talking about today, would certainly do a lot to cure  
10 the due process problems that people have of presenting  
11 their case in front of the juvenile courts of this  
12 county. I think it would make for a much fairer, more  
13 even-handed presentation.

14 Again, this is the interest of the parent  
15 we're promoting, it is the interest of the family, and  
16 I would again like to thank the committee for giving me  
17 this opportunity. These are quite difficult problems  
18 and it's very difficult to be a foot soldier presenting  
19 these problems in front of the court without a chance  
20 to address the very foundations of the law itself.

21 Thank you.

22 CHAIRMAN CALTAGIRONE: Thank you,  
23 Attorney Boyer.

24 We'll now open it up to questions from  
25 members of the committee and the panel.

1 Representative Manderino.

2 REPRESENTATIVE MANDERINO: Thank you.

3 And thank you both very much for your testimony. I do  
4 have a couple of questions for each of you, and maybe  
5 to start with Dr. Sloane.

6 BY REPRESENTATIVE MANDERINO: (Of Dr. Sloane)

7 Q. It would be helpful to me to understand  
8 the type of law you practice, particularly in light of  
9 how it's touched this area, so then maybe that would  
10 help me in understanding some of the comments and the  
11 questions I have.

12 A. My law practice is a general practice of  
13 law. I'm very active in family law matters and I've  
14 come to become involved fairly significantly in both in  
15 pro bono and in paid clients representing matters  
16 involving adjudications of dependency, some cases  
17 involving child abuse.

18 Q. Okay. Early in your remarks you talked  
19 about malicious reports, and I want to ask some  
20 specifics about some of your suggestions, which I found  
21 very good and interesting. In your experience, and if  
22 you don't feel that it's appropriate to comment, that's  
23 okay, you can tell me. Have you found that when you  
24 see instances of malicious reporting that it's more  
25 often coming from within the family structure or from

1 outside the family structure, and if you can help me  
2 understand that a little bit better.

3 A. I think in the examples that I have come  
4 in contact with, the reporting or the fueling of a  
5 report once it has been triggered has come from either  
6 family members, neighbors on occasion, distant family  
7 members, people with whom there has been some type of a  
8 dispute in some other area. I have seen situations  
9 where even as a result of a debt or a relationship  
10 developing between an individual and the former spouse  
11 of the reporter a false and malicious report has been  
12 filed.

13 Q. What is, because you talked a lot about  
14 the need for standards within the system for the social  
15 service agency personnel and investigators, and a call  
16 for stricter professional guidelines, do you have some  
17 specific suggestions in that regard? I did see a  
18 general mention of it but not any specific suggestions,  
19 and what is it that they are lacking that you feel  
20 wouldn't allow them to weed out that vindictiveness of  
21 a neighbor who's reporting a bad debt as compared to a  
22 real concern?

23 A. Well, I think that to begin with, there  
24 needs to be some rigid educational standards, some  
25 rigid training, and standards of conduct along the way.

1 That is, for an investigation to lead to a report of  
2 indicated child abuse, and with today's law it only  
3 requires that the Child Protective Service report come  
4 back indicated. That's all that's necessary. There  
5 are no guidelines for what must be shown, what  
6 standards of proof must be met, what type of evidence.  
7 Does the accused even have an opportunity to be heard?  
8 I have one family that I'm representing right now that  
9 went through over a year of living hell in dealing with  
10 the Child Protective Services agency, and they were  
11 never questioned.

12 Q. We as attorneys, and I too am an  
13 attorney, we go through a particular educational  
14 process in order to acquire a J.D., and once we have  
15 that J.D., beyond that are what areas of law we go  
16 through, and until this year there were no real  
17 requirements for continuing education. I guess I'm  
18 trying to understand more specifically what it is that  
19 you see that people handling these should have. I  
20 mean, should they have to have gone through and qualify  
21 for a particular program in child protection, should  
22 that be a degree, should that be a continuing education  
23 training? Should the State be providing those, outline  
24 what the standards and guidelines are and then require  
25 so many credit hours for people to go through? That's

1        what I'm trying to understand.

2                    A.    I think you've touched on a lot of areas  
3        that could very much help this issue.  Certainly, as  
4        with most other professions, there are statutory  
5        definitions as to what one must complete in terms of  
6        education, certification, licensure, and so forth.  I  
7        believe this is absolutely essential for anyone dealing  
8        in this area, both the caseworkers, their supervisors,  
9        certainly these alleged investigators.  I know of one  
10       in particular that has a thriving enterprise as a  
11       self-styled expert in child abuse and sexual abuse who  
12       is not even a licensed psychologist.

13                    Then I think further we face the problem  
14        that a lot of these people are put into situations, I  
15        had one experience where I had a caseworker from one of  
16        the county Children and Youth Services on the stand, a  
17        young woman who had just completed her bachelor's  
18        degree, one year of post-bachelor's experience, and  
19        several months with the Child Protective Services  
20        agency, and she was on her own making determinations  
21        that a mother of five was not capable of providing for  
22        her children.

23                    Q.    Along with your recommendation of  
24        standards you state that you think it would be helpful  
25        that if you don't -- that immunity not be provided if

1 somebody violated the standards. And I guess you're  
2 probably more familiar with the workings of the child  
3 protective laws than I am, and my question is, do we  
4 provide that -- do we do that with other people who are  
5 protected - teachers, doctors, et cetera - if they  
6 violate, do they have specific standards that they have  
7 to follow before they report, and if they violate those  
8 standards, do we remove their immunity?

9 A. As far as the current reporting  
10 requirement, there are -- there's a definition, a  
11 general rule that indicates that if you as a  
12 professional come in contact with a child in your  
13 professional capacity that you believe to be an abused  
14 child, you must report. The next section of that  
15 segment of the law goes on to enumerate certain  
16 required reporters, and that does include teachers, it  
17 includes physicians, dentists, coroners, what have you.  
18 Ironically, attorneys are notably excluded from the  
19 enumerated list, although arguably they are included by  
20 the general rule. One who does not report but who in  
21 fact is mandated to do so is subject to penalties. The  
22 first offense is a summary offense, and after that it  
23 becomes a misdemeanor.

24 So there is a provision in the law that  
25 does require someone who in a professional capacity

1 comes into contact with a child that's being abused.  
2 However, once that report is filed and we have an  
3 investigator looking into this matter, if that  
4 investigator were to blatantly falsify information,  
5 which I have seen happen on more than one occasion,  
6 there is no recourse. The only recourse that exists  
7 today against a Children and Youth Services worker that  
8 commits these horrendous infractions of the rights and  
9 the well-being of a family is if what they do rises to  
10 the level of a Federal civil rights violation, there is  
11 a Federal cause of action against them under Section  
12 1983 of the Civil Rights Act. Short of that, there is  
13 no civil or criminal redress available for the victim.

14 Q. So if we looked at for a model those  
15 areas where we do already provide immunity and what  
16 those standards are, that we would say you now have  
17 lost your immunity protection, would that give guidance  
18 to, at least in your opinion, if we were to follow up  
19 on your suggestion, would that be a good guideline to  
20 deal with also people who are investigating as well as  
21 people who are reporting?

22 A. I think this would be a very significant  
23 step forward. If those involved in this process knew  
24 that they could not distort or alter facts just because  
25 they didn't want to let this one slip away, if they

1 know that they were going to be held just as  
2 accountable as any other investigator, that they  
3 couldn't walk in and seize a family's children without  
4 the same type of precautions that we require before a  
5 police officer can go into someone's home and seize  
6 some evidence in a criminal proceeding, if we had these  
7 standards in place, I think a tremendous amount of the  
8 abuse of the system would be cleared up.

9 Q. And one final question. If that  
10 suggestion, in one of your suggestions, that we did add  
11 attorneys to that enumerated list, would we be running  
12 into a client privilege problem?

13 A. Well, the law specifically already  
14 indicates that in those cases where there is a client  
15 privilege relationship that exists, that the law does  
16 supersede that. And so the privilege of a physician,  
17 of a priest, they are already spoken to in the law.  
18 And again, I believe that if you read that section of  
19 the law, attorneys, while not being enumerated, are  
20 still included in the definition. My concern by not  
21 enumerating them and by leaving them in that state of  
22 limbo, I as a practicing attorney find myself sometimes  
23 facing the question, should I place a report? I  
24 believe I'm obligated to do so. I must, at that point,  
25 follow the necessary steps in the Rules of Professional



1 Conduct for dealing with such a breach of  
2 confidentiality, but in that situation if I fail to  
3 report, I potentially am guilty of a criminal act. I  
4 would like to know from my own standpoint whether I am  
5 either by enumeration included or specifically excluded  
6 from that reporting requirement.

7 Q. Thank you. Thank you Dr. Sloane.

8 REPRESENTATIVE MANDERINO: Mr. Chairman,  
9 I also have questions of Mr. Boyer, but I'll yield to  
10 someone else. I don't want to monopolize.

11 CHAIRMAN CALTAGIRONE: Questions?

12 (No response.)

13 CHAIRMAN CALTAGIRONE: You might as well  
14 take it. There are no other questions.

15 BY REPRESENTATIVE MANDERINO: (Of Mr. Boyer)

16 Q. Mr. Boyer, one thing. Again, I've never  
17 practiced family law, so I'm picking up on some things  
18 you said and am a little bit confused about what  
19 actually is the standard within our law. Isn't there  
20 an opportunity -- I understand and share your concern  
21 about the right to confront the witness. I also very  
22 much understand, at least theoretically, why we are  
23 where we are with juvenile law and how we can better  
24 balance and protect both people's due process is a  
25 concern to me. I guess what I missed and what you were

1 saying is I thought that there was an ability by the  
2 judge, whether it's in camera or whatever, to hear from  
3 the child directly, while not necessarily confronted in  
4 the courtroom, but to get those concerns that you're  
5 worried about addressed, and could you please, if you  
6 don't -- is that true, and if so, why -- I'm assuming  
7 you don't think it works, and why.

8 A. It is quite common, of course, for a  
9 judge to talk to a child in a custody case. In camera  
10 interviews, in a custody case, with a child are quite  
11 common. However, in our juvenile court system in Berks  
12 County, I have never seen a judge take the child back  
13 in the chambers and discuss this with the child.  
14 Never. I agree with you, if the judge would do that,  
15 then indeed you would have a judge who would come in or  
16 you'd have a child who would come in and could be cross  
17 -- well, examined gently I guess would be a better  
18 word.

19 The problem is 5986, 42 Pa.CSA 5986,  
20 provides that the hearsay comments of a child related  
21 to sexual abuse can be submitted as substantive  
22 evidence. There is no need currently for anyone to  
23 prove these words of a child by bringing the child in.  
24 Now, recently this case of The Interest of Tina K., the  
25 judge of the Superior Court found that these statements

1 could not come in unless the child was presented. I  
2 think that's certainly what the law should be.

3 Q. In Tina K., how old was she? And don't  
4 we in the law make some distinction with regard to age  
5 of the child either under 6 or under 7, and then 7 to  
6 14 is another standard, and then 14 and above? Maybe  
7 I'm confusing criminal law. Can you help me understand  
8 how the ages of children work when we're talking about  
9 this issue? And if there should be a distinction when  
10 you're talking about suggesting that laws be considered  
11 to change to be able to confront a child, are there age  
12 distinctions that we should be taking into account in  
13 considering something like that?

14 A. Well, let me address that in a little  
15 wider context. A child's statements come in in two  
16 ways. First, presently hearsay in a court; then also  
17 the professional investigator of child abuse, someone  
18 who because of their standards can give an expert  
19 opinion. This person could then, would do an interview  
20 with the child, would come in and testify based on his  
21 knowledge, his expert knowledge, "I believe that the  
22 child has been abused." And hearsay does come in in  
23 that way. But technically I guess it is better because  
24 it is an opinion rather than based on what the child  
25 said.

1                   However, what seems to happen is, and  
2 last night in "48 Hours" there was a one-hour  
3 presentation upon precisely this thing. There had been  
4 recent reversals of the McMartin case in California,  
5 the Michaels case in New Jersey, there's been an  
6 appellate court looking at transcripts of the films.  
7 The thing we see in Berks County is no films are taken.  
8 There is no way to examine what the child has said or  
9 the milieu in which the child has said it. What is  
10 given to you is, "I testify that--" the expert  
11 testifies that the child said this, and based on that,  
12 I feel that abuse has occurred. There is simply no way  
13 to successfully cross-examine that expert. To get  
14 back, I believe, to your questions, Tina K., I don't  
15 know the age of Tina K. There is no change of the way  
16 you suggest I think goes to presumption of evidence,  
17 not in these particular types of proceedings.

18                   Eight and a half years old was the age of  
19 the child.

20                   Q. Eight and a half was Tina K.?

21                   A. Yes.

22                   Q. Oh, I'm sorry.

23                   A. Have I answered your question?

24                   Q. Well, I guess what I'm concerned about is  
25 I really do understand the, and respect the right to or

1 highly believe that we need to make sure that we're  
2 protecting the due process rights of everyone involved  
3 in cases. I just also guess I'm asking -- I'm real  
4 bothered by the notion of an absolute rule that would  
5 require children to present in a courtroom and be  
6 cross-examined, and I guess I'm trying to figure out if  
7 there is -- I mean, I could see I'm less bothered by if  
8 it's a 16-year-old than I am if it's a 6-year-old.

9 DR. SLOANE: If I can add a perspective  
10 on that that I think may get to the heart of the  
11 matter. What has concerned me, coming from my  
12 background as a practicing psychologist before entering  
13 practice in the law, and seeing the reports of some of  
14 these self-styled experts, I look at them with my  
15 psychological expertise and say, these are garbage.  
16 They have absolutely no basis. They are unfounded.  
17 They do not relate to what has been  
18 described, to the facts that are drawn. And I've  
19 had occasion to be able to attack some of these  
20 reports. However, I'm an exception. I have that  
21 background. But when I'm dealing with an indigent  
22 client who doesn't have the resources to go out and  
23 hire their own expert to examine the child, the very  
24 least we ought to be able to do is when some of these  
25 examinations by these experts are conducted, if they

1 could be videotaped so that another expert could at  
2 least review that. We're not putting a child through  
3 anything different or anything additional, but we are  
4 giving someone else the opportunity to examine that  
5 investigation and see if they concur with the findings.

6 REPRESENTATIVE MANDERINO: Okay. I  
7 haven't really thought that much about the videotaping  
8 idea and I see some real merit to it. I also see a few  
9 concerns, maybe going back again to what you're talking  
10 about with regard to the qualifications of an expert,  
11 and the thoughts that are running through my mind are  
12 that first of all, the qualifications of an expert are  
13 always an issue as to the credibility of the testimony.  
14 And I understand what you're saying, that this is  
15 different than a civil kind of case where you can have  
16 a battle of the experts.

17 DR. SLOANE: Exactly.

18 REPRESENTATIVE MANDERINO: That I do  
19 understand. I guess what I'm saying is are we then  
20 looking at, to follow up on your suggestion in any  
21 meaningful way, requiring that we have doctors,  
22 psychologists in all our social service agencies, and  
23 are we as a Comm or willing to bear that  
24 cost, and is that necessary or is there some  
25 other way to accomplish what you want to do without

1 necessarily requiring that we have in every social  
2 service agency that deals with children protective  
3 services that level of expert?

4 DR. SLOANE: I don't think we need it as  
5 a staff level.

6 MR. BOYER: As a matter of fact, we do  
7 have experts who do have Ph.D.s who do come in. The  
8 problem that we have now is these persons are always  
9 brought in by Children and Youth. There are severe  
10 questions as to their impartiality. But they do appear  
11 today, in every case.

12 REPRESENTATIVE MANDERINO: Thank you.

13 Mr. Chairman, I understand there are  
14 other members with questions and I'll yield. Thank  
15 you.

16 CHAIRMAN CALTAGIRONE: Representative  
17 Williams.

18 REPRESENTATIVE WILLIAMS: Thank you, Mr.  
19 Chairman.

20 BY REPRESENTATIVE WILLIAMS: (Of Dr. Sloane)

21 Q. I arrived late, so you may have already  
22 covered this ground. If you have, just tell me you  
23 have. The section regarding or describing "persuades a  
24 child to make an allegation of child abuse..." has that  
25 been defined as "persuasion," or how do you define what

1 "persuasion" means?

2 A. You're referring to House Bill 826, I  
3 believe?

4 Q. Correct.

5 A. Is that what your question is about?

6 Q. Correct.

7 A. I don't think we've extensively gotten  
8 into this. We've been focusing more on the reporting  
9 itself, and once it has occurred, the nature of the  
10 investigation. My own experience has shown that I  
11 think if a child has been persuaded to make a false  
12 report, and certainly there are many situations that  
13 occur of this nature. I think if the investigation  
14 that goes forward after that, if that in fact were done  
15 properly and with proper standards, then a lot of those  
16 problems could be dealt with. However, I have seen  
17 cases where at a later point in time the child totally  
18 recants the initial report.

19 Q. I understand all that. I'm just trying  
20 to find out with regard to this specific bill that  
21 you're testifying on behalf of, are you aware of any  
22 provisions or criteria that establishes what  
23 "persuasion" means?

24 A. I'm not sure I understand your question,  
25 sir.



1 Q. Okay, I'll read the Section 6320, and  
2 you're here testifying on behalf of 829, correct?

3 A. Well--

4 CHAIRMAN CALTAGIRONE: 826.

5 BY REPRESENTATIVE WILLIAMS: (Of Dr. Sloane)

6 Q. 826, I'm sorry. 826, correct?

7 A. I think we're going perhaps at a broader  
8 scope than just that.

9 Q. Well, this committee is here to talk  
10 about 826.

11 A. We understand, but in addressing the  
12 issue of the false reporting, Attorney Boyer and I had  
13 expanded, I believe, the scope of our testimony to  
14 address that issue from what we think is perhaps more  
15 encompassing--

16 Q. Well, let me, for my own personal  
17 clarity, are you in favor of House Bill 826?

18 A. I am very much in favor of it. I don't  
19 feel it goes far enough.

20 Q. So with regard to that, have you reviewed  
21 the bill?

22 A. Yes, I have.

23 Q. Okay. So the section I'm referring to,  
24 6320, are you familiar with that?

25 A. Yes.

1 Q. So my comment--

2 A. I don't have it in front of me, but I am  
3 familiar with it.

4 Q. And I'll read it so that it will trigger  
5 your memory. An adult commits a misdemeanor of the  
6 second degree if he "intentionally and knowingly causes  
7 or persuades a child to make an allegation of child  
8 abuse which the adult has no reasonable grounds to  
9 believe is true...."

10 A. Okay.

11 Q. With that in mind, further, it also says,  
12 "If the adult has the malicious intent to expose the  
13 alleged child abuser to public hatred, contempt or  
14 ridicule or to criminal investigation," the adult  
15 commits a misdemeanor of the first degree. I'm  
16 assuming you're aware of what those penalties are?

17 A. Yes.

18 Q. All right. So I'm asking you, what does  
19 "persuasion" mean, because as you know and I know, in  
20 family court proceedings judges do have criteria by  
21 which they consider these charges even before you go  
22 to court.

23 A. I think when we get to the area of child  
24 abuse, and particularly with the incredible scope of  
25 issues that are involved with the breadth of ages of

1 children that are involved, the issue of persuasion  
2 becomes a very difficult one. Part of my concern is  
3 that any adult having any activity or conduct or  
4 conversation with a child is having somewhat of a  
5 persuasive effect on that child. Children, by their  
6 very nature, are very moldable to their environment.  
7 They are very responsive to everything that goes on  
8 around them.

9 Q. If that is the case, then how would you  
10 hold an adult responsible for if in their heart an  
11 investigator or a parent or a grandparent or an aunt or  
12 uncle felt something terrible had happened--

13 A. Well, I think there's a difference  
14 between--

15 Q. Let me finish my question.

16 A. Certainly.

17 Q. They felt something terrible had  
18 happened. They have their own bias in their heart and  
19 even in their mind, and maybe in fact in their own  
20 actions. How do you separate what they may ask a child  
21 if there's no one -- not every parent is a lawyer, not  
22 every parent is a doctor, not every parent is a judge.  
23 Therefore, the questions that they may ask are in fact  
24 leading, and at that point in time they may be  
25 considered persuasive, and in fact especially in parent

1 situations where you have in-laws who don't necessarily  
2 get along, grandparents who don't necessarily get  
3 along. The child goes and visits the grandparents,  
4 something happened, the child comes back, how do you  
5 define at that point in time whether the grandparent,  
6 who doesn't like the other particular party, who does  
7 believe something happened, says, did X, Y, and Z  
8 happen? How does one prevent that from being  
9 persuasive and in the charge?

10 A. I think the answer to that is perhaps  
11 surprisingly simple. If the grandparent in that  
12 situation that you've described genuinely believes that  
13 the child has been abused, then it is the grandparent's  
14 place to honestly and legitimately report the same.  
15 And if that report is properly, fairly, and  
16 professionally investigated, that will address the  
17 matter totally. On the other hand, for the grandparent  
18 to tell the child to file a report, that, I believe, is  
19 inappropriate. There is no need to persuade a child to  
20 report something if you yourself do not believe that it  
21 is worthy of reporting. If I see a child in the  
22 neighborhood that I believe is being abused, I'm not  
23 going to go to that child and say, you should call the  
24 police or you should call the Children and Youth  
25 Services. I will place that telephone call. That's my

1 responsibility to do so.

2 Q. Well, give me a point in clarity then.  
3 Someone who's not necessarily literate with the law  
4 picks up a phone and says -- calls a child hotline and  
5 says, I have a situation here where I think something  
6 happened. The person on the other end of the line  
7 says, let me speak to the child. They can't get all  
8 the facts from the parent.

9 A. I don't see that that is ever the  
10 scenario in which that's handled. The person does not  
11 say, let me speak to the child. They take down the  
12 information and an investigator is assigned and the  
13 matter is investigated.

14 Q. You're saying to your knowledge there's  
15 never been an occasion where that has happened,  
16 correct?

17 A. No, I would not say that. But I would  
18 certainly say that I have no knowledge of whether that  
19 has ever happened or not.

20 Q. It has.

21 A. All right. But if the child is not there  
22 to speak to, that's not the appropriate point for the  
23 investigation to take place.

24 Q. No. I'm saying to you at the point of  
25 when they're asking questions, the adult who is there



1 who intentionally and knowingly causes or persuades a  
2 child to make an allegation of child abuse which the  
3 adult has no reasonable grounds to believe is true  
4 commits a misdemeanor of the second degree."

5 REPRESENTATIVE WILLIAMS: And  
6 "reasonable" is?

7 MR. ANDRING: "Reasonable" is used  
8 constantly in the law in many different applications.  
9 It has a well-accepted meaning.

10 REPRESENTATIVE WILLIAMS: Well, I don't  
11 want to drop the point, because as you and I both know,  
12 reasonable grounds, I mean, "reasonable" is hard for  
13 the court of law before the next step goes on between  
14 lawyers.

15 So to make it as simplistic or  
16 elementary, the dynamics of this that you're talking  
17 about, because I'm getting off the simplistic nature  
18 which you're approaching it, because I've seen these  
19 situations. I've seen one last week where conflicting  
20 in-laws had issues, the child was caught in the middle  
21 of it and ended up going to the hospital and the kid  
22 was afraid to say what he was doing to cause the  
23 bruises, which was he was playing or doing something he  
24 wasn't supposed to do. The in-law is now facing some  
25 serious situations, some very serious situations, and

1 the penalty behind this, if I'm reading this correctly,  
2 is \$10,000 and up to five years. So, I mean, with all  
3 due respect to the Chief Counsel, that's nice that he  
4 said "reasonable," and I'm glad he can be as direct and  
5 glib with regard to that. The fact is "reasonable" is  
6 not--

7 MR. ANDRING: The term is accurate, not  
8 glib.

9 REPRESENTATIVE WILLIAMS: Excuse me?

10 CHAIRMAN CALTAGIRONE: Accurate.

11 MR. ANDRING: The term is "accurate," not  
12 "glib."

13 CHAIRMAN CALTAGIRONE: If I may jump in  
14 here for just a second, and I think this has been  
15 talked about and I would like your professional  
16 comment, because you come from a background, a dual  
17 degree background, number one, and also with experience  
18 in several different counties in the southeast,  
19 including Philadelphia, and I want to share this  
20 because I think it has to be said for the record, that  
21 poor people, particularly the minority population of  
22 this State specifically have suffered tremendously,  
23 tremendously, even with the pro bono work that is done  
24 by many of the attorneys throughout this Commonwealth.  
25 For some reason many of these families have been



1 targeted, almost overzealously from what we're finding  
2 out, and I would like you to speak to that and some of  
3 the experiences that you've had, and you've had 25  
4 years of experience.

5 DR. SLOANE: I think you're absolutely  
6 correct that the poor, the underprivileged are the  
7 biggest victims of this process. Yes, pro bono  
8 representation is often provided, but in those  
9 situations that I've been involved, it usually comes  
10 well after the fact. I have been called in to deal  
11 with a situation long after the initial activity that  
12 has resulted in the seizing of children, sometimes even  
13 after there has been an adjudication of dependency.  
14 The rights, the protection, little as it is that does  
15 exist under the law currently for the family, is  
16 certainly not known, even to the well-educated, let  
17 alone to the poor, to the illiterate. They suddenly  
18 find themselves confronted by a government official who  
19 tells them that if they do not cooperate or if they do  
20 not comply or if they do not pick up and move out of  
21 the house, their children will be taken from them.  
22 They are not given an opportunity at that point to have  
23 proper representation. They are not advised -- you  
24 know, we catch a drug dealer on the street and if we  
25 don't properly advise him of his rights, he will go

1 free, and yet the suspected child abuser, the accused  
2 child abuser is not told of his rights, is not told of  
3 the representation that he may have, is not told the  
4 provisions of the law, often will not even see his or  
5 her attorney until moments before the hearing itself.  
6 It's a process that cannot be allowed to continue.

7 MR. BOYER: The problem as I see it, the  
8 person who deals with professional people, the person  
9 who knows an attorney, the person who can call an  
10 attorney quickly, very often we have people whose first  
11 contact literally is the caseworker who shows up at the  
12 door with an order signed by a judge to take possession  
13 of the child. Recently, my partner is here, Clement  
14 Cassidy has found that in our county, traditionally to  
15 seek an emergency order there is notification to the  
16 other side that someone is going to go to the judge,  
17 present their cause, the reason why the order should be  
18 issued. At that point you could go in and you could  
19 argue your case, perhaps you could nip it in the bud.  
20 The problem now is that we found out that our local  
21 organization had pre-signed orders. Blank pre-signed  
22 orders.

23 We're not seeking judicial intervention,  
24 we're simply going out and picking up the child. The  
25 problem that occurs is with the normal course, a

1 process that takes 10 days or so gives you time to seek  
2 counsel. When someone is taken immediately, there is a  
3 72-hour hearing which is held called a detention  
4 hearing. Very often if you are not represented by  
5 counsel or a pro bono attorney who doesn't have the  
6 time and doesn't have the experience in these events,  
7 will be convinced to agree, agree that the child is  
8 dependent. The problem that comes about is not  
9 necessarily on that day, it is down the road when the  
10 burden of proof shifts. It used to be clear and  
11 convincing to prove that this child is dependent. The  
12 problem that comes about 6 months, 12 months down the  
13 road, there is no longer clear and convincing. The  
14 question now becomes what's in this child's best  
15 interest? If it's a poor family, there are often other  
16 deprivations that are involved here. If the child has  
17 been kept out of this family, may have attachments to  
18 foster parents. Psychologists are brought in saying  
19 that this child has now bonded with a new person. The  
20 family is destroyed and perhaps will never get back  
21 together again. And the event that caused the original  
22 concern may be long ago in the past and be remedied and  
23 the child may never come back.

24 DR. SLOANE: Once you get past that  
25 standard of clear and convincing evidence and turn to

1 the best interest of the child, you're then faced with  
2 often an economic battle. You have the poor mother,  
3 single parent who is struggling, maybe has managed to  
4 get herself off welfare, find a job and is trying to  
5 provide for her children, and yet there's a foster  
6 family that has lots of money available, a nice home,  
7 each child has his or her own room. It's a wonderful  
8 environment for the child. Certainly at that level it  
9 would appear that the best interest of those children  
10 is served by taking them out of the poor mother's  
11 apartment. And yet what are we doing by this? We're  
12 tearing families apart. We don't have the right to do  
13 that.

14 REPRESENTATIVE WILLIAMS: Mr. Chairman,  
15 first of all, I didn't finish my line of questioning  
16 and I'm really disturbed not by the witnesses but by  
17 something that happened, but I'll deal with that later.  
18 But more importantly, and I am, quite frankly, a little  
19 bit miffed that you keep using these examples of the  
20 indigent in our society. I don't know who you  
21 represent or where you come from, but I am firsthand a  
22 legislator from those type of communities and I would  
23 suggest that some of the examples that you're using are  
24 not necessarily the ones I am very familiar with. And  
25 more importantly, the law that you're describing, you

1 keep using drug dealers and robbers. I've seen kids,  
2 14, 15, 12, and 10 years old thrown up against a wall  
3 by police officers in Philadelphia County because  
4 something happened in the neighborhood and they were  
5 black and they were 12 years old. And they were  
6 arrested and they were held until something else  
7 occurred. So the standard you're describing for  
8 parents, unfortunately -- and in my county, they don't  
9 tend to knock on the welfare mother's door just for any  
10 particular reason at any given moment without some  
11 level of or some activity of investigation. So maybe  
12 what's happening in your community may be a little bit  
13 different than what's happening in my community, but I  
14 want to assure you that the cavalier manner in which  
15 you're describing of these examples may happen on  
16 incident, but they certainly are not the norm within  
17 the community from which I come.

18 DR. SLOANE: Well, I would have to  
19 respectfully disagree that in the scope of my  
20 experience, it is far more the norm than the exception.  
21 I have repeatedly dealt with situations, not limited to  
22 a single county--I won't point a finger at any  
23 individual agency or any individual county system--but  
24 where the caseworkers run amuck, where they at the  
25 first sign of a suspected situation will go in, gather

1 some information, and I will tell you that time and  
2 time and time again I am seeing petitions brought  
3 before the court that are fraught with blatant lies and  
4 misstatements made by the Child Protective Services  
5 agency.

6 MR. BOYER: There's also perhaps a  
7 difference here. You may be talking about allegations  
8 of delinquency as opposed to dependency.

9 REPRESENTATIVE WILLIAMS: No, we're  
10 talking about the same conversation.

11 MR. BOYER: All right. Fine.

12 REPRESENTATIVE WILLIAMS: We're in the  
13 same ballpark.

14 DR. SLOANE: And again, I think that what  
15 I have seen has been so widespread, the problem that I  
16 have found is that the individual family member that  
17 has been the victim of this process, perhaps the victim  
18 of a malicious false report or the victim of a report  
19 that may have been made in perfectly good faith but  
20 turns out in reality not to be based in fact.

21 REPRESENTATIVE WILLIAMS: Based upon--

22 DR. SLOANE: I have a client right now  
23 that I am dealing with where because one child in the  
24 family heard another child in the family complaining  
25 about an act of discipline that had occurred, the next

1 day was relating that story to one of her classmates in  
2 school, a teacher overheard that conversation,  
3 discussed it with a second teacher, and as a result,  
4 the family was hotlined. Now, that is the kind of  
5 thing, I will grant that individual teacher who placed  
6 the phone call the fact that she was concerned, she had  
7 reason to place that phone call. My concern is that  
8 once that investigation began, everything completely  
9 crumbled.

10 REPRESENTATIVE WILLIAMS: Well, the area  
11 that you're covering apparently will not be fixed by  
12 House Bill 826. The inequities, the inadequacies of  
13 our social service system or lack of an investigation  
14 or the overzealousness of investigation points to  
15 training and some other issues, not so much this bill  
16 and the consequences of this particular bill. And the  
17 other thing I would suggest to you, frankly, is that  
18 we're sending mixed messages to our society, and  
19 certainly to my county sending mixed messages. Who  
20 from this Capitol had their license at one point in  
21 time, well, I don't know if it's removed or suspended  
22 dealing with issues such as this because they did not  
23 act upon levels of investigation as proactively or as  
24 quickly as one would ask them to do? And certainly if  
25 one child is abused within our community, most of my

1 constituency feel that that's one more child -- one too  
2 many child as opposed to what you're suggesting is I  
3 guess act with a greater degree of caution. I am not  
4 here to say that there are not consequences to false  
5 accusations brought by anybody. Certainly there are,  
6 and some of the ones you brought up earlier and the  
7 ones I see every day of these kids that are being  
8 thrown up against these walls. But in this particular  
9 area, I'm not sure exactly where this bill would go to  
10 try to remediate the problems that you're trying to get  
11 to.

12 DR. SLOANE: Well, I would certainly  
13 agree that this bill is not the total answer, but I  
14 think it does help call attention to some very serious  
15 problems that are out there, I think far more  
16 widespread than perhaps your own experience may have  
17 shown. From my practice of law, from Attorney Boyer's  
18 practice of law, and from my practice of psychology, we  
19 have seen this in many different settings, many  
20 different contexts. It's a very, very serious problem.  
21 I would be the last person to suggest anything that  
22 would weaken the protection of our children. They must  
23 be protected. But my contention is we are doing them a  
24 tremendous amount of harm by tearing families apart  
25 without proper standards, guidelines, and





1 information as to the identity of the reporter, which I  
2 believe that the proper safeguards for investigating  
3 the report are in place. The problem with the false  
4 report is not necessarily the primary problem with the  
5 system.

6 MR. ANDRING: In your testimony, you made  
7 references to Sections 5985.1 and 5986 of the Judicial  
8 Code, the hearsay provisions, and those speak to a  
9 determination by the judge that there -- that he make a  
10 finding that they are indicia of reliability before  
11 hearsay evidence is admitted.

12 DR. SLOANE: That's correct.

13 MR. ANDRING: And how I would interpret  
14 your testimony, in fact, that really isn't being done,  
15 that section basically is--

16 MR. BOYER: For example, quite often you  
17 see if it comes from a caseworker, it's per se  
18 reliable.

19 MR. ANDRING: And that's the standard  
20 that's actually being utilized out in the real world  
21 right now?

22 MR. BOYER: Yes.

23 DR. SLOANE: Absolutely.

24 MR. ANDRING: Because I certainly don't  
25 think that was ever the intent of the people who were

1 responsible for that section of the law.

2 MR. BOYER: I would hope not.

3 BY MR. ANDRING: (Of Mr. Boyer)

4 Q. Okay. You also made reference to expert  
5 witnesses who would testify to I think what's referred  
6 to as child abuse syndrome, the idea that if a child  
7 denies that abuse occurred, that's evidence that abuse  
8 did occur. And I did not believe that that expert  
9 testimony was admissible under Pennsylvania law, that  
10 was not a recognized area. Again, what's happening in  
11 your world out there?

12 A. I don't think that we're really talking  
13 about it that specifically. What we're talking about  
14 are investigators who are hired to give their expert  
15 opinion in reporting upon their interview with a child  
16 essentially using what's referred to as anatomically  
17 specific dolls. A problem comes about is that when  
18 you're cross-examining this person, you are stuck with  
19 what they tell you. No one knows if for 35 minutes  
20 prior to that whether or not some contrary evidence was  
21 being given. You are given what they have decided to  
22 prove or to accept as the accurate answer. It could be  
23 for the first 30 minutes of an hour interview the child  
24 denied that this has taken place, but after extensive  
25 questioning and perhaps after several sessions you now

1 get an entirely different story, perhaps, but you'll  
2 never know that because there is absolutely no showing  
3 of what took place at the actual interview.

4 Q. Okay. I was surprised that you said that  
5 Berks County's interviews are not recorded. Is that  
6 common practice throughout the State?

7 A. I can't tell you, but in Berks County  
8 they are never recorded. As a matter of fact, I  
9 cross-examined recently the person who was doing these  
10 and she basically said that, well, some places tape  
11 them, we don't.

12 Q. If these interviews are taped and -- the  
13 entire interview, all contact is taped and copies are  
14 made available for all the parties, do you think that  
15 provides a sufficient indicia of reliability to at  
16 least let that evidence come before the court?

17 A. Well, traditionally, we talked about  
18 hearsay being excluded. I guess I am saying if the  
19 legislature feels that this somehow is an extraordinary  
20 example and this should be allowed, I'm saying at the  
21 very least videotape it. I am not advocating that it  
22 be allowed. I am saying if other views prevail, then  
23 at least give us this.

24 Q. Okay. Now, the Supreme Court has ruled  
25 that a procedure where a child is questioned in another

1 room--(this is provided in statute--is not acceptable in  
2 criminal cases.

3 A. Well, I would understand that.

4 Q. Yeah. Has the issue as to whether this  
5 is permitted constitutionally been resolved to your --  
6 or is this still something that's subject to appeal?  
7 And I ask this question because we have bills before  
8 our committee right now that deal with child testimony  
9 and the constitutional rulings that have been made.

10 A. My understanding is a case entitled A.Y.  
11 vs. Department of Public Welfare, cited at 583 A2d 515,  
12 has been granted allocatur by the Supreme Court with  
13 the docket 257 Western District 1991. Now, this  
14 specifically refers to the use of hearsay testimony in  
15 5986 in the context of a DPW hearing.

16 Q. Okay.

17 A. What I'm saying is perhaps one doesn't  
18 wish to wait for this. It's also the problem of  
19 whether or not that ruling would apply merely to a DPW  
20 context or also to the larger context, which I think  
21 should be dealt with.

22 Q. Okay, now, that's another question I have  
23 which is really not clear from reading the two  
24 statutes, and that's the interplay between the Juvenile  
25 Act and the Child Protective Services Law, because you

1 have different standards, the definition of dependency  
2 is not the same as the definition of child abuse.  
3 Could you kind of walk -- you had started describing  
4 the procedure that happens whenever a child is picked  
5 up by the CYS folks. Could you kind of walk through  
6 that whole system and identify who is working for whom,  
7 who is an administrator, who is a court officer and  
8 what happens?

9 A. Well, as I understand the way this  
10 evolved, there is a pre-existing statute on dependency  
11 and delinquency, and what has happened, and it's an odd  
12 mixture here because these matters of dependency are  
13 handled at the juvenile probation office, which  
14 traditionally more dealt with delinquency.

15 Q. Right.

16 A. And I think what has happened is the  
17 Child Protective Services Law has grafted onto the  
18 delinquency provisions. And your question, what  
19 happens? Well, there could be -- I think the best way  
20 it happens, there is a contact made by the  
21 investigator, there is an investigation which is  
22 conducted, perhaps as a result of that investigation a  
23 juvenile court proceeding is filed, at which someone  
24 has at least 10 days, perhaps a better ability to get  
25 an attorney.

1 Q. Who's representing the State in that  
2 proceeding? Is it CYS or is it probation?

3 A. No, it's CYS.

4 Q. Okay.

5 A. CYS. And in our county they have their  
6 own attorney.

7 Q. All right.

8 A. In fact, they have two. So what happens  
9 then is a dependency hearing, which the standard is  
10 clear and convincing to find out whether or not this  
11 child is dependent. In other words, in need of care.  
12 There's also a further question of if that is reached  
13 by clear and convincing evidence, then the next  
14 question becomes, is it necessary to remove the child  
15 from the home? If that is done, the child is placed in  
16 foster care. What then happens is there may be a  
17 program of visitation, but the DPW regulations I  
18 believe call for one 1-hour visit every two weeks.  
19 Now, that seems awfully, I mean, I don't know what that  
20 is intended to promote. If it's to promote the  
21 continuing relationship between the parent and the  
22 child, I would defer to Dr. Sloane, who has expertise  
23 in psychology.

24 So what you then have is perhaps a period  
25 of visitation being held. Six months after the

1 original dependency hearing you now have a  
2 dispositional review hearing, whether or not the foster  
3 placement should continue. The problem there is now we  
4 have this new burden of proof which is no longer clear  
5 and convincing. The question becomes, what's in the  
6 child's best interests? Is it in the best interest to  
7 continue in the placement or to return home?

8 Q. Okay. Whenever a child is first picked  
9 up by a CYS worker, they have to have a court order?

10 A. Well, it seems to me there are several  
11 exceptions. For example, a child in a hospital can be  
12 taken without court order by the director of the  
13 hospital or his designee. I think that's certainly  
14 proper. A parent then panics. Once the CYS is  
15 mentioned, they want to take the child out. Certainly  
16 seems appropriate to keep a child in a hospital until a  
17 short period until things can be worked out.

18 There's an acute problem where a police  
19 officer picks a child up. I understand that emergency  
20 placement. This notion, however, there is another  
21 provision that says a CYS caseworker can do it with an  
22 order of the court, and it also provides that the local  
23 judiciary is available 7 days a week, 24 hours a day.  
24 Again, some years ago you used to get a call and go and  
25 have a hearing in front of the judge and see if that



1 emergency placement should take place. Now I'm a  
2 afraid, and this of course is our local judiciary's  
3 fault, there appears that at least in our county there  
4 are pre-signed orders.

5 Q. Okay. And then after that initial  
6 pick-up, there is a hearing within three days?

7 A. There is a 72-hour, and I'm trying to  
8 think of it, emergency placement hearing of some sort  
9 in front of a Master.

10 Q. Okay, and who hires that Master?

11 A. The Master is a county employee.

12 Q. Okay, so are they are not a court -- are  
13 they representing the court or are they representing  
14 CYS?

15 A. Judicial function.

16 Q. It's a judicial function?

17 A. They represent the court. They are a  
18 court-appointed Master.

19 Q. What authority is that done under? Do  
20 you have any idea?

21 A. It's I think under the -- it would be  
22 4263 series.

23 Q. Okay, so the court appoints this Master?

24 A. Yes.

25 Q. And makes then a determination as to

1 whether the child stays or not?

2 A. Stays in placement or is returned to the  
3 -- returned to the parent pending the regularly  
4 scheduled placement hearing.

5 Q. And when does that one take place then?

6 A. I believe it's within 10 days.

7 Q. And that's the one before a judge?

8 A. That's the one before the judge.

9 Q. So potentially a person could have their  
10 child taken and kept for 10 days without ever getting  
11 before a judge?

12 A. That's absolutely correct.

13 Q. Okay.

14 DR. SLOANE: Not only that, if I can add,  
15 the statute currently provides for the appointment of a  
16 guardian ad litem for the child who is charged with  
17 representing the child's best interests, which may or  
18 may not have anything to do with the child's wishes or  
19 desires. I think we're seeing an increasing awareness  
20 in the country today of the fact that a child,  
21 particularly as they approach the teens, have interests  
22 of their own, have desires of their own, and we're  
23 seeing now rights being granted to them to seek counsel  
24 of their own choosing. There is no such provision in  
25 this type of action for the child's desires to be

1 represented. I have personally been involved in  
2 situations where the child very desperately wanted one  
3 thing and the guardian ad litem was not even talking to  
4 the child, not even listening to what the child had to  
5 say.

6 MR. ANDRING: And one last question. One  
7 issue that seems to arise regularly is whether there  
8 actually is or isn't a problem with false reporting or  
9 malicious reporting or inaccurate reporting. The  
10 numbers we have is that anywhere from 60 to 80 percent  
11 of all reports received by CYS are not founded or  
12 indicated reports. And that there's obviously a large  
13 amount of resources being dedicated to investigating  
14 all of these reports. Is it your experience that most  
15 of the reports, or at least over half the reports that  
16 go into this system and are investigated are in fact  
17 unfounded?

18 MR. BOYER: I think what the problem is  
19 is that you are comparing sets of statistics that  
20 although they sound like they should be related I  
21 believe quite definitely are not related. I think it's  
22 perfectly appropriate for any suspected instance of  
23 abuse to be reported, and it is the purpose of a proper  
24 and professional investigation to determine whether  
25 that is founded, indicated, or unfounded. Those

1 statistics are not the ones that you're talking about,  
2 because I would contend that among the unfounded  
3 reports, among the indicated reports, among the founded  
4 reports you will find both the legitimate reports that  
5 were made and the malicious and willful and intentional  
6 ones. Certainly the fact that a report comes back  
7 indicated or founded from my experience is absolutely  
8 no indication of whether or not abuse occurred. I have  
9 seen them time and time again be done on the basis of  
10 evaluation, and from my professional opinion has been  
11 absolutely inadequate. And the fact that many of these  
12 are eventually overturned on appeal shows that that's  
13 not the statistic that we should be looking at.  
14 Particularly in situations where sometimes the  
15 investigative body themselves have a financial profit  
16 in the finding of abuse, and we've seen that too many  
17 times.

18 MR. ANDRING: Okay. Thank you.

19 CHAIRMAN CALTAGIRONE: Thank you very  
20 much for your testimony. We certainly appreciate it.

21 We would next like to go to attorneys  
22 Michael Marino and Attorney Zimmer.

23 And I would like to recognize  
24 Representative Strittmatter, who appropriately has on  
25 this very same topic today a number of children

1 visiting the Capitol. Representative Strittmatter, if  
2 you would like to make a few comments as to who the  
3 children are and what school district.

4 REPRESENTATIVE STRITTMATTER: Thank you  
5 very much, Mr. Chairman.

6 I would like to introduce the committee  
7 and all the other guests to our guests of the Capitol  
8 today, the Michower fourth grade from Manheim Township  
9 School District is with us, and so we appreciate being  
10 able to see government in action, seeing a committee  
11 hearing and the taking of testimony. We thank you very  
12 much for allowing us to take part. We're going to go  
13 up to the House floor now. Thank you very much.

14 CHAIRMAN CALTAGIRONE: Thank you,  
15 Representative Strittmatter. I wanted to welcome the  
16 children and their teachers and parents here today and  
17 I hope you have a good time.

18 If you would like to start.

19 MR. MARINO: Thank you. My name is  
20 Michael Marino. I'm the district attorney from  
21 Montgomery County, and I'm here speaking today on  
22 behalf of the Pennsylvania District Attorneys  
23 Association. I'm a member of the executive board.

24 I am here in that capacity to oppose  
25 House Bill 826. It's the consensus of the District

1 Attorneys Association that this bill, if it were to  
2 become law, would actually cut the heart out of child  
3 abuse legislation. What this bill does, as you know,  
4 is creates two distinct and new criminal crimes, one is  
5 the intentional making of a false report of child  
6 abuse, and second, persuading someone else to make  
7 false allegations.

8 I would like to suggest that my  
9 colleague, Dr. Sloane, in his last few comments was  
10 talking about unfounded and founded. I think his  
11 points were directly on point. I don't think you can  
12 use that type of statistic about founded and unfounded  
13 in addressing this particular issue. Your goal as to  
14 preventing malicious, outrageous, despicable plagues of  
15 child abuse is a laudable one. Prior to being the  
16 district attorney of Montgomery County, my practice was  
17 mostly criminal law and domestic. I personally was  
18 involved in those types of cases. Spanning over a year  
19 does enormous damage to families, this false reporting.  
20 But I would like to suggest that this intent, as noble  
21 as it may be, we really don't need it in this sense.  
22 Right now on the books we have several laws, false  
23 reporting to law enforcement agencies, unsworn  
24 falsifications to authorities, perjury, intimidation of  
25 witnesses, all of these address the areas in which you

1 are discussing or trying to reach, the evil that you're  
2 trying to eradicate.

3 Now, the problem that you have here is  
4 that as I mentioned, the founded and unfounded I don't  
5 think is correct because if it's unfounded, in many  
6 cases you just don't have the evidence. In other cases  
7 it's not the proper person, such as teachers. That is  
8 not part of this act. Teachers are really exempt from  
9 that, and I think Mr. Blaum has proposed legislation  
10 that hopefully will correct that.

11 But I would like to move on to what we  
12 believe would be the most damaging aspect of this  
13 legislation. It would have a chilling effect of  
14 preventing people from calling. You see, all of these  
15 laws are designed for one specific purpose: They are  
16 designed to protect children, because children do not  
17 have the wherewithal to protect themselves. So our  
18 whole law is designed to get the reluctant, the  
19 hesitant to call with immunity. Now, we have all these  
20 hotlines and we have all these child lines. It's for a  
21 purpose. It's to protect the weakest of our society.  
22 What I believe you're suggesting, and not  
23 intentionally, is that you're suggesting that we chill  
24 this attitude. You see, even in the Child Protective  
25 Services Law you have all those immunities that you

1 grant to people to foster the very thing that you would  
2 kill.

3 Now, ladies and gentlemen, we have the  
4 wherewithal to punish people criminally when they make  
5 these outrageously despicable allegations. Where  
6 you're, just as an aside, we had a young lady who  
7 accused her boyfriend of rape. We found that it didn't  
8 fit. We wired the boyfriend. She admitted on a tape  
9 that she was punishing him because he's going back to  
10 his old girlfriend. Well, ladies and gentlemen, she  
11 was arrested and she was prosecuted and convicted for  
12 false reports.

13 So what I'm suggesting is that we don't  
14 need this legislation. And I would like to suggest  
15 something to you. This entire segment of our children  
16 and our protective services that we do is to do just  
17 that, to protect the children. Now, there is no doubt  
18 about it, as Dr. Sloane and as Mr. Boyer have told you,  
19 there are some problems with our protection of  
20 children. But that can be amended in an area which  
21 they were talking, such as evidentiary problems or so  
22 forth. You can cure those. But you see, in this  
23 legislation, can you imagine the proof problem of this?

24 You had a very interesting point when you  
25 talked about what is that persuasion? How do you prove



1 that persuasion? Yes. Your issue.

2 REPRESENTATIVE WILLIAMS: That was the  
3 accurate or the glib part of it.

4 MR. ANDRING: No, that related to--

5 REPRESENTATIVE WILLIAMS: Shut up.

6 MR. ANDRING: Don't tell me to shut up.

7 REPRESENTATIVE WILLIAMS: I just did.

8 MR. MARINO: We as district attorneys  
9 have the obligation to prove beyond a reasonable doubt  
10 that these parents did in fact do that. And ladies and  
11 gentlemen, that is very, very difficult to do. I would  
12 like to suggest this to you: You see, as these lawyers  
13 who testified before us, they tell you exactly how it  
14 goes down. It's where the kids come in, and they do  
15 talk to the judge in the back, and they say these  
16 things, sometimes 2 1/2, 3 years old. They say these  
17 outrageous things that may be prompted by an outrageous  
18 parent. Well, let's look at that for a minute. You  
19 see, that's, quote, a "false statement" or the "false  
20 reporting." Well, after the custody battle is over,  
21 let's say a year or two down the road--and that's not  
22 unusual, that length of time--the parent who has been  
23 damaged by this allegation that turns out to be  
24 unfounded comes to the district attorney's office and  
25 says, we got this new act, 826. We want you to go

1 after my ex-spouse that did this outrageous thing to  
2 me. Well, we have to prove that that spouse  
3 deliberately made a false statement or put this kid up  
4 to do it. And ladies and gentlemen, that child is not  
5 going to be shielded. That child is going to take the  
6 stand and that child is going to testify in court, and  
7 that child is going to testify against one of their  
8 parents.

9 Ladies and gentlemen, I don't know if  
10 you've ever had that happen to you. As a lawyer, I  
11 have had it happen to me. I'm talking about something  
12 not as sinister, an assault case where a little boy,  
13 the son of this woman, was called by the father to  
14 testify in a district justice hearing as to how the  
15 mother assaulted the father at a little league game.  
16 It was outrageous. I'm talking about a simple assault.  
17 The district justice was wild.

18 What I'm suggesting to you, if our goal  
19 is to protect our children, the catastrophic effect of  
20 requiring that child, because, folks, without the child  
21 we have no case. We have to use that child. That  
22 child is in the middle of this. That child will have  
23 to take the stand, and as somebody pointed out here, we  
24 can't use screens. We can't use that. That child has  
25 to get up and testify. What damage will that cause

1 that child? This is after, you got to understand, this  
2 is after there was this horrendous custody battle, and  
3 now you bring them back into a criminal statute,  
4 criminal trial in front of a jury?

5           You know, this morning I got up and I was  
6 going over the prepared remarks that I gave copies I  
7 hope to all of you, and while I was looking at it, I  
8 discovered something. It is the first time in my  
9 memory where what we really are doing is putting adults  
10 ahead of children. I want you to think about it for a  
11 minute. It's the first time that we are going to use  
12 the kids to redress a wrong against the parent. Now,  
13 ladies and gentlemen, I don't know of any law that has  
14 ever done that. That is contrary to our human  
15 experience. It is contrary to our wishes as parents  
16 where we sacrifice for our children. I mean, many of  
17 you probably mortgage your houses for your kids'  
18 education and so forth. Parents have always done that.  
19 Maybe that's why parents run into burning buildings for  
20 their children, knowing sure well that they will die.

21           I would like to suggest that we are  
22 trying to correct something, and you really have a  
23 balancing test here. Are you going to try to create a  
24 situation where you can eliminate an evil against a  
25 malicious spouse through the mouths of children? I

1 would suggest that that priority is in error.

2 CHAIRMAN CALTAGIRONE: If I could just  
3 have a moment, Attorney Marino.

4 In testimony that we had heard in  
5 Pittsburgh, there were numerous people that had  
6 indicated that reports had taken place involving  
7 friends, neighbors, overzealous social activists within  
8 the department of CYS in those particular counties out  
9 in the west. I don't think it's just limited to just  
10 spousal warfare during custody or divorce proceedings.  
11 You know, there were, and I've got a desk full of  
12 letters and phone calls of people with stories that  
13 we've been reading over the past several weeks about  
14 this, and surprisingly, it covers a whole waterfront of  
15 people with reporting and what may or may not have  
16 precipitated that type of reporting. I just wanted to  
17 share that with you.

18 MR. MARINO: Oh, I think you're correct  
19 that there are others who maliciously report, like the  
20 busybody or whoever calls making harassment -- I  
21 understand that, and Mr. Caltagirone, I certainly don't  
22 have any statistics for you. I'm just talking about  
23 from my own experience that these horrendous situations  
24 where, and I hate to use this example, but they were  
25 always women trying to use the children against the

1 father who didn't have custody. That's just my  
2 experience. And they were so brutal and so horrendous.  
3 So I know firsthand that's my experience with it. I'm  
4 not suggesting for a minute that they are the only one,  
5 but I'm suggesting that the real core of this will fall  
6 into that category.

7           Now, if I can spin off on that remark,  
8 the remarks that you've made, you see, if talking about  
9 those other people, the health care people, the  
10 teachers, all the other people, the little old lady on  
11 the street corner that calls in, you see, if they have  
12 to think in their mind and say, well, that little kid  
13 looks awfully beat up to me, now I want to call up but  
14 if I do, is that going to subject me to being  
15 prosecuted for making a false report? Now, your act  
16 reads based upon the reasonable man standard, but the  
17 interesting thing is you interpret that. I mean,  
18 that's why it's done that way. What would a reasonable  
19 man do under the same or similar circumstances? That  
20 little old lady or that teacher, you don't want to  
21 chill them, because the horrendous parts where we fail  
22 in our society with children is where we don't heed the  
23 voices of these children, where the workers that are  
24 mandated by law to protect these children don't listen  
25 and the children die. And we have this horrendous

1     guilt and we cry out for that and we say, well, where  
2     were these people who get paid to do it? I mean, we  
3     have that now, but your intention is laudable, as I  
4     mentioned, but I think it really misses the mark. This  
5     area that Representative Blaum is trying to promote is  
6     1001 where it's a revamping of this whole Child  
7     Protective Services Law. It expands it. If you look  
8     at it, if you look at it, you have immunity statutes in  
9     there that are designed to do exactly what we're trying  
10    to do, is make people come forward quicker and easier.  
11    This, I think, would prevent that.

12                   I have nothing further, and I would just  
13    like to turn it over to my colleague now, Mark Zimmer  
14    from Wayne County.

15                   MR. ZIMMER: Good morning, ladies and  
16    gentlemen. My name is Mark Zimmer. I'm the chairman  
17    of the Pennsylvania District Attorneys Association  
18    Child Abuse Coalition. I'm a member of the Attorney  
19    General's Medical Legal Advisory Board on Child Abuse,  
20    and I'm the district attorney of Wayne County.

21                   Most importantly, however, I have been a  
22    child abuse prosecutor since I first became an  
23    assistant district attorney in 1981. I agree with all  
24    the remarks that my colleague, Michael Marino, just  
25    stated. I agree with the position of the District

1 Attorneys Association, and I, too, have come here today  
2 to oppose House Bill 826.

3 I almost did not come today. After  
4 reading the prepared remarks that Mike had, I thought  
5 to myself, why go? What I'm going to say may very well  
6 be repetitive today. What else can I add to it? But  
7 after I thought about it, I decided that I really had  
8 to come. And I have to be here today for the same  
9 reason that I have to be in the courtroom, for the same  
10 reason that I have to be there for the children.  
11 Because you see, ladies and gentlemen, I'm here today  
12 for the 13-year-old girl whose teacher in the middle  
13 school decided to read the crumpled up note that she  
14 threw in the wastepaper basket. I'm here for the  
15 13-year-old girl who throw away a crumpled up note she  
16 had written to herself as she left class and whose  
17 teacher, concerned about the fact that she had not been  
18 living up to standards in the classroom, picked up the  
19 note. The note described on it the sexual intercourse  
20 she had been having with her father. And the teacher,  
21 who did not have to worry about whether or not she had  
22 reasonable grounds to believe the information on that  
23 note, called Children and Youth Services and ChildLine  
24 as a mandatory report. Children and Youth Services  
25 investigated. I prosecuted. The abuses stopped. The

1 abuser is in jail.

2 I'm here today for the 11-year-old girl  
3 who thought her mother must have known that the  
4 mother's new live-in boyfriend was coming in in the  
5 morning and fingering her and touching her vagina with  
6 his tongue before anybody else got up in the house.  
7 She thought her mother knew, so she couldn't tell her  
8 mother, so she told her best friend, who told a  
9 teacher. And the teacher, who did not have to worry  
10 about whether she was unlawfully persuading someone,  
11 sat down with this little girl and talked to her and  
12 said, please, tell me what's happened. Is something  
13 going on that I should know about? And after the  
14 little girl talked, the teacher called Children and  
15 Youth Services. Children and Youth Services and  
16 Pennsylvania State Police investigated. I prosecuted.  
17 The defendant's in jail and the abuse has stopped.

18 I'm also here for the three youngest  
19 children in a family of nine, the first six of which  
20 are either in mental institutions irreparably, at the  
21 age of 25 and down, or have left the area and have  
22 never been heard from. The youngest of these three, at  
23 the age of 6, told her foster mother of the sexual  
24 abuse her father had done to her before she was placed  
25 in foster care. The father, at that time, was actively



1 trying to regain custody of the three children. Now,  
2 the foster mom didn't have to worry about whether she  
3 had reasonable grounds to believe a 6-year-old child.  
4 She reported. Children and Youth Services did not have  
5 to worry about unlawful persuasion when they sat down  
6 with the other two children, ages 8 and 10, to ask them  
7 what had happened. Those children also disclosed the  
8 oral sex that was going on in the household before they  
9 were placed. I prosecuted under special appointment  
10 from the Attorney General, because it wasn't even in my  
11 county. The children are safe. The father is serving  
12 10 to 20 years in a State institution.

13                   These children, and many more like them,  
14 are why I had to be here today. I was there for them  
15 through the investigation, I was there for them through  
16 the trial, and I will not abandon them today. In these  
17 cases and in countless other cases both in my area and  
18 throughout the State, adults would still be abusing  
19 children daily if people had to worry about criminal  
20 repercussions and talking to children in reporting  
21 child abuse cases, and this is precisely what will  
22 happen if House Bill 826 is adopted in its present  
23 form. Those of us involved in child abuse prosecutions  
24 have worked too hard and for too long to enlighten the  
25 public about the horrors of these crimes. Please don't

1 send us back into the Dark Ages, where all we talk  
2 about these cases is behind closed doors and in dark  
3 hallways.

4 I would ask the committee to please  
5 incorporate into their record the excellent letter that  
6 has been written by my colleague, John Haak, from the  
7 district attorney's office in York County, who is also  
8 a dedicated child abuse prosecutor. There's some  
9 copies of it there. He also highlights the same items.

10 I, too, as my colleague has indicated,  
11 applaud the purpose or at least the motivation behind  
12 what House Bill 826 is trying to address. It's not  
13 doing it in the right way, however. I, too, agree with  
14 a great deal of things that have been said by the  
15 colleagues who spoke before us. However, they were  
16 talking about something that to a large degree doesn't  
17 relate to House Bill 826, it relates to a whole  
18 different area. House Bill 826 is a criminal statute.  
19 It may be listed as being amending a Domestic Relations  
20 Code, but it is a criminal statute. In the criminal  
21 justice system, the child must testify, except in very,  
22 very limited instances. In the criminal justice  
23 system, we can't put experts on the stand to vogue for  
24 a child. The Supreme Court has said time and time  
25 again we can't do that. In the criminal justice

1 system, we must prove beyond a reasonable doubt,  
2 oftentimes with the child's word against the  
3 perpetrator's word, and the jury must make up their  
4 mind. It's just pure criminal law. And to put House  
5 Bill 826 into action would cut the guts right out of  
6 what we do as prosecutors and will hurt the children in  
7 this Commonwealth. The Commonwealth stands on the  
8 books as being very much for the rights of the unborn.  
9 Let's not go backwards for the rights of the people  
10 that have been born and have not reached the age of 18  
11 yet.

12 Thank you.

13 REPRESENTATIVE BIRMELIN: Mr. Chairman, I  
14 just have a few questions for both Mr. Marino and Mr.  
15 Zimmer.

16 BY REPRESENTATIVE BIRMELIN: (Of Mr. Marino)

17 Q. Mr. Marino, you indicated that we don't  
18 need this legislation. I think I'm quoting you  
19 directly. And you indicated one circumstance under  
20 which a girl had falsely reported rape. In Montgomery  
21 County, I'm assuming.

22 A. Yes, sir.

23 Q. Could you tell me how long you've been  
24 the prosecutor of Montgomery County?

25 A. I'm in my sixth year.

1 Q. Okay, so you've had a fairly long  
2 experience there?

3 A. Yes. About 25 years.

4 Q. Okay. In your recollection, how many  
5 people have you prosecuted who have made false or  
6 malicious child abuse reports in Montgomery County in  
7 the 6 years, or of the 25 years' experience that you  
8 have in Montgomery County?

9 A. Probably none.

10 Q. How many?

11 A. Probably none.

12 Q. None?

13 A. None.

14 Q. Why is that?

15 A. Why is--

16 Q. Why have no prosecutions taken place?

17 A. I don't know if they have been reported  
18 to us. Probably I can't answer that, I don't know if  
19 they haven't been reported. I would have a feeling  
20 that a parent who went through a horrendous custody  
21 matter, a good parent, would not want to subject their  
22 child to the criminal aspect of another lengthy trial  
23 where the child would have to testify. That's a guess  
24 on my part. But I don't know too many parents that  
25 would be willing to do that.

1 Q. Do you feel that there have been a fair  
2 number of these malicious and false reports done--

3 A. Without a doubt.

4 Q. --in Montgomery County. In your  
5 conversation, I'm not asking you for a scientific  
6 survey or an accurate number here, but do you feel that  
7 this is occurring?

8 A. Absolutely. Without a doubt. And it's  
9 horrendous. It's despicable.

10 Q. You had mentioned that if 826 were to  
11 become law, that it would be very difficult to prove  
12 the persuasion, unlawful persuasion section.

13 A. Yes.

14 Q. I would view that as a good thing if it  
15 were to become law that it would be difficult to prove,  
16 but that if it is provable that it would be a very  
17 clear and compelling case for a DA to do something.  
18 Would you agree with that?

19 A. No.

20 Q. Why not?

21 A. I certainly would not want to put a child  
22 through that testifying, specifically talking about the  
23 child custody situation, where one child has to testify  
24 against the other spouse, the other parent. And the  
25 likelihood, and probably rightfully so, the person will

1 go to jail. I don't think children should ever be put  
2 in that position.

3 Q. Do you realize, of course, in unlawful  
4 persuasion cases the child has already been put in that  
5 position?

6 A. You will do it twice.

7 Q. That's right. And in the first occasion  
8 it was done by the parent who manipulated that child to  
9 get even with the person who was falsely reported  
10 against.

11 A. Could not agree with you more. However--

12 Q. Well, let me finish. Are you saying that  
13 the main concern you have is putting the child through  
14 it twice?

15 A. My main concern is minimizing the damage,  
16 yes, sir, of the children. As far as the parents are  
17 concerned, I mean, any parent that does that to their  
18 child, you know, persuade them to testify against  
19 another parent in order to gain an advantage in a  
20 domestic case or a custody case, I don't think there's  
21 enough punishment for that, but the question is, how do  
22 you get to that? You have to use the child.

23 Q. But right now there is no punishment for  
24 it.

25 A. Well, I'm suggesting--

1 Q. Or at least in your experience you know  
2 of none in Montgomery County.

3 A. It's a question of your priorities,  
4 whether you think it is more important to redress the  
5 wrong of one of the parents or to protect the child. I  
6 mean, that's your balancing test. That's what you  
7 really base it on.

8 Q. I'm not disagreeing with that point.  
9 However, my point is that you cannot, I think, simply  
10 overlook the one to the exclusion of the other. I  
11 don't think -- you can always say, well, we've just got  
12 to protect the child and the interest of the child so  
13 we will never put the child through a situation that  
14 may cause them some anguish and anxiety to correct the  
15 wrong that was done to one of their parents. That's  
16 also one of their parents that has been falsely accused  
17 in many of these cases.

18 A. But what I'm suggesting to you is that  
19 there are statutes available at the present time that  
20 will not have a chilling effect on the reporting of  
21 suspected child abuse.

22 Q. But they are not being used and you said  
23 no prosecutions that you know of have taken place in  
24 your experience in Montgomery County.

25 A. I don't know of any parent, and I could

1 be wrong, but I mean to my knowledge I don't know of  
2 any parent coming forward and saying to me, what  
3 happened to me was that my spouse falsely accused me  
4 and I want you to go and arrest this person for perjury  
5 or whatever. That has not happened to me. That does  
6 not mean it hasn't occurred. I mean, we have  
7 approximately 12,000 cases a year. I can tell you  
8 this, that if we find clear evidence of people falsely  
9 reporting things, such as the woman as I mentioned, I  
10 mean, we prosecute that. Now, the problem with it is  
11 that your proof is so difficult. I mean, how do you  
12 really prove that? How do you prove that the parent  
13 subjected this kid and told this 3-year-old child,  
14 look, I want you to allege that your father touched you  
15 improperly, and so forth. How do we do that? We take  
16 the kid that's 3 years old. Number one, we have a  
17 terrible time qualifying that child in a criminal case  
18 in order to testify, number one. Does she know or he  
19 know the difference between right and wrong and the  
20 consequences of lying? We have a problem getting over  
21 that hurdle. But the other thing is, we have a little  
22 kid, how do we prove that it was false? Now, maybe the  
23 parent wrote a confession and said, I did this, and we  
24 found that. I mean, that's unlikely. Our proof  
25 problems are almost insurmountable. So if they're



1 insurmountable and we can't do it from a practical  
2 criminal statute basis, then why do it, if the effect  
3 is going to be to chill people who are going to call?

4 Q. Well, there are some reasons for doing  
5 it. I'm not going to sit here and debate with you.  
6 That's what we do on the House floor. I'm not going to  
7 do that here. We're here basically to get your input.

8 I would only add one other comment to  
9 what you've said so far, and it probably is a  
10 reiteration of what I've already said. I think for too  
11 long the rights of the abused have not only taken a  
12 second place but have no place oftentimes in a child  
13 abuse reporting situation, and that the system has been  
14 used to attack, to destroy, and to make some people  
15 lose custody and/or visitation rights in spousal  
16 fights. And I'm here to ask you if you don't like  
17 House Bill 826 and you know that there's a problem out  
18 there, what are you prepared to do to address that?  
19 That's a rhetorical question. I'm not asking for an  
20 answer today. But I hear constantly from Children and  
21 Youth Service workers who I talk to who tell me  
22 privately that, yeah, we've got a big problem with  
23 this, but we can't support House Bill 826 because, and  
24 I sure wish you would use a different term than  
25 "chilling," because I've heard that about a thousand

1 times, but that it will diminish the number of child  
2 abuse reports that are made. And I'm not interested in  
3 diminishing the number of legitimate child abuse  
4 reports. That's not my goal here whatsoever. The goal  
5 is to protect the system from being used to maliciously  
6 attack, destroy, and take away the rights of parents  
7 and/or other adults who have been accused falsely.

8 Q. I know I'm going to get in trouble for  
9 this. You see, I think you have some very valid  
10 points. I think that these false accusations can be so  
11 destructive on the family, you know. To falsely accuse  
12 a father or a mother, I mean, this is catastrophic.  
13 Forgetting about the amount of money it takes to get a  
14 competent lawyer and also the wherewithal to stand up  
15 for all those months or years. I mean, that's a very  
16 difficult thing and it actually ruins some people. I'm  
17 very much aware of that. But here's where I'm going to  
18 get in trouble. See, I'm not supposed to be talking  
19 about this. Why don't you make it specific as to the  
20 spouses? See, it's so broad. You really see the  
21 horrendous nature of this where one parent has such  
22 hatred for the other that they subject their own  
23 children. I mean, this is contrary to human nature.  
24 They use the children as the weapons. If that's what  
25 you're trying to do, I mean, you have to narrow your

1 focus.

2 Q. Well, let me just give a response to  
3 that. Though it is, I believe, primarily directed at  
4 spouses in custody and visitation disputes, it could be  
5 others.

6 A. Oh, yes.

7 Q. You're an elected official. Suppose that  
8 somebody filed a child abuse report against you falsely  
9 and maliciously to destroy your political career so  
10 that you could no longer be district attorney of  
11 Montgomery County. It would take you quite some time  
12 to clear your name. You probably would never be  
13 re-elected to office, and unless your DA who would come  
14 in or your assistant DA would come in and prosecute you  
15 probably were to find out that the false reporter did  
16 it maliciously, you would be destroyed.

17 A. I don't doubt that.

18 Q. So you say narrowly focus it on spouses.  
19 I don't think we can do that because of the nature of  
20 the offenses not simply just between spouses or  
21 ex-spouses, and I'm not sure you could to do that  
22 constitutionally, quite frankly. I'm not sure you can  
23 do that.

24 A. I don't know.

25 Q. But I want to thank you for your time and

1 your comments.

2 REPRESENTATIVE BIRMELIN: I did have a  
3 question or two for Mr. Zimmer, and for the benefit of  
4 those who are here, I want you to know that Mr. Zimmer  
5 is my district attorney and I am his State  
6 Representative.

7 MR. ZIMMER: And you always beat me in  
8 tennis.

9 REPRESENTATIVE BIRMELIN: And I always  
10 beat him in tennis, but we still like each other. So  
11 it has nothing to do with this issue.

12 BY REPRESENTATIVE BIRMELIN: (Of Mr. Zimmer)

13 Q. Mark, you had indicated I think three  
14 examples, three scenarios - the 13-year-old girl, an  
15 11-year-old girl, and a family of three - in your  
16 comments. I do really believe that if House Bill 826  
17 were law, that those cases would not have been reported  
18 when they were mandatory, at least two of the cases  
19 were mandatory reporters?

20 A. I believe that, I've picked these cases  
21 in particular because I knew that they were reported  
22 cases that I had quick recollection of that came from  
23 mandatory reporters. I believe that there would have  
24 at least been a question in each one of the mandatory  
25 reporter's minds as to whether they should run the risk

1 of criminal prosecution on their own or whether they  
2 should actually come forward.

3 Q. But they had no choice as mandatory  
4 reporters. There is no question in their mind.

5 A. Well, there would be if 826 was in place.  
6 If 826 is in place, you've got to make a choice as  
7 mandatory reporters as to whether you've suffered a  
8 possible summary offense under the Child Protective  
9 Services Law under the mandatory reporting  
10 requirements, or you suffer the possibility of having  
11 the misdemeanor offense under the other law. And so  
12 you're stuck with, as a mandatory reporter, making a  
13 decision which lawyers are going to debate. I mean,  
14 you've got probably an hour, maybe if you're lucky, as  
15 a mandatory reporter while you've got control of the  
16 situation to say, my God, what do I do now? And you've  
17 got to make up your mind, is this a reasonable belief  
18 that this actually took place and will I be judged by  
19 lawyers, judges, and juries later on as to whether or  
20 not this was a reasonable belief? And I don't know as  
21 anybody wants to be put in that position in today's day  
22 and age of covering each one's butt.

23 Q. Do you think that a mandatory reporter is  
24 capable of filing a false and malicious report and may  
25 do so?

1           A.    Not a malicious report, but remember, the  
2 first sentence in both these particular sections,  
3 "intentionally or knowingly causes or persuades a child  
4 to make an allegation which the adult has no reasonable  
5 grounds to believe." The next sentence has the  
6 malicious intent part. When you've got no reasonable  
7 grounds to believe--you were a teacher, Jerry. You  
8 were a teacher before you became a Representative. And  
9 you have this child who you find a crumpled up piece of  
10 paper in the wastepaper basket. You're looking  
11 specifically, just wondering why, as this teacher was,  
12 why this child is throwing these things away. She sees  
13 it and she knows the work is slipping. She picks it up  
14 and reads this thing. This is a 13-year-old girl who  
15 is going through puberty at this point. Now, do you  
16 make the decision at this point that this is reasonable  
17 grounds? Do you have a reasonable ground to believe  
18 she's actually having sex with her father? Is she  
19 somehow thinking about this as she's going through her  
20 own puberty? I don't know, but she made the report  
21 because she's a mandatory reporter. But if she knows  
22 826 is there, she may be going, whoa, I could wind up  
23 being the one on prosecution.

24           Q.    You are a district attorney. If you were  
25 a district attorney, would you prosecute, if this were

1 law, that teacher?

2 A. If it turned out that it was false?

3 Q. The scenario that you gave me, the  
4 teacher picked up the paper, asked a few questions and  
5 then reported. Would you prosecute her under this if  
6 it became law?

7 A. If it turns out that the child at that  
8 point that it was false, obviously it's got to be false  
9 in the first place, right? In my situation it was  
10 true.

11 Q. Let's assume it was false.

12 A. Okay. If it comes back that it was  
13 false, upon further investigation I may very well  
14 prosecute.

15 Q. You would prosecute that teacher, even  
16 though she found a note saying that she thought that  
17 that child--

18 A. I said upon further investigation. There  
19 would have to be something to show me where the  
20 reasonable grounds was for her to go forward with that.

21 Q. You wouldn't consider finding that note  
22 and talking to the student to be reasonable grounds?

23 A. I didn't say she talked to the student.  
24 I'm sorry. She didn't talk to the student. The next  
25 one talked to the student, the one with the

1 11-year-old. She talked to the student. This one just  
2 simply got it and called.

3 Q. You honestly believe you could build a  
4 case on that?

5 A. I think we would have to investigate.

6 Q. I'm not say saying you couldn't  
7 investigate. I'm asking you if you could prosecute, if  
8 you could go to court and prosecute.

9 A. It would depend on what other evidence we  
10 would get as part of the investigation.

11 Q. I would suggest that you would never go  
12 to court and prosecute on that, and that you would have  
13 to have other evidence, and that a good prosecutor  
14 doesn't go to court unless he has a fairly substantial  
15 amount of evidence and thinks he can win the case.

16 A. Oh, I agree with that.

17 Q. And I don't think finding a note in a  
18 wastepaper basket and calling that in is going to prove  
19 that this was a knowingly false report.

20 A. Well--

21 Q. Would you agree with that?

22 A. Just on that basis I could not prosecute,  
23 but I would have to investigate. And then we would  
24 have not just investigation of Children and Youth  
25 Services, we would now have a teacher being



1 investigated by the Pennsylvania State Police and a  
2 Pennsylvania State Police report being issued, and then  
3 let's talk about ruining somebody's life. You know? I  
4 mean, even if there's never a crime ever filed, at this  
5 point the teacher and everybody in that school district  
6 is going to know what's happening because the State  
7 Police are going to be there and they're going to try  
8 to interview her. She's going to have to get counsel,  
9 and from there on in the teacher has the stigma.

10 Q. Not to mention the person who's being  
11 accused of the abuse is going through the same thing.

12 A. Well, not necessarily.

13 Q. They're being investigated.

14 A. They could be investigated, but again,  
15 let's focus on what act 826 does as compared to act  
16 1001 if 1001 is enacted.

17 Q. I don't even know what's in that, so  
18 don't worry about--

19 A. Well, we're looking at to a large degree  
20 we've got to make sure we're not comparing apples and  
21 oranges. 826 is a criminal statute.

22 Q. I understand that.

23 A. And the abuses I'm hearing about here, if  
24 they're taking place, are taking place in the context  
25 of a Children and Youth Services investigation, not

1 necessarily in a criminal investigation. Those are two  
2 very different areas.

3 Q. Well, my point is that the reasonable  
4 standard here, the reasonable grounds to believe, is a  
5 very broad one, and as I think Counsel Andring pointed  
6 out earlier and the other gentlemen's testimony,  
7 there's fairly specific ways that the court proves  
8 whether or not it's reasonable on the part of the  
9 person to come in and make a police report, and I would  
10 suggest that the scenarios that you had suggested that  
11 occurred that you have prosecuted would not be affected  
12 whatsoever if this were to become law.

13 I would like to conclude just with one  
14 other statement, and I know Representative Manderino is  
15 itching to ask you some questions and I'll give her  
16 that opportunity. You made the statement that you  
17 would not abandon those people, that we should not  
18 continue in secrecy behind closed doors and revert back  
19 to the Dark Ages. I would suggest to you that I as a  
20 legislator and the rest of us who serve in the House of  
21 Representatives cannot abandon people who are falsely  
22 accused and have no recourse either. I would also  
23 suggest to you that one of the things that brought us  
24 out of the Dark Ages was the U.S. Constitution, which  
25 protects the rights of people and declares them to be

1 innocent until proven guilty, and that we have a system  
2 that for all its good intents and all its good purposes  
3 to protect children I think sometimes tramples those  
4 constitutional rights underground, and I think that  
5 that is the balancing act that Attorney Marino pointed  
6 out that we have to address. So I would just rebut, if  
7 you would, your statement before the jury and leave it  
8 at that, and thank you both for coming here.

9 MR. ZIMMER: Thank you, Mr. Birmelin,  
10 Jerry. Just as one quick aside, I agree with you, you  
11 have a very difficult balancing act that you've got to  
12 look at here. The rights of the accused are guaranteed  
13 by the Constitution. The rights of the accused in  
14 these particular situations are also bolstered by the  
15 fact that they're handled in an adult system and they  
16 are in the best position to protect themselves, which  
17 is why children historically have been viewed as wards  
18 of the State and children historically have been viewed  
19 as our most valuable asset, and I would implore this  
20 committee, as I think you are trying do, I'm not trying  
21 to say anyone here is not. Let's not disregard that  
22 valuable asset. Let's make sure that we continue to  
23 focus on that valuable asset first and foremost.

24 Thank you.

25 CHAIRMAN CALTAGIRONE: Chairman Blaum.



1 us that you have the tools necessary to deal with those  
2 cases and that you don't need this particular law on  
3 the books to help you.

4 . . . . . And I wanted to impart that anecdote from  
5 Luzerne County which was given to us, because I think  
6 it's very important and relates to the excellent  
7 testimony which was presented by these two gentlemen.

8 Thank you, Mr. Chairman.

9 CHAIRMAN CALTAGIRONE: Representative  
10 Reber, Manderino, then Williams.

11 REPRESENTATIVE REBER: Thank you, Mr.  
12 Chairman. I'll be very brief.

13 I guess we ought to move to Wayne County,  
14 Mike, and we can play tennis.

15 MR. MARINO: Yes.

16 REPRESENTATIVE REBER: I know in  
17 Montgomery County, where I'm from, District Attorney  
18 Marino is well-regarded.

19 . . . . . Let me ask you this question. I hesitate  
20 asking the question without possibly knowing what the  
21 answer might be, but I think from your testimony, Mike,  
22 you suggested to me, in your opinion, and I would ask  
23 this then of Mr. Zimmer, in your opinion, and in your  
24 experience those six years in the district attorney's  
25 office in Montgomery County, have you ever had a set of

1 facts presented to you or one of the assistant district  
2 attorneys that you can recall would have necessitated  
3 the need for the statute to be on the books that  
4 otherwise could not have been handled under the  
5 perjury, false swearing, false reporting type of Crimes  
6 Code provision we currently have?

7 MR. MARINO: No. Not one.

8 REPRESENTATIVE REBER: Mr. Zimmer, have  
9 you ever had occasion where it has been reported to you  
10 or your office that if this particular piece of  
11 legislation was law, that you could have fostered a  
12 prosecution that you are otherwise prohibited from  
13 fostering under these other particular types of current  
14 criminal statutes we have?

15 MR. ZIMMER: No.

16 REPRESENTATIVE REBER: So I guess, you  
17 know, it goes back to the old adage, if it's not broke,  
18 don't fix it. One of the hallmarks of the 13 years  
19 I've sat on this committee is when we move into the  
20 area of dealing with criminal law, criminal law coming  
21 out of historic common law concepts and what have you,  
22 I always tread very, very gingerly before I make a move  
23 into a new area, and I do think that there certainly is  
24 sanctification for use and concern on the order of the  
25 chilling effect mainly because it has been given a

1 primordial concern by the Supreme Court, and I'm  
2 talking about the United States Supreme Court, that is  
3 the Supreme Court, in my opinion, these days.

4 Let me ask you this. Am I not correct  
5 also that from an unlawful persuasion standpoint that  
6 if in fact someone conspired to carry that out, a  
7 conspiracy type of charge can also be brought under the  
8 plethora of current criminal offenses that you talked  
9 about?

10 MR. MARINO: (Indicating in the  
11 affirmative.)

12 MR. ZIMMER: (Indicating in the  
13 affirmative.)

14 REPRESENTATIVE REBER: Let the record  
15 reflect that both gentlemen are nodding their head  
16 "yes."

17 MR. ZIMMER: That and the solicitation.  
18 I think you would see, in envisioning when something  
19 could be used or when you would see a prosecution under  
20 the statutes that we presently have would probably be a  
21 criminal conspiracy or solicitation and intent.

22 REPRESENTATIVE REBER: Conspiracy,  
23 intent, solicitation, I think there are all those  
24 particular avenues that could be approached.

25 Okay. I think you've answered my

1 question. Thank you, Mr. Chairman. Sorry I took so  
2 long.

3 CHAIRMAN CALTAGIRONE: Representative  
4 Manderino.

5 REPRESENTATIVE MANDERINO: Thank you, Mr.  
6 Chairman.

7 BY REPRESENTATIVE MANDERINO: (Of Mr. Zimmer)

8 Q. Mr. Zimmer, I want to take you back to  
9 Representative Birmelin's questioning of you about the  
10 particular instance you shared with us of the young  
11 13-year-old girl and the note, and he asked you if you  
12 would have, had somebody said that was a false report,  
13 would have prosecuted it, and you said without an  
14 investigation, not based on the scenario he presented  
15 you, you would not. Is that--

16 A. That's correct. I would have  
17 investigated. Depending on what that investigation  
18 revealed, I would have prosecuted or not prosecuted.

19 Q. However, if your investigation revealed a  
20 set of facts, for example, that said that this  
21 13-year-old girl had been acting up in class, had been  
22 causing a problem, the teacher had tried to have a  
23 parent/teacher conference, she had had numerous  
24 conferences or confrontations or telephone calls or  
25 scenarios with the father who had been harsh, who had



1       been abrupt, who had been threatening to the teacher  
2       and that was the scenario that your investigation put  
3       forth and then you found out that upon finding this  
4       note the teacher made this report which tended -- which  
5       showed to be blatantly false, might that change the  
6       answer you had given to Mr. Birmelin?

7               A.    Well, obviously it's not going to change  
8       the answer to him because it adds more facts and more--

9               Q.    Well, might that change whether or not  
10       you would have chosen, from your investigation, to  
11       consider prosecution?

12              A.    Yes, that would certainly change that.  
13       And you would have to look further since we have, that  
14       doesn't get into what Mike has mentioned relative to  
15       proof and how do you prove that particular aspect? But  
16       it does show that there may be a concern on the  
17       teacher's part or there may be a history with the  
18       parent at that point, that that may be something you  
19       need to take a look at. Of course, the countervailing  
20       side to that is that the teacher is trying to do the  
21       teacher's job too, and so you're again caught in a real  
22       proof problem as to can you prove that beyond a  
23       reasonable doubt?

24              Q.    Both of you gentlemen said in your  
25       remarks that you agree with a lot of the remarks made

1 by our previous speakers, and we already have  
2 acknowledged that the remarks of our previous speakers  
3 went beyond 826 and went into maybe other areas where  
4 we do need to look at tightening or strengthening the  
5 laws, whether it's with -- now I'm adding my  
6 interpretation of it, whether it's within what happens  
7 to the report after it's been made and how it's  
8 investigated or how it's prosecuted. Would you  
9 elaborate on where you thought that maybe the  
10 gentleman's remarks before you were apropos and in  
11 light of why you don't think 826 addresses them?

12 MR. MARINO: I could give you a real  
13 quick one based on my experience not as a district  
14 attorney but as a domestic relations attorney. In some  
15 instances you find young people -- there's certainly  
16 nothing wrong with young people, but they don't have  
17 the experience necessary to come to the sweeping  
18 conclusions that they do. And they find that there's  
19 an indicated report and they based it upon things that  
20 in my experience are just totally unfounded. You know,  
21 Dr. Sloane mentioned something about standards and  
22 things like that. I think he has a valid point. Mr.  
23 Boyer talked about, you know, this hearsay problem with  
24 kids. You see, the interesting thing about that is  
25 that you can get away with hearsay in a custody type

1 thing, but you can't do it in a criminal thing. You  
2 can't do it in a criminal case. Now, there's a lot of  
3 safeguards with that, too. I mean, the judge, in my  
4 opinion, has always taken the child in the back and  
5 they ask them those specific questions about that  
6 particular incident. But I always like, I mean, in a  
7 domestic side you can have these, quote, "experts" come  
8 in and testify that in their opinion, the kid is  
9 telling the truth. Well, you can't get away with that  
10 in a criminal case. That's the ultimate question. I  
11 mean, that has to be decided by the jury. But those  
12 are just some observations I've made. But that has  
13 nothing to do with false reporting. So I agree with a  
14 lot of the comments, but this statute doesn't address  
15 their concerns.

16 MR. ZIMMER: From my side I would have to  
17 say that I agree with him that you cannot gauge this on  
18 the bases of founded statistics versus unfounded  
19 statistics, indicated statistics versus nonindicated  
20 statistics. Those statistics, like all statistics, can  
21 be bent, but they are, because of the way they are  
22 defined, the terms are defined, can lead you to all  
23 sorts of problems.

24 The evidentiary problem I think is a  
25 major one that they bring up, and I think it has to be

1 addressed one way or another, but not with 826. I  
2 mean, not in the criminal justice system. As I  
3 understood their particular testimony, and from what I  
4 heard of it, they've espoused a real serious problem  
5 within the investigative techniques used by Children  
6 and Youth Services workers, or people like that, and in  
7 the area of qualifications for these workers.

8           There certainly is a problem, I think,  
9 with the fact of qualification for Children and Youth  
10 Services workers across the board. If you get, as Mike  
11 said, somebody who's very young and who doesn't have  
12 the life experience, if you get someone who doesn't  
13 have the necessary background, I suppose. The problem  
14 you run into though is, you can wind up, and I think  
15 you mentioned this in one of your questions to them was  
16 to what extent do we educate these people, and then can  
17 we afford to keep them? If we wind up with  
18 psychologists or psychiatrists in Children and Youth  
19 Services, we could bankrupt the State real fast, and we  
20 all know we're too close to that most of the time  
21 anyway. So there's a real problem there. It's a  
22 budgetary concern.

23           But when you wind up with people that are  
24 getting enormous caseloads that have maybe a salary in  
25 the rural areas or even probably the urban areas of

1 \$14,000, \$15,000 a year or \$18,000 a year full-time and  
2 are on call one weekend a month and can be called on  
3 any time, there's an incredible amount of possible  
4 burnout there, and that's a major problem. But it's  
5 not something that we're here for today. And I realize  
6 you know that. But 826 doesn't address that. 826 says  
7 there's a problem and we should use this meat cleaver  
8 of the criminal justice system to take care of it, and  
9 it doesn't.

10 REPRESENTATIVE MANDERINO: Thank you.  
11 Thank you, Mr. Chairman.

12 CHAIRMAN CALTAGIRONE: Representative  
13 Williams.

14 REPRESENTATIVE WILLIAMS: Thank you, Mr.  
15 Chairman.

16 First, I would like to apologize to the  
17 committee and those in attendance for my outburst  
18 earlier, though I feel that impetus and the substance  
19 behind it is still founded. Nonetheless, you all  
20 didn't have to be involved with it and I apologize to  
21 that extent.

22 Additionally, I would like to allude that  
23 Representative Reber's line of questioning I think was  
24 quite insightful and covered a great deal of ground I  
25 would have covered, but there are a couple of points I

1 would like to make.

2 One, it does seem to be the cornerstone  
3 of your testimony, or a considerable amount of both of  
4 your testimony, dealt with the issue of reasonableness  
5 and persuasion and that in a legal context in how one  
6 defines that and the parameters of that and the  
7 criteria of that, and on one, I want to find out if  
8 that's correct in terms of my understanding.

9 MR. ZIMMER: I wouldn't call it the  
10 cornerstone of my testimony. I would say it was part  
11 of my testimony, yes.

12 MR. MARINO: I think they are very  
13 difficult concepts. You talk about persuasion and  
14 reasonableness. I mean, that's why we talk about  
15 reasonable men can differ. That word, it's not saying  
16 something--

17 REPRESENTATIVE WILLIAMS: That was noted  
18 here today.

19 MR. MARINO: Yeah. You're not saying  
20 that it's red. I mean, red is red. But, I mean,  
21 there's all kinds of interpretations from that. But I  
22 doubt that reporters say, well, wait a minute, am I  
23 acting reasonably here? If I am not acting reasonably,  
24 am I going to subject myself to arrest? I think, and  
25 the persuasion, no, certainly the court can fashion a

1 charge to the jury and tell them what persuasion means.  
2 The jury is going to have to decide that and it might  
3 take them three hours to decide whether or not we've  
4 met that burden. I just don't think that this kind of  
5 legislation is appropriate when you're trying to  
6 protect a child. Sometimes you have to act very  
7 quickly. What makes the person pick up the phone and  
8 make the call? That's what we want them to do. We  
9 certainly don't want them to make false statements, but  
10 we want them to call. And if you give it to the  
11 professionals, see, I think that's one of the problems  
12 that we're really addressing here today. You don't  
13 have a whole bunch of professionals that can weed  
14 through and get rid of the junk. We keep alluding to,  
15 and I hate to keep going back to your proposed bill  
16 1001, but they are talking about you know with teachers  
17 and so forth that they should be required to report  
18 this stuff on teachers. The whole emphasis is on  
19 reporting, not reversing that threat. So those terms  
20 make it difficult from a proof standpoint, in my  
21 opinion. For me it does.

22 BY REPRESENTATIVE WILLIAMS: (Of Mr. Marino)

23 Q. Also, and it was mentioned, I believe Mr.  
24 Marino was the one speaking along the lines of taking  
25 the child through a criminal procedure process, and

1 probably that would be subsequent to the outcome of  
2 some custody battle, so that trauma heaped on top of  
3 the criminal process.

4 A. That's probably the scenario that would  
5 happen, that order.

6 Q. I believe that your comments were in the  
7 direction of that the child would have to come before a  
8 judge or a jury and testify against the person who was  
9 either participating or was actually the one doing the  
10 persuasion or the initiation of the allegations?

11 A. Correct.

12 Q. And I think you also went to, when  
13 talking about the fact that that child, you would have  
14 to certify that that child would be able to testify,  
15 one. But further along those lines, and I would  
16 imagine you could be involved in this, in rape cases,  
17 when a person alleges that they've been raped,  
18 cross-examination of that individual is quite, quite,  
19 quite distasteful, to say the least. To a child who  
20 has lied--because that's what they will have to be  
21 labeled as, a liar--in court, I cannot imagine that to  
22 be handled in a way that would not leave any kind of  
23 scar upon that individual. And if they can, please  
24 explain how they can do that?

25 A. Mr. Williams, that's my major concern



1 here. I think the damage to that child--you see, I  
2 apologize, Mr. Callagirono. I keep referring back to  
3 the spouses. I'm going to keep going back to that.  
4 You're not only talking about a child taking the  
5 witness stand in front of 12 people and all these  
6 unfamiliar surroundings and being subject to  
7 cross-examination and going through that withering  
8 process, that truth-searching process. You're not just  
9 talking about a victim of an assault or of a rape by a  
10 stranger. You have that horrendous situation where  
11 they testify in that sense, but they're also testifying  
12 against their parent. I personally, I don't know of  
13 any worse scenario, I mean, in the system. I don't  
14 know of any worse scenario. Because that child is  
15 trying to redress a wrong by one of the parties who is  
16 wrong, who happens to be the mother or the father, at  
17 the expense of the other spouse. And the kid, what  
18 effect does that have on that child as he realizes it  
19 was his testimony that caused that? I mean, I would  
20 not want to put that on a child. I wouldn't want to  
21 saddle a child with that.

22 Q. So, in essence, what you have is an  
23 argument between two adults and the child is being used  
24 as the catalyst?

25 A. Or a pawn.

1 Q. Because at first they participated in the  
2 lie, and things go on and then they have to participate  
3 in the State correcting the record?

4 A. Exactly.

5 Q. And they don't get any consequence out of  
6 that at all other than they have to testify against  
7 both their parents, or participate against -- maybe  
8 even not their parent, but an adult?

9 A. Yeah, other than the damage.

10 Q. The -- and I guess you have all sort of  
11 testified, unfortunately in the broad scope of our  
12 discussion today did go into protective services and  
13 the CPS workers and what they do, and I believe that it  
14 is of the highest level that they can maintain within  
15 the confines that we put them in. So it may not be  
16 excellent workers as we might imagine it, but when you  
17 have a caseload of whatever they have a caseload of,  
18 it's pretty difficult, and the life experience and the  
19 pain that they have. But I would also suggest that  
20 House Bill 1001 raises the standards which are required  
21 for certification as well as the training of the CPS  
22 workers, so that you are aware of that in your future  
23 endeavors in terms of involving that kind of  
24 investigation process. I believe that goes a long way  
25 toward some of the problems you brought up here today,

1 which are a concern, I believe, to all of our members.  
2 Thank you.

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

5 CHAIRMAN CALTAGIRONE: Thank you,  
6 Representative Williams.

7 Representative Bishop.

8 REPRESENTATIVE BISHOP: Thank you very  
9 much, Mr. Chairman.

10 To District Attorney Marino, I would  
11 certainly like to say we thank you very much for your  
12 testimony. Your district touches mine. Mine begins at  
13 City Line Avenue, yours ends at City Line Avenue.

14 But I had a lot of questions that I  
15 wanted to ask both you and DA Zimmer, but as I listened  
16 to your testimony, you covered just about everything  
17 that I wanted to ask, and so I say I rest my case. And  
18 I would like to just make reference to one statement  
19 that was made by either Attorney Sloane or Boyer, I  
20 don't remember which, and I would like either one or  
21 both of you to comment upon it, if you can.

22 There was a lot of talk about  
23 caseworkers, protective service investigators, and that  
24 they blatantly lied and made up stories that would  
25 indict or would cast a light on the victim. And I just

1 want to know from both of you how many times you run  
2 into a case where a casework worker actually  
3 deliberately made up stories on whoever they were there  
4 to prosecute or if there was an error, was it a  
5 deliberate error? Was it an error that was  
6 inadvertently made? What I'm trying to decipher is do  
7 we have caseworkers, do we have investigators in  
8 protective service that deliberately go out and make up  
9 stories so that they can bring someone to prosecute  
10 them?

11 MR. MARINO: From my experience, it's not  
12 that way. What you have is people have interests.  
13 See, they get involved in a case and they are taking  
14 care of this little kid or whatever and they believe  
15 that X, Y, and Z happened to these kids. And it's  
16 because of that interest and maybe their zealousness or  
17 whatever that they go too far. They don't have the  
18 proper balance. See, I think it's not something that's  
19 malicious or deliberate. They might shade their  
20 testimony, because we are all human beings, but my  
21 experience is that they err because they just don't  
22 have the tools, not because that they're malicious.  
23 That's just my experience.

24 ... REPRESENTATIVE BISHOP: Okay.

25 MR. ZIMMER: My experience is I have not

1 seen a scenario at all like you've painted by Children  
2 and Youth Services workers, and I've worked with them  
3 in three separate counties and have prosecuted both as  
4 the district attorney in my county and especially the  
5 appointed prosecutor in two other counties.

6 REPRESENTATIVE BISHOP: Thank you very  
7 much.

8 CHAIRMAN CALTAGIRONE: Counsel Andring.

9 MR. ANDRING: Just a couple of quick  
10 questions to clarify exactly what we're talking about  
11 here.

12 BY MR. ANDRING: (Of Mr. Marino)

13 Q. Mr. Marino, on page 2 of your testimony  
14 you say, "Studies have shown that the majority of  
15 unfounded reports are made in good faith. These are  
16 people who in good faith believe or suspect that a  
17 child is being injured. Specifically criminalizing  
18 that behavior would only have a chilling effect on  
19 child abuse reporting." Is it your reading of HB 826  
20 that it would criminalize good faith reporting of child  
21 abuse?

22 A. No. See, if for all good faith, and we  
23 can determine that readily, but that was what Mr.  
24 Williams was saying. You know, how do you determine  
25 what's reasonable, and so forth? See, it's a difficult

1 standard. And you require people to decide what is  
2 reasonable and what isn't before they make that phone  
3 call.

4 Q. Okay. Well, then to go to page 3 of your  
5 testimony you say, "HB 826 creates a crime of unlawful  
6 persuasion creating a misdemeanor of the second  
7 degree." Then you go on to state, "most important,  
8 that behavior is already criminalized under the Crimes  
9 Code intimidation of witnesses which is a felony of the  
10 third degree." Now, if the exact same behavior is  
11 currently a third-degree felony and that doesn't  
12 improperly restrain the reporting of child abuse, why  
13 would taking that behavior and making it a  
14 second-degree misdemeanor have a more chilling effect?  
15 I don't follow that reasoning.

16 A. Why do it when you don't need it?

17 Q. Well, this gets to a third point now.  
18 There's been a lot mentioned about the reasonableness  
19 standard, and as I look at the act here, in section  
20 6311, the mandatory reporting, it provides that persons  
21 who in the course of their employment come into contact  
22 with children and on the basis of their medical,  
23 professional, or other training and experience believe  
24 the child is abused, they have to report, section 6312,  
25 the existing law. Other persons are allowed to make a

1 report of child abuse if they have reasonable cause to  
2 suspect that a child is an abused child. Section 6318,  
3 the immunity section in existing law, a person  
4 participating in good faith in the making of a report  
5 has immunity for criminal or civil liability. Rather  
6 than creating any new law, really what I see the effect  
7 of 826 is pulling all these different sections, some  
8 out of Title 18, some out of the existing Child  
9 Protective Services Act, simply consolidating them into  
10 one spot and saying, look, false malicious reports are  
11 a problem and here it is so everybody can see that if  
12 you do this, this is what the penalty is. I don't see  
13 where there can be any chilling effect because like you  
14 said, this is essentially what the law provides in all  
15 the different sections right now.

16 Q. Well, we certainly can reasonably  
17 disagree, but I just disagree with that analysis. I  
18 think that this statute is designed to prevent an evil  
19 that is already addressed in other statutes, and when  
20 you pass it under this Child Protective Services Law,  
21 you're going to create a problem where people are going  
22 to think twice about reporting that. I mean, it's  
23 pretty specific where you're talking about where you go  
24 after someone who persuaded a child to make a false  
25 report. I mean, that's pretty specific. So I think

1 it's covered under a broader statute, and we have it  
2 there if we can establish that and it doesn't have the  
3 effect of preventing people from calling. It hasn't  
4 done it so far.

5 MR. ANDRING: Okay. And I have one  
6 question for Mr. Zimmer. You indicated that if HB 826  
7 were to become law and somebody came to you in that  
8 situation involving the teacher, that you would be  
9 required to investigate and the State Police would be  
10 required to investigate. As I piece together your  
11 different pieces of legislation, under the exact  
12 situation under the law right now if somebody came to  
13 you in that exact same situation and said that crime  
14 constituted false reporting or false persuasion under  
15 Title 18, you would be required to do the exact same  
16 investigation right now.

17 MR. ZIMMER: So why do we need 826?

18 MR. ANDRING: Yes, but why is that then  
19 some sort of a valid reason for opposing 826, that in  
20 fact you would be required to do a criminal  
21 investigation if a crime is alleged?

22 MR. ZIMMER: As I recall, that particular  
23 testimony came out as a question from Mr. Birmelin as  
24 to what I would do in that situation. I was not asked  
25 the other question. But since you're bringing it up,



1 yes, I would investigate that also, and again, that  
2 raises the same question, which is why do we need 826  
3 in that case?

4 MR. ANDRING: That's all.

5 CHAIRMAN CALTAGIRONE: Counsel Suter.

6 MR. SUTER: I think you're right when you  
7 read the Child Protective Services Law, the whole goal  
8 is to encourage reporting. Would this statute,  
9 proposed statute, have a less chilling effect if it  
10 were part of the Crimes Code instead of the Child  
11 Protective Service Law, so if we put it in Title 18  
12 instead of 23?

13 MR. MARINO: I don't think so. I think  
14 it has the same import no matter where it's found. I  
15 think it would have the same effect.

16 MR. ZIMMER: I agree with that.

17 MR. SUTER: Perhaps it would be a little  
18 clearer though that the DA wouldn't prosecute if there  
19 wasn't a foundation for prosecution if it were in 18 as  
20 opposed to 23. I don't know. Maybe you people don't  
21 really analyze it that much.

22 MR. MARINO: Your analysis would be the  
23 same. Just because it's in 23 or 18, I don't think any  
24 good DA would make that distinction. I don't think  
25 that even would enter their mind.

1 MR. SUTER: Okay. Thank you.

2 CO-CHAIRMAN BLAUM: Just one observation,  
3 and I think the last questioner hit on something I was  
4 thinking of. We have the false reporting authorities,  
5 et cetera, in all of the various statutes, offenses  
6 that are listed in the Crimes Code. We don't have  
7 false reporting of rape, we don't have false reporting  
8 of murder, we don't have false reporting of bank  
9 robbery, and we do have false reporting which covers  
10 everything, including the offenses which I think  
11 Representative Birmelin is trying to get at. And I  
12 don't know that that's a question but just another  
13 observation that I don't think we need it. I mean, we  
14 don't have specific false reporting penalties for many  
15 other offenses.

16 Thank you, Mr. Chairman.

17 CHAIRMAN CALTAGIRONE: Just one other  
18 observation. We also don't have a statewide registry  
19 of those bearing the names of the false reporting that  
20 we just talked about.

21 I know our stenographer needs five  
22 minutes. I want to thank both Mr. Marino and Mr.  
23 Zimmer for your testimony. If we could just take five  
24 minutes and come right back and I think we're going to  
25 be hearing from Michelle Stanton and Attorney Mogal. I

1 don't know if Attorney Mogal has gotten here yet. If  
2 we would just take five.

3 (Whereupon, a brief recess was taken.)

4 CHAIRMAN CALTAGIRONE: If we could have  
5 Michelle Stanton, Richard Baltz, and Toni Seidl.

6 Would you please introduce yourself for  
7 the record, the three of you.

8 MS. STANTON: Mr. Chairman, ladies and  
9 gentlemen, my name is Michelle Stanton. I currently  
10 reside in Reading, Pennsylvania, which is Berks  
11 County.

12 DR. BALTZ: My name is Richard D. Baltz,  
13 and I'm a practicing pediatrician in the Harrisburg,  
14 Camp Hill area. I'm also chairman of the Department of  
15 Pediatrics at the Harrisburg Hospital, and I also  
16 co-chair the Pennsylvania AAP Pediatrics Legislative  
17 Committee.

18 MS. SEIDL: I'm Toni Seidl. I coordinate  
19 the Child Abuse Service at the Children's Hospital in  
20 Philadelphia.

21 MS. STANTON: I am here as the mother of  
22 two teenage girls. I am a single parent. On March 3,  
23 my children's father was charged with sexual abuse. It  
24 was done by a caseworker going to the school, taking  
25 each of my children out of class. One was in high

1 school at that time, one was in elementary. They were  
2 instructed not to talk to me or anyone else about what  
3 had been talked to them, about what had been referred  
4 to.

5           That afternoon, my oldest daughter told  
6 me that this visit had taken place and gave me the  
7 details. That following Monday I went into Youth  
8 Service's office in Reading, and the caseworker being  
9 very surprised of my visit asked me why I was there.  
10 And I told her that my daughter and I had talked. She  
11 said, they had strict instructions not to talk to you.  
12 I said, well, I'm very sorry, but I feel this is very,  
13 very urgent and definitely needs to be addressed. My  
14 husband and I, who had been separated since April of  
15 '91, sat in her office and after we left, approximately  
16 a week and a half later he received a letter in the  
17 mail that he was formally being charged. Now, we had  
18 discussed with her, yes, we were separated; yes, he is  
19 an alcoholic; yes, he had been on cocaine; yes, he had  
20 gone through rehab. He was very upfront about  
21 everything. There was nothing hidden in any of our  
22 conversation.

23           This caseworker was assigned to us for  
24 several months, and in that time there was never a  
25 formal investigation done, there was never a follow-up.

1 Demands were made as to our participation in therapy,  
2 in alcoholism classes, which was fine, and we had  
3 agreed to that. When we were ready to transfer to  
4 those different demands, there was another caseworker  
5 assigned on June 19th of '92. However, this one was  
6 much different. This caseworker strictly demanded that  
7 my husband not see his children at all. Now, up to  
8 this point, nothing had been proven. My youngest  
9 daughter had stated many times nothing had happened.

10 I finally couldn't take any more of it.  
11 I couldn't take her visits, I couldn't take her  
12 threats. I am not a person that can tolerate  
13 unfairness, and whether or not their father and I even  
14 remotely have feelings for each other is not the point  
15 here. The point is, it was unfair. Finally, I  
16 requested a court appearance, which I felt would clear  
17 up the matter. As it turned out, the paperwork that  
18 Mr. Chairman has in front of him, there were lines  
19 after lines of accusations and things that just  
20 literally humiliated all of us, and we endured that in  
21 an open courtroom on September 16. And the judge, in  
22 his infinite wisdom, saw through it at that time and  
23 decided that we had alternatives of our own. He gave  
24 us those choices. I was to receive therapy, their  
25 father go to his alcoholism classes, and my daughter go

1 to a sexual support group. However, she decided that  
2 there was nothing there that she could relate to and  
3 she did not want to go. Well, that didn't settle very  
4 well either because, and I will repeat the statement  
5 the caseworker made that I would be put in prison  
6 unless I got my act together and my daughter would  
7 remain in a foster home.

8           The child was totally terrified, and as  
9 not knowing what else to do, I just decided just to go  
10 along with it, and finally that wasn't even good  
11 enough. Eventually, my daughter, on November 2, was  
12 brutally beaten by five ethnic girls and instead of  
13 going with the information, the same caseworker charged  
14 her father and myself with that assault. Her nose and  
15 check bone were broken, and the cartilage damage was  
16 unreal.

17           The horror I went through when I picked  
18 up my daughter, took her to the hospital, stayed five  
19 hours at the hospital, only to find out a week later  
20 finding an unfounded letter in my mailbox, not even a  
21 founded charge, it was done in such a rapid pace that  
22 we only received the unfounded paper to realize that a  
23 mother who's gone through this has now been confronted  
24 a second time.

25           The testimony that I've heard this

1 morning, every bit of it is accurate in every way,  
2 shape, and form, and I am glad that I am not in your  
3 seat to have to bounce back and forth on what the  
4 issues are. I am here to tell you that there has to be  
5 regulations and there has got to be standards made.  
6 Initially, a caseworker must investigate. However,  
7 when you have got a situation where the family is torn  
8 apart and devastated, that all those laws and all the  
9 conversations that take place are meaningless.

10 Our children are important. I am a  
11 mother. I have two teenage girls. I will not sit here  
12 and deny that there are no problems in my family. I do  
13 believe, however, that there are very many problems.  
14 Those problems stem from my daughter feeling very  
15 unwanted and unneeded, doing something that she  
16 normally may not have done. It is a very sad state  
17 that we're in. And help, I have no problem with that.  
18 But the blatant disregard for the parent who ultimately  
19 without the parent there are no children. When  
20 something unfair and unjust has happened and there is  
21 no protection for us, I sent seven letters. Mr.  
22 Zimmer, however, received one of those letters you have  
23 in front of you, and I have heard nothing in reply. I  
24 am one of those people that cannot afford rights,  
25 because I cannot afford a lawyer. I had an assigned

1 attorney. Thank God for that woman. I don't know what  
2 I would have done without her.

3                   What my children and I have suffered is  
4 irreparable. None of it will ever, ever go away. It  
5 will never change. And only after a year, March 10,  
6 1993, this caseworker has not at all attempted to see  
7 my child nor investigate anything that she alleged had  
8 occurred. Four police officers and this caseworker  
9 appeared at the room we are staying in, which we are  
10 residing with their father until I can find permanent  
11 housing, removed my child at 3:55 p.m. Removed her. I  
12 stood there and I didn't know what to do. She was in a  
13 shelter for 2 1/2 days. And ladies and gentlemen, I  
14 think what we're talking here is sexual abuse. My  
15 14-year-old daughter was in a house with six children.  
16 Three of those were boys, ranging in age from 15 to 17.  
17 As a parent, I am appalled that we allow this to  
18 happen. Her own father is no threat to her that we  
19 place a child, a young woman in a house with six  
20 children.

21                   Four hours on the 12th of March of  
22 deliberation with a Master and a court-appointed  
23 official who had taken my child to Concern, which is  
24 the agency that had taken her in, deemed that it was a  
25 non-emergency and that my daughter should be returned.



1 The following week, on the 18th of March, I had to  
2 appear for another hearing in front of a judge. All of  
3 this I have lost my job. No, I have not lost my job  
4 because I lost it. Emotionally, I am a very stable  
5 person, however what we've endured since last year in  
6 March, the very same month that all of this occurred,  
7 has taken a very large toll on me. In that hearing it  
8 was nothing more than a waste of time. No testimony,  
9 no nothing, we all concluded what we would do.

10 The 12th of March was the first time our  
11 daughter was permitted to testify. We had asked, we  
12 had requested, and nothing was done, because her  
13 guardian ad litem and her attorney did not feel that it  
14 was necessary. Finally, as a last recourse, they had  
15 this child on the stand. This child went through the  
16 ordeals that we have heard about all morning. One  
17 child was only acknowledged. The second child was  
18 never brought up. My 15-year-old said, but Mom, if  
19 there's a danger, why am I not in danger? Well, no one  
20 could answer her question. I don't know how many times  
21 she asked and no one could answer.

22 The accusations, I am drug and alcohol  
23 involved. I'm an asthmatic. I take asthma medication.  
24 The most I will take is an aspirin. I may drink  
25 socially, yet now I need to explain that. We have been

1 followed. I was told that there was a police officer  
2 following me, yet his name and his sources could not be  
3 given. However, I don't know who this police officer  
4 is, but finally in the petition that amended the first  
5 petition, his name was brought up. When I asked the  
6 caseworker on the stand, she could not give me any  
7 information, only that the sources had to be anonymous.

8 That is wonderful and I admire the fact that we can  
9 protect these people, but what my question is, are we  
10 protecting people with good intentions or are we  
11 protecting people that may not have good intentions,  
12 and where does that fine line and where is it drawn?

13 Second of all, where is the line when we  
14 talk about abuse and discipline? And that is an issue  
15 that has never been resolved. Basically, it is the  
16 same as abortion. It will probably never be resolved  
17 because there is no resolution. That fine line will  
18 never be crossed one way or the another. We discipline  
19 our children, we abuse them. They are given numbers to  
20 call. That caseworker, I hope in their infinite wisdom  
21 can discern the difference; however, that does not  
22 often happen.

23 I am here as a victim of youth service  
24 dedicated to protect our children, and by all rights  
25 and reasons that is my first concern. I am a mother.

1 I believe all of us can relate to that importance, that  
2 we are not diminishing protecting our children. That  
3 is our sole purpose here. We are hearing our children  
4 are our future. They are our best assets. Well,  
5 there's other things with that, and that is the good  
6 common sense of professional employees, of professional  
7 people, to be able to discern the difference between  
8 guilt and innocence, and to do it. In our country, we  
9 are told we're innocent until proven guilty. My  
10 children's father has not been proven any way. What we  
11 have endured is one cover-up after another. Yes, there  
12 was a case of a caseworker going with something with a  
13 personal vendetta, call it anything you like. I got  
14 the proof in front of me. I have right here a juvenile  
15 detention notice to remove my child. Yet a court  
16 deemed that a non-emergency. Had questions been asked?  
17 Is her father overnight? Are they alone? No, they are  
18 not. That was what she accused me of, of just  
19 blatantly disregarding the court order, which states  
20 that her father agreed not to have overnight  
21 visitation. That was her basis for taking me to court.  
22 Yet that basis was unfounded. But what we went  
23 through, the 2 1/2 days that my child was taken away  
24 from me. I'm not the best mother and I'm not the  
25 worst. I am a human being. I love my children. I



1 prepared social worker who coordinates and supervises  
2 the child abuse efforts at the Children's Hospital of  
3 Philadelphia, I come to you today with serious concerns  
4 regarding the proposed legislation. In my more than 15  
5 years of experience with many thousands of victimized  
6 children and struggling families, I have had the  
7 opportunity to evaluate the Commonwealth's child abuse  
8 response system as both a mandated reporter and as a  
9 constructive critic. I represent the professionals -  
10 nurses, doctors, social workers, teachers - who every  
11 day walk point in dealing with children and families.

12 Each day at the Children's Hospital of  
13 Philadelphia, we fastidiously evaluate children and  
14 families for the appropriateness of reporting under the  
15 Child Protective Services Law. Hours are spent  
16 evaluating each child. Data is collected and  
17 scrutinized, and the medical and social and behavioral  
18 findings particular to each child are evaluated  
19 in-depth. Reporting is taken seriously, with reports  
20 being generated only when objective criteria for the  
21 suspicion of child abuse and neglect are met.

22 As co-chair of DPW Secretary John White's  
23 1987 multi-disciplinary team, I co-authored an  
24 evaluation of Philadelphia's Department of Human  
25 Services. As a clinical associate in pediatrics and

1 medicine, I teach budding physicians about child abuse  
2 and family violence and what their response to it  
3 should be. I work throughout the system with district  
4 attorneys offices, with the defense Bar, with child  
5 advocates and parents' attorneys. In this field,  
6 credibility is the practitioner's only currency. And  
7 we work hard to maintain it.

8 Through this work I've come to appreciate  
9 the reality that for the most part the current  
10 Pennsylvania Child Protective Services Law is a  
11 functional one. Our law, when used properly, serves to  
12 cast the widest safety net possible to protect our  
13 children. At the same time, it assures that the family  
14 unit is valued and respected for its integrity whenever  
15 possible. Our law is, after almost 20 years,  
16 well-utilized and well-understood by mandated  
17 reporters. And that has taken a long time, and I think  
18 that it's very clear that there's certainly training  
19 that has to happen and education to reporters.

20 In order to cogently present my case  
21 today for why I believe our present law strikes a  
22 reasonable balance between protecting children and  
23 protecting parents and caretakers, I'd like to walk you  
24 through the bare bones of the reporting process as it  
25 occurs in a medical setting and how the reporting

1 process is implemented, if necessary.

2 Bear in mind that my reference point is a  
3 primary and tertiary care facility that evaluated over  
4 700 children last year for suspected child abuse  
5 neglect. Of those, less than 500 were reported to the  
6 mandated agents under the CPS law with the suspicion of  
7 child abuse being dismissed in the other cases.  
8 Parenthetically, I want to mention that our caseload,  
9 the families we see, cross all socioeconomic lines. We  
10 see the resourced as well as the underresourced.

11 At the outset, a history is obtained from  
12 the family and from the child. In the case of the  
13 toddler with a fracture of a long bone, questions would  
14 be asked by the physicians and nurses about how the  
15 injury was incurred. If the history of an accident  
16 meshed with the physical finding, no concern for child  
17 abuse would be owned by the practitioners. For  
18 example, the child was in a car accident, or beat up by  
19 other children, or something that fell outside the CPS  
20 regs. If, however, no history of trauma was gleaned or  
21 competing and changing histories were obtained, further  
22 evaluation for child abuse would be pursued. This  
23 would include consultation with the hospital social  
24 worker, further medical tests, including X-ray survey,  
25 evaluation for other fractures, and to evaluate for the

1 possibility of bone disease as well, and a complete  
2 physical examination to assess the child's nutritional  
3 status, developmental skills, and for any other  
4 collateral signs of child abuse.

5                   The psychosocial evaluation by the social  
6 worker might reveal that the parents were uninformed as  
7 to the source of the trauma simply because they were  
8 not the caretakers at the time of the incident, or that  
9 with a calm, quiet, gentle approach in a private  
10 setting, the parents might be able to recall that their  
11 child had slipped and fallen earlier in the day but did  
12 not appear seriously injured, and that's why treatment  
13 was not sought immediately. Or that one of the parents  
14 had lost control while diapering that toddler, or that  
15 the family may have continued to be without an  
16 explanation for the injury.

17                   if either of the two latter were the case  
18 and bone disease were ruled out, a report of suspected  
19 child abuse would need to be made. The parents would  
20 be informed of this in a supportive manner without the  
21 apportionment of blame. The CPS systems response would  
22 of course be explained to them in detail. For this  
23 action, the petitioners are now protected, since the  
24 report was made both in a thoughtful manner and in good  
25 faith. This would continue to be the case, even if at



1 a later date the Child Protective Services  
2 investigation revealed that the injury had a plausible  
3 explanation. The practitioners, as we speak, are not  
4 vulnerable to complaints of false reporting. House  
5 Bill 826 makes us vulnerable, in my estimation.

6 Of even greater concern for practitioners  
7 and parents alike is the area of child sexual abuse  
8 complaints. Let me give you a typical scenario. A  
9 7-year-old girl is brought to our emergency department  
10 by her mother on a Sunday night with the complaint of a  
11 yellow vaginal discharge. She has just returned from a  
12 two-week visit with her father and his family. The  
13 discharge is cultured and her mother is asked if she  
14 has any reason to suspect child sexual abuse. She  
15 responds no. By Tuesday morning, the cultures are  
16 reported to be positive for neisseria gonorrhoea and the  
17 child is recalled for treatment, accompanied by both of  
18 her parents. She is treated with the appropriate  
19 antibiotic and the parents and child are interviewed by  
20 the social workers separately.

21 Alone with the child, the social worker  
22 spends some time getting to know the child. The child  
23 describes her family, she talks about what makes her  
24 happy, what makes her sad, what sports she likes to  
25 play, what she wants to be when she grows up, how she

1 does in school, and about her family life. The  
2 clinical social worker then moves on to talk to the  
3 child about her infection and explains to her how one  
4 contracts a sexually transmitted disease. By the end  
5 of this developmentally appropriate interview made up  
6 of non-leading questions, this 7-year-old girl is able  
7 to say that while on vacation, her 22-year-old uncle  
8 attempted vaginal intercourse with her and had oral  
9 sex. She is in tears and wringing her hands because  
10 she was told by her uncle that he did what he did  
11 because she was a bad girl and that if she told anyone,  
12 her parents would stop loving her and never get back  
13 together again, which was her hope.

14                   The parents are informed, the CPS report  
15 is made, and the police are involved. Counseling is  
16 recommended for the child in the family. One week  
17 later, the child recants her story and the custody  
18 proceedings become contentious. With House Bill 826 in  
19 place, the social worker, the doctor, and the hospital  
20 could be accused of a misdemeanor of the second degree  
21 for unlawful persuasion, since the child has recanted.

22                   Six months later, the child, who has  
23 continued to be in psychotherapy, is able again to  
24 disclose that abuse exists and his investigation is  
25 pursued once again. In the meantime, the social

1 worker, the doctor, and the hospital again have become  
2 involved in a criminal investigation.

3 In summary, the community of  
4 professionals who practice on behalf of children and  
5 families do not need to be at further risk for the  
6 undermining of the public trust and subsequent risk for  
7 lawsuits which this bill creates. House Bill 826  
8 effectively creates a new harassment tool for  
9 professionals in the form of a private criminal  
10 complaint. Non-constructive tinkering with our present  
11 law will, I assure you, result in a profound decrease  
12 in legitimate and thoughtful reporting of suspected  
13 child abuse by professionals, as well as to serve to  
14 increase the number of anonymous reports, and I think  
15 that's what's going to happen. You'll have more  
16 anonymous reports, so you'll have a process but we  
17 won't have an individual.

18 House Bill 826, interfaced with the CPS  
19 law, gives a double message to mandated reporters as  
20 well and will cause confusion for professionals, who  
21 have at this juncture an operational understanding of  
22 how to properly use our present statute. The product  
23 of this will surely be to increase the number of  
24 unprotected children in Pennsylvania because the  
25 legislature will be discouraging reporting. With fewer

1 children protected, we can ultimately assure that more  
2 children will be placed in foster care, that more  
3 children will die, that more children will be  
4 physically and psychologically damaged and certainly  
5 grow into a population of prisoners who commit crimes  
6 against persons and property, or to create more  
7 dysfunctional families.

8           With all this said, I do have what I and  
9 many other practitioners around the country believe to  
10 be the solution will not only serve to protect children  
11 but abusive parents and caretakers as well. That is,  
12 the creation of independently run regional child abuse  
13 evaluation centers in our State. These centers would  
14 be staffed by practitioners trained to apply the most  
15 current standards of care for medical and psychosocial  
16 evaluations and treatment of children in an objective  
17 and trustworthy fashion. And I must tell you that in  
18 the past three or four years there have been guidelines  
19 established for interviewing children, for the medical  
20 assessment of children. There is a whole body of  
21 research on suggestibility of children, on children's  
22 memory. The information is out there. There are  
23 practitioners who practice based on those standards.  
24 We just need to make those standards available to every  
25 child and every family in our State.

1                   Many States have such models in place.  
2 Missouri has what's called Safe Net. New Jersey just  
3 passed legislation to establish three regional centers.

4                   For an evaluation within a two-hour drive  
5 for every child and family, Pennsylvania would require,  
6 by my geography, which is not the best, five or six  
7 such centers. A source of funding, at least partial  
8 funding, might be a tax on divorce decrees and a tax on  
9 day care licensure. The support and establishment of  
10 such centers is the only solution to protecting all  
11 parties concerned.

12                   I thank you for your time and your  
13 attention and urge you to work with and be informed by  
14 the countless professionals across the Commonwealth  
15 who, like myself, are devoted to creating a credible  
16 and respectful context for the evaluation and  
17 protection of children and families.

18                   Thank you.

19                   DR. BALTZ: Mr. Chairman, I had sort of a  
20 two-position type thing here. I'm in private practice,  
21 and being in private practice, my mandatory need to  
22 report is different than what my position is at the  
23 Harrisburg Hospital, where I am in charge of the  
24 pediatric clinic. I do need to report people, my  
25 private patients. It's a very difficult type of thing

1 to do. I do carefully look at the infants and  
2 children, and certainly if there are various physical  
3 factors and others that make me concerned, I will  
4 explain to the parents that I am concerned about a  
5 fracture, a bruise, something that's unusual. I will  
6 talk to them about this and about my need as being a  
7 mandated reporter.

8                   Frequently, the report is done and it's  
9 not unusual for me to lose these as private patients  
10 because they feel that perhaps I am inadvertently  
11 reporting something that I maybe should not be doing as  
12 a private physician. In the outpatient area of the  
13 Harrisburg Hospital, you can understand that I deal  
14 with a different set of circumstances because I have to  
15 look at the children and I do not basically have a very  
16 good working relationship with these, and of course the  
17 system is used and the reporting is done. I am not as  
18 many times directly involved with the reporting.

19                   Every year in the country, 2 million  
20 children are seriously abused by their parents, their  
21 guardians, and others, and at least 1,000 children die  
22 as a result of their injuries. A question has been  
23 asked, are more children being abused in the country?  
24 Are more children being identified? What's going on?  
25 I think we really don't know. I think part of the

1 answer is we are probably in a better position to  
2 recognize more children who are being either physically  
3 abused, being neglected, emotional abuse, sexual abuse.  
4 We just don't need to stop at one area where we can all  
5 look at, probably is better reporting, and I would hope  
6 that the number has not been increasing significantly.

7           Within the last year in the local  
8 newspapers of Harrisburg, various newspapers, there was  
9 a comment in the paper that a recent article that in  
10 the last year more children died of abuse in  
11 Pennsylvania than in the last 16 years. I hope this  
12 does not represent an increase. However, the numbers  
13 are there. Recently, we've seen much legislation in  
14 favor of children. The Governor certainly has done an  
15 excellent job with the vaccine immunization bill that  
16 has passed. We've looked at health care issues for  
17 children trying to get the underinsured and the  
18 non-insured, to try to have them have some type of  
19 health care coverage. We've also seen or perhaps will  
20 see some comprehensive amendments to House Bill 1001.  
21 I've looked at some of those. I can't say I'm  
22 completely happy with everything that's in there, but  
23 pediatricians are not always happy with everything that  
24 goes on anyhow.

25           There is some perhaps a development of a

1 bill that we would like to see related to child  
2 fatality review boards in which every unexplained death  
3 from 0 to 18 in which the attempt will be to explain  
4 this either by a post-mortem or complete examination.  
5 Hopefully we would like to see something like that.

6 We're also looking and you will be  
7 looking at perhaps greater protection for individuals  
8 who do need to, who are mandated to report by  
9 indemnification of cost of legal defense. And I can  
10 assure you that even we who must report are concerned  
11 about reporting because of the possibility of suits and  
12 civil suits, which take a great deal of time for us to  
13 have to participate in, whether they are founded or  
14 unfounded, and we have to be concerned. And there are  
15 physicians and other health care workers who may very  
16 well already now be concerned about their mandatory  
17 responsibilities. And I'm sure that given the enormity  
18 of the issue and the problem, we'll see more positive  
19 legislation appear regarding health care, children's  
20 issues.

21 However, after careful review of House  
22 Bill 826, we are concerned, and by "we," I include the  
23 Pennsylvania Chapter of the Academy of Pediatrics, the  
24 council on which I serve at the Pennsylvania Medical  
25 Society Council of Education and Science, that this



1 legislation will possibly hinder and deter the  
2 reporting of child abuse neglect in the Commonwealth.  
3 And I think as mentioned perhaps in previous testimony,  
4 it is unclear to me as to what the extent of malicious  
5 reporting is either by a child influenced by the adult  
6 or by parent or by somebody or by the adult doing it  
7 himself. If this is really an issue, it's unclear to  
8 me if this is a significant problem in order to allow  
9 the passage of House Bill 826.

10 I'm sure that this occurs, but listening  
11 today, I'm not sure exactly how often it occurs. And  
12 also, my understanding that there are already some type  
13 of protective laws in place to penalize false reporting  
14 are in place, and I wasn't sure of that initially.  
15 However, I'm comfortable that that's already present.  
16 Therefore, myself as a pediatrician and as a  
17 representative of the Pennsylvania chapter, cannot  
18 support this legislation as we feel that it is onerous  
19 and counterproductive to reporting child abuse and  
20 neglect in the Commonwealth. Certainly our children  
21 are to be protected and abuse neglect must be reported  
22 without restrictive legislation being imposed upon us  
23 or upon the reporters.

24 Thank you very much, Mr. Chairman.

25 CHAIRMAN CALTAGIRONE: Representative

.1 Manderino.

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

4 Ms. Seidl, obviously you were here for  
5 most of the morning and you specifically heard Mrs.  
6 Stanton's story, which is very heartbreaking. Her  
7 story is not unique, and we hear lots of stories like  
8 that. And I guess my question is, I appreciate very  
9 much the scenario you took us through to explain what  
10 you do at Children's Hospital with regard to reporting,  
11 and my question is, if our laws are working, why are we  
12 hearing all of these stories over and over again about  
13 the problems people have had, and do you have any  
14 comment on that?

15 MS. SEIDL: I guess I have questions  
16 about where that report was generated. I was compelled  
17 as well, and I think that's horrific and that a goal of  
18 mine would be for that to never happen, because I would  
19 hope that if we had a resource center with people who  
20 were qualified and objective to do an immediate  
21 assessment, things would not have gotten so out of  
22 control. There are child generated reports, there are  
23 reports generated by professionals who misunderstand  
24 children. You know, I think that's something very  
25 important. I'd have to know the whole story. But I

1 guess one thing I can assure you is if they do get the  
2 right people in place who are objective, who work in an  
3 interdisciplinary fashion, that shouldn't happen. And  
4 it wouldn't happen.

5.. REPRESENTATIVE MANDERINO: Thank you.

6 BY REPRESENTATIVE MANDERINO: (Of Ms. Stanton)

7 A. Mrs. Stanton, I just want to say first  
8 that I really appreciate your coming forth and telling  
9 your story. I know it had to be very difficult for you  
10 each time you have to talk about it, but it's important  
11 that we hear that, and so I thank you for coming. The  
12 one thing that I wasn't clear from your testimony, and  
13 it's actually what Ms. Seidl alluded to, was I didn't  
14 understand from the very beginning, who made the report  
15 that started that whole horrible story that you had to  
16 go through?

17 A. It was a counselor at the West Reading  
18 School in Reading, Pennsylvania. And it was -- Ms.  
19 Seidl hit it perfectly, it was a comment that she went  
20 without going into it any further. The comment  
21 involved when my daughter, who was then 13, said that  
22 her father patted her on her butt and it felt  
23 uncomfortable. That was the interpretation that the  
24 actual counselor at the school gave the caseworker.  
25 This eventually did come out, only because I fought and

1 I would not back down. Initially, what my daughter  
2 said was she was starting to become a young lady and  
3 this bothered her. As it ended up, and you can read in  
4 the deposition and also the petition, it gave in detail  
5 female areas that her father was to have touched her,  
6 and this was done over and over and over again until I  
7 think we just couldn't stand to hear another minute of  
8 it. And as an end result of those accusations, she  
9 lost a therapist because she blatantly came out and  
10 told me something that Ursula had not mentioned, and  
11 Ursula just felt her confidence was betrayed. There  
12 again, you've got another adult, this time as an actual  
13 psychologist and a good physician.

14 Q. That was once you were already kind of  
15 into the system?

16 A. Yes, ma'am.

17 Q. I guess my question then is, would you  
18 want a law that would have given you the opportunity to  
19 prosecute the person in the school when they first made  
20 the telephone call, would you want a criminal statute  
21 to allow you to prosecute that person at the school  
22 level that first made the telephone call to Child  
23 Protective Services?

24 A. I believe that I've heard many instances  
25 this morning and I do believe that that would be a very

1 effective tool. However, on the same side of the  
2 table, I am seeing, now I've become very involved with  
3 this, as you can very well see, for going past a year.  
4 I am trying to educate myself to being educated in  
5 positions where I don't believe I should have to but I  
6 have nonetheless for my children's sake to see that  
7 something can be done to rectify an unjust act done by  
8 anyone. I do believe, and Ms. Seidl's interpretation  
9 of what should be done is excellent. However, I'm not  
10 saying that. Now I'm talking from Berks County. I am  
11 in that county and I feel victimized by this same  
12 situation. We do not have educated people. We've got  
13 a counselor at a school who does not have the ability  
14 to read what a child is saying and to go into it  
15 further before the incident mushrooms into something  
16 that's out of control.

17 Second of all, we have got caseworkers  
18 that are not doing their job. We have got a director  
19 who is not following up on his caseworkers, and I have  
20 seen this. I've been in that office. The caseworker  
21 now assigned to us, ladies and gentlemen, I am very  
22 happy to report is doing her job. The system when done  
23 correctly does work. She is a very energetic young  
24 lady. I have tried my very best to make this a very  
25 congenial situation. We only have six months. I do

1 believe, however, after those six months we will still  
2 be in contact to find out how the girls are doing and  
3 what is coming up with them, but in the meantime, this  
4 is only one person of five different departments in the  
5 same agency. A sexual abuse, an outside sexual abuse,  
6 an inside sexual abuse. It is unbelievable.

7                   And in all these different sections I  
8 have not seen even our juvenile probation have  
9 standards and guidelines that must be followed, which  
10 here again our children, our very focal point, our most  
11 serious priority in this country is our children. Yet  
12 they have guidelines, they have got meetings, they have  
13 got supervisors who are following up on what is being  
14 done with little Johnny, who is now having to be in  
15 detention. Whereas in the more serious area, you are  
16 dealing with children's minds, you are dealing with  
17 parents in sometimes awkward situations. A separated  
18 family is a devastation at best. Now you've got people  
19 coming in, stonewalling you with threats. I quote,  
20 "your child will be taken away," end of quote. And  
21 that is what bothers me.

22                   Q.    And that happened after you were already  
23 in the system?

24                   A.    Yes, ma'am.

25                   Q.    The mushrooming that you're telling us

1 about happened after you were already in the system?

2 A. Yes, ma'am. And initially there was -- I  
3 mean, obviously a man is charged. I've talked to men  
4 who are afraid to change their little children's  
5 diapers or give them a bath for this very same reason,  
6 this man is charged and he's never cleared and he's  
7 never been proven guilty. His name is in Childline.  
8 It will be there till Ursula is 18 years old, and  
9 anyone can pick up this information and this man is  
10 ruined. If he's fortunate to have a job where this may  
11 never come up, he may never transfer. We have no love  
12 lost, but fair is fair, and it has devastated us. It  
13 has torn us apart. The only thing that this situation  
14 did finally was unite us to bring my child home with  
15 me, and that is when the caseworker was dissolved from  
16 the case. Now, if that caseworker was still in my  
17 life, then I would have no complaint. However, her  
18 lack of even being there shows that there was something  
19 radically wrong and that another one needed to be  
20 replaced. And what bothered me more is in the court  
21 hearing this caseworker was not dissolved publicly. We  
22 didn't want to embarrass her, yet she's devastated our  
23 lives. One person who is not at all qualified.

24 There are no guidelines on qualification.  
25 There is presently in that agency, Berks County

1 Children and Youth Services, a caseworker I've known  
2 for five years, she's a recovering alcoholic. Her  
3 husband penetrated her daughter. He is still seeing  
4 that child. Her son just shot at several children and  
5 was put in lock-up. Now, you're not going to tell me  
6 this woman is objective. You are not going to tell me  
7 that that woman, who knows me, sat on my steps and did  
8 not excuse herself for professional ethics because she  
9 knew she was going to be objective, when she undermined  
10 everything I said. I remained polite, I remained  
11 quiet, but I near froze from the fact that this is what  
12 we've come to. These are our children.

13 Q. And again, that was somebody that was  
14 after the report was made and the investigation?

15 A. Yes, ma'am.

16 Q. Thank you very much.

17 REPRESENTATIVE MANDERINO: Thank you, Mr.  
18 Chairman.

19 CHAIRMAN CALTAGIRONE: Dave.

20 BY MR. KRANTZ: (Of Ms. Seidl)

21 Q. Ms. Seidl, you had mentioned to me that  
22 you had received a communique from the Attorney  
23 General's Office concerning this hearing, that a fax  
24 was sent through?

25 A. It was not to me. It was to the members



1 of the Attorney General's task force, the Child Death  
2 Review Team.

3 Q. Could we get a copy of that?

4 A. If I have it, yes.

5 Q. Or if you can send it to us, we would  
6 appreciate it.

7 A. Yes.

8 Q. Thank you.

9 MR. KRANTZ: Thank you, Mr. Chairman.

10 CHAIRMAN CALTAGIRONE: Counsel Andring.

11 BY MR. ANDRING: (Of Ms. Seidl)

12 Q. Ms. Seidl, how do your cases come to your  
13 facility? Are they primarily referrals from government  
14 agencies? Is that the function of this particular  
15 aspect of your operation?

16 A. Well, the Children's Hospital of  
17 Philadelphia gets referrals from parents who walk into  
18 our emergency room with concerns of their own, we see  
19 our own patient group in our clinic system and in our  
20 specialty private practices, and we get referrals from  
21 outside pediatricians, from the child welfare system,  
22 and from parents' attorneys and from district attorneys  
23 offices.

24 Q. I guess my basic question then goes to  
25 what standard procedure or the various governmental

1 agencies. Do they routinely refer children to a  
2 medical facility when there are allegations of sexual  
3 abuse or other physical abuse that get your kind of  
4 professional evaluations or not?

5 A. I wish I could say that was the norm.  
6 It's not. There are many children who deserve physical  
7 assessments and many families who deserve them and do  
8 not get them. And I think every child who where  
9 there's an allegation deserves the best first  
10 evaluation.

11 What also pains me very much is I see  
12 children who have been caught up in this morass and  
13 families who end up having two and three physical  
14 exams, and that's just wrong. No child should have to  
15 go through having their genitals examined multiple  
16 times. And that's why I go to centers as a place.

17 Q. Okay.

18 CHAIRMAN CALTAGIRONE: I have a question  
19 for the doctor. I am just interested in your source of  
20 information on those quotes and the stats that you had  
21 given.

22 DR. BALTZ: Which ones, relating to the  
23 statistics?

24 CHAIRMAN CALTAGIRONE: Yes. Could you  
25 share that with the committee then?

1 DR. BALTZ: Yes, I will.

2 CHAIRMAN CALTAGIRONE: Could we have a  
3 copy of that?

4 DR. BALTZ: Yes. Yes.

5 CHAIRMAN CALTAGIRONE: Are there any  
6 other questions?

7 (No response.)

8 CHAIRMAN CALTAGIRONE: Thank you very  
9 much for your testimony. I appreciate it. Thank you.  
10 We will next move to Michael Abromowitz  
11 and Richard Althaus.

12 For the record, indicate who you are.

13 MR. ABROMOWITZ: Mr. Chairman, members of  
14 the committee, I thank you for conducting these  
15 hearings. My name is Michael Abromowitz. I regret  
16 that not all of the members of the committee who were  
17 here earlier are able to be here now. I'm sure that  
18 there are lots of pressing matters going on. I would  
19 have preferred if opposing and supporting views could  
20 all be present to hear this, but the pages I'm reading  
21 from are heavily condensed due to time constraints from  
22 a larger volume which I have submitted and I please  
23 urge you to take the time to read that larger volume  
24 for its edification.

25 That volume not only expands the scope of

1 my anecdotes but all claims I made are supported by  
2 transcripts, documentation, or eyewitness  
3 corroboration, and I hope you will have lots of  
4 questions for Richard and I also afterwards.

5                   For the past five years, I've been  
6 registered as a sex offender in Harrisburg. A molester  
7 of my own child in the eyes of the Commonwealth. Now,  
8 after five years, the Commonwealth has determined that  
9 the allegations are not true. Never were true. It  
10 matters not though, for the people who made the  
11 allegations no longer feel they have to worry about the  
12 questions of custody. I have no desire to describe my  
13 personal pain, and I would consider having to do so an  
14 affront to my dignity.

15                   I haven't come here today to speak pity  
16 or to speak of how these allegations have affected me.  
17 I'm a grown-up. I am able to take care of myself.  
18 Back in Allegheny County, I think I'm known to be able  
19 to do that pretty well for myself. I also don't think  
20 you should have to wonder what the effects are upon me  
21 of such a situation as this. There is more pressing  
22 matters going on here and it's of grave concern to all  
23 of us.

24                   Mr. Chairman, I'm here on behalf of my  
25 daughter, and that should be the primary concern of

1 every adult here on both sides of this microphone. My  
2 daughter and all the children of the people you've been  
3 listening to are helpless victims of abuse. Abuse not  
4 at the hands of sexual molesters and child beaters, but  
5 worse, of shameless adults who knowingly sacrifice our  
6 children's future happiness and stability either to  
7 punish someone who has the temerity not to love them  
8 anymore or to award and receive custody as though our  
9 children are sale items at a close-out auction.

10 In 1988, my little girl was placed in a  
11 situation she had absolutely no control over. You see,  
12 she had just turned 3 years old. She had her toys  
13 neatly arranged in her play space and people whom she  
14 both knew and did not know walked into her space and  
15 smashed her toys in front of her. More importantly,  
16 during the next five years, whenever she tried to reset  
17 her toys and stay out of the big people's way and just  
18 have some fun, someone, many different ones but always  
19 someone walked up to her and smashed her world over and  
20 over again. And for one so young and fragile, it's  
21 easy to metaphorize life as a play space and toys as  
22 all a child has and all she needs and all she wants. I  
23 find myself wondering if you, in order to believe me,  
24 must wait until it happens to your child. But believe  
25 me when I tell you that in the space of one day your

1 life as you know it now can be snatched from in front  
2 of you in a way that can never be retrieved.

3           .. Mr. Chairman, my little girl personified  
4 the essence of cute and cuddly, imagination and bright  
5 ideas, and a heart bursting with and for love and  
6 affection. I guess you could say to know her was to  
7 love her. Then we were separated and essentially  
8 estranged.

9           I'm going to ask the impossible with you,  
10 sir. Try to imagine your child in this situation.  
11 Five years of continuous indoctrination and trips to  
12 psychiatrists or clinical therapy for sexual abuse  
13 which knowingly did not occur. Being told by your  
14 mother and close members of your family that your  
15 father is no longer your father because he's bad and  
16 did bad things to you. You know it never happened, but  
17 they tell you if you say so, daddy will steal you away  
18 and you'll never see mommy again. Is it true? Well,  
19 mommy says it is. Imagine, if you can, being 3, 4, 5,  
20 and 6 years old and for all those formative years  
21 continuously hearing and thinking that you can't be  
22 alone with your daddy because your mother reported it  
23 to someone called Children and Youth Service that you  
24 told her that daddy put his wee-wee in your mouth and  
25 between your legs and you know it's not true, but mommy

1 and grandma and everyone else here tells you daddy  
2 wants to hurt you. That's why when daddy comes to see  
3 you for four hours, four hours each Saturday, grandma  
4 stays within feet of you and watches everything you and  
5 daddy do, and she tells daddy to be sure she can hear  
6 everything he says. She even turned the TV off and sat  
7 between us and told us she wouldn't move unless he  
8 spoke loud enough to hear everything we say. And she  
9 doesn't allow kisses and hugs. She tells you and daddy  
10 that if we want to show affection, a simple pat on the  
11 head will do.

12 And grandpa used to call daddy a pervert  
13 when he came to see you, until they told him not to be  
14 here when daddy comes. I know it's not true. I know  
15 daddy never hurt me, but I'm confused because I don't  
16 understand all they say, and mommy and everyone else  
17 tells me all this bad stuff about daddy all the time.  
18 So do lots of people they take me to see who I don't  
19 even know. I don't tell them daddy hurt me because I  
20 know he didn't, but they scare me about him, and maybe  
21 they know something I don't. Maybe it's true that  
22 daddy will take me away. All I know is I love my mommy  
23 and my daddy and I don't want to leave, and I don't  
24 like being in the middle of all this, so I'll just keep  
25 quiet and do I what I think my mommy wants. I don't

1 like this and I'm scared.

2                   Five years of this, Mr. Chairman, five  
3 years. To substantiate the voracity of this account  
4 that I've just given you, when the court-appointed  
5 psychologist conducted his second investigation of the  
6 allegations, he concluded again that abuse was unlikely  
7 on my part, but that it had become a, quote, unquote,  
8 "psychological reality" to my daughter because of the  
9 pressure placed on her by her mother and maternal  
10 family, and that because of it and because of the  
11 psychotherapeutic treatment she had been given, she had  
12 been made so frightened of her father specifically, and  
13 men in general, that he recommended that visitation  
14 continue to have third-party participation until she  
15 and I are able to re-establish our previous  
16 relationship, and that will require years of therapy  
17 for us both.

18                   The result of being treated that way by  
19 people to whom a child has trusted every aspect of her  
20 life is such that she will spend the rest her life  
21 untying and is likely not to be erased even with  
22 therapy. And where will you, every one of you, and  
23 those people be when she's an adult out on her own,  
24 responsible by herself for her problems? This is why  
25 the answer to the problem of false allegations cannot



1 be found simply by making it a crime. You can't stop  
2 there. It is the years of alienation between the  
3 accused and their child made possible by the willful,  
4 willful cooperation of CYS and related agencies and the  
5 system of family judges and lawyers which allows this  
6 to continue long enough to change a child's life  
7 irreparably. That is exactly what has happened to my  
8 daughter, Mr. Chairman. I consider that abuse, and so  
9 should you and so should every one of you. But maybe  
10 you consider this just an understandable exaggeration.

11 Let me ask you something, Mr. Chairman.  
12 If at 7 years of age my daughter makes an imaginary  
13 list of things to do with her doll baby and includes on  
14 that list, teach baby how to not like men. And if at 8  
15 years of age she tells me, 8 years of age, she's not  
16 going to have children when she grows up, she's going  
17 to adopt so she doesn't have to get married, how do you  
18 think her outlook and behavior will be by the time  
19 she's 16 or 20 or older? You see, Mr. Chairman, my  
20 little girl, she's still cute. She just doesn't cuddle  
21 anymore. She's still lovely. She just never says, I  
22 love you. Never. She's still imaginative about life.  
23 It just doesn't include men and daddies. To know her  
24 is still to love her. It's just also to cry an awful  
25 lot about her.

1                   In addition to heartless, selfish  
2 parents, our children have also become victims of the  
3 many individuals who comprise the various parts of the  
4 so-called Child Protective Services and family law  
5 system who make decisions and take actions motivated by  
6 reasons knowingly and openly contrary to the welfare of  
7 children. That is where you must focus your attention,  
8 Mr. Chairman, if you are truly concerned about the  
9 welfare of children like my daughter. Whether to  
10 protect children from physical abuse or the abuse of  
11 false allegations, both concerns will be processed  
12 through the same system and by the same individuals,  
13 all of whom fail far too frequently due to either  
14 incompetence, lack of support, disinterest or overbias.

15                   Mr. Chairman, even some of your  
16 assistants were quick to point out to me their belief  
17 that the blame and responsibility for the problem lies  
18 solely on the shoulders of parents and families.  
19 Nothing, absolutely nothing you conclude from these  
20 hearings could be more harmful to the future of our  
21 children than that position, because that conclusion  
22 will result in your failure to take necessary measures  
23 to prevent the incompetent and ill-intended processing  
24 of these cases. This bill implies that legislation  
25 making it a crime to falsely report child abuse will

1 serve to lessen the occurrence of false reporting.  
2 Assuming that those agencies and individuals whose  
3 mandate is to secure justice and public welfare are  
4 actually concerning themselves with doing that is like  
5 assuming that people who report child abuse must be  
6 telling the truth or they wouldn't have made the  
7 allegation in the first place. That's exactly what the  
8 Child Protective Service system, upon which you will  
9 have to rely to prove alleged crimes, as was discussed  
10 before, assumes. That's why they prefer words like  
11 "inconclusive" and "unsubstantiated" instead of "false"  
12 or "fabricated." And if these services and individuals  
13 are in fact somehow deficient, incompetent, or  
14 corrupted, the process we rely on for accomplishing the  
15 results we wish from this legislation will likewise be  
16 deficient and ultimately will fail.

17 Justice is not a system, it is a goal.  
18 The composite agencies and individuals within the  
19 system determine by their actions whether the goal will  
20 be reached. And if a system is designed for failure,  
21 it will do so in both, in all directions. After all is  
22 said and done on this issue, the simple truth is that  
23 if the child welfare system now in place and on which  
24 you will be relying to execute this legislation were  
25 working in the first place, there would be no need for

1 this legislation. Mr. Chairman, when a case based on  
2 false allegations is kept in the system so long that  
3 the child has aged in the midst of it, even if the  
4 charge is eventually reversed, what do you suppose  
5 happens to the child? Do you think they get shrunk  
6 again so all the right things can happen in their life?  
7 Do you think there's some kind of therapy that takes  
8 abused children and makes them forget all the lies, the  
9 betrayal and psychological and emotional damage and  
10 then they just love, trust, and be intimate as though  
11 none of it ever happened? There isn't. Even if  
12 justice appears to have been served later on, it has  
13 not, because the human being that the child is even as  
14 an adult suffers from then on.

15 So I would like to tell you how you can  
16 really make a difference in these children's lives, Mr.  
17 Chairman, ladies and gentlemen who are here today, and  
18 rescue them and be real heroes to them. And it's not  
19 by the legislation you propose alone. I hope you're  
20 curious. Please allow me to illustrate the issue  
21 through a condensed account of the events I  
22 experienced.

23 In May of 1988 -- I'm sorry, during a  
24 custody dispute, my estranged wife contacted Allegheny  
25 County Children and Youth Services and told an intake

1 worker that our daughter made the following statement  
2 to her: .Daddy put his wee-wee in my mouth and between  
3 my legs and told me not to tell the bad people, grandma  
4 and grandpa, or they'll get hurt. I asked the assigned  
5 caseworker at the subsequent interview to pursue the  
6 answer to the following question: Did my daughter ever  
7 actually make the statement she was alleged to have  
8 made? And if so, why? He told me then that she said  
9 the same thing to him, but it was later revealed in  
10 testimony at my appeal hearing that my daughter did not  
11 make that statement to any employee of Children and  
12 Youth Services. The only thing she ever did was to  
13 shyly make some gesture with a doll's bottle given to  
14 her with instructions from Children and Youth Services  
15 caseworkers. In other words, show us with this bottle  
16 what daddy did with his wee-wee. They then interpreted  
17 the gesture to be some sort of sexual act.

18 And to put it simply, if I did the crime  
19 I was accused of, I have absolutely nothing to gain by  
20 pursuing the answer to my question and absolutely  
21 everything to lose. Wonder not just why I would do  
22 that if I were guilty but why no one else would if they  
23 believed me to be. I will inevitably conclude my  
24 testimony with that, as all roads lead there.

25 Based upon his investigation and direct

1 interviews with my daughter, an expert evaluator and  
2 independent child psychologist contracted by Children  
3 and Youth Services submitted a report stating that the  
4 child, quote, "denied all allegations, expressed only  
5 positive feelings about her father and expressed her  
6 desire to see him." He concluded that, "all evidence  
7 shows there was no abuse of the child by her father,"  
8 and recommended that our normal relationship be  
9 restored at the earliest possible time. End of story?  
10 Not quite.

11                   The day we received the doctor's  
12 findings, we had a conciliation in the chambers of  
13 Judge Eugene Strassburger, president of the Allegheny  
14 County Family Division, who without a hearing ordered  
15 that custody be awarded to the mother, and who, in  
16 spite of holding in his hands a neutral expert report  
17 saying no abuse occurred on my part, ordered that  
18 visitation between father and daughter take place at  
19 the home of the child's maternal grandmother,  
20 supervised by her and lasting for four hours a week.  
21 Then after doing so, he decided to appoint someone of  
22 his choice, at my expense, to conduct another  
23 investigation, this time on behalf of the court.

24                   Why did he say he was doing that?  
25 Because while he held that report from the independent

1 expert in one hand, he held in his other hand a report  
2 by a private doctor hired by my wife's father, -which to  
3 no surprise stated the opposite findings from that of  
4 the neutral Children and Youth Services evaluator.

5           The incredible irony of this action is  
6 that the person contracted and regarded as expert and  
7 reliable by Children and Youth Services but not by  
8 Judge Strassburger was the same person Judge  
9 Strassburger appointed to conduct his investigation.  
10 That's true. In other words, the judge hired the same  
11 man whose report he just dismissed as unreliable to  
12 conduct an investigation he had just completed and  
13 submit a report he already wrote and just had dismissed  
14 by the same judge who was now reappointing him on  
15 behalf of the court.

16           But that inexplicable event was not the  
17 last outrage by Judge Strassburger. After awarding  
18 custody of our daughter to my wife without a custody  
19 hearing, and after ordering the extremely restrictive  
20 visitation, which he did, and after determining the  
21 procedures for the future conduct of the case, Judge  
22 Strassburger summoned me and my attorney to his  
23 chambers to tell us he was removing himself from the  
24 case because he was, quote, "a personal friend of my  
25 father-in-law," who had contributed heavily to his

1 election campaign. He concluded his notification by  
2 stating that he believed my father-in-law's remarks to  
3 him and considered him to be an honest man.

4 For your information, Mr. Chairman, my  
5 father-in-law, my ex-father-in-law now, Franklyn  
6 Conflenti, is a past president of the Pennsylvania  
7 Trial Lawyers Association and a past elected president  
8 of the Pennsylvania Bar Association. Though these last  
9 two aspects of my case are different from others, they  
10 simply epitomize and highlight so well the general  
11 experience of most and highlight the real problems and  
12 obstacles to family and justice. A false report is  
13 simply the beginning of an odyssey of abuse, the worst  
14 damage occurring after the case becomes locked into  
15 that system of litigation, politically motivated  
16 manipulation, and an endless cycle of protracted  
17 deliberations.

18 When I received my notice that Children  
19 and Youth Services had determined that I sexually  
20 abused my daughter, I went to the office of the  
21 caseworker with the report of the expert psychologist  
22 whom Children and Youth Services contracted to conduct  
23 an investigation. As I have told you already, that  
24 report concluded that there was no abuse, sexual or  
25 otherwise, on my part. I asked him if he read the



1 report, and he told me he did not. Well, my next  
2 question should be obvious. Upon what did you base  
3 your conclusion then, I asked him, that the child was  
4 abused? In the presence of his supervisor, who I  
5 insisted be there, he told me that he was so overworked  
6 with cases and had so little time to give to this case  
7 that he determined that the report of the private  
8 doctor hired by the child's grandfather was true in its  
9 conclusion of abuse by me. He told me he determined  
10 this, quote, "just in case it might be true, to protect  
11 the child." And this determination was made official  
12 not by a nameless, faceless entity called Children and  
13 Youth Services, but by a real person who did not know  
14 me or meet me, yet saw fit by whatever standard he uses  
15 to justify his behavior to sign this form letter, a  
16 little form letter with an "X" that says, your name is  
17 listed on the report as the parent and abuser. It  
18 tells me about the rights that I have now lost. That  
19 real person is here today, or at least I saw his name  
20 on the list. Nice to me you, Mr. Lewis, Mr. Warren  
21 Lewis.

22 Later, when questioned under oath about  
23 their policy of contracting an independent child  
24 psychologist to conduct an investigation and present an  
25 evaluation report, the manager of Children and Youth

1 Services said that the reason they do so is not to try  
2 to reach the truth through the haze of doubts but  
3 rather simply to get corroboration for the conclusions  
4 which they make from their initial interview, and if  
5 the report does not support their conclusion, they  
6 ignore it, or they can try and get another evaluator or  
7 even try and get several more evaluations if they want  
8 to, or they can just go without including any report if  
9 they are unable to get a report in for evaluation.

10 My case eventually went to the Department  
11 of Public Welfare on appeal. Those hearings lasted  
12 over a year, but not out of necessity to some aspect of  
13 the case. And the review process lasted another year,  
14 again, for no reasons having to do with anything other  
15 than lack of diligence. A final decision, however,  
16 thanks to the courage of the director of the Office of  
17 Hearings and Appeals, Mr. Peter Speakes, was to reverse  
18 the decision of Allegheny County Children and Youth  
19 Services and to expunge the case. The county has  
20 appealed that decision and the appeal process can take  
21 years longer, if all goes according to the plans of my  
22 adversaries.

23 Stop and think, please, what you have on  
24 your hands if what I'm saying about the child  
25 protective and family law systems is true and not just

1 . . . sour grapes. And please remember that what I say is  
2 supported by transcripts and documentation. But now  
3 remember here that it is not the Child Protective  
4 Service which determines custody and visitation.  
5 That's where the judge comes into the picture. I raise  
6 the issue of judges because they, too, are part of this  
7 system, and they a major, major part of the problem;  
8 quite possibly the most central. Their job is to  
9 interpret the laws you make, including the bill that  
10 you're going to be -- that we're here discussing today.  
11 And they all too often manipulate the laws to  
12 accomplish their biased or self-serving interests, not  
13 the child's. A parent like me going into family court  
14 before a judge with a pre-determined agenda is like  
15 playing poker against someone who deals from a stacked  
16 deck, then says, okay, just so we all know, I'm  
17 impartial. I'll let you open the betting. Why show  
18 up? Well, when the result is harm to a child,  
19 especially my child, I show up and I call the ante.

20 . . . . . What judges tend to do upon hearing  
21 allegations of abuse, close to 100 percent of the time,  
22 is award custody to the accuser, without so much as a  
23 hearing. In fact, in most cases it seems rather clear  
24 through transcripts and rulings that when the accuser  
25 is a woman, as in most cases of child abuse, the

1 judge's judicial behavior reflects his prejudice.  
2 Judges expect a man to be grateful for getting out of a  
3 family courtroom with his male organs intact, so they  
4 are surprised and annoyed by someone who stands, looks  
5 them in the eye and tells them that he doesn't plead  
6 for justice, but rather he expects nothing else.

7           The other important part of the equation  
8 is lawyers. Excuse me if you aren't happy about  
9 hearing my thoughts about judges, you'll have your  
10 earplugs in for this because I know most of you are  
11 lawyers yourself. But I'm not here, maybe you can  
12 tell, to make friends. I'm here to tell the truth.  
13 The attorneys' basic belief that the interest of the  
14 client supersedes the interest of justice, and more so  
15 the interest of the child, is the fundamental flaw in  
16 the family justice system. And this position is not  
17 based on some tenet of moral integrity but rather on  
18 greed, lust for position, power, and reputation in the  
19 legal community. Lawyers are rated by their peers  
20 according to these standards and make their names and  
21 advancements this way. Thus, they perpetuate this  
22 antimony, this opposition of laws and principles. And  
23 I don't believe this is news to anyone here.

24           Attorneys' desire to profit from family  
25 tragedies by protecting the processes and piously

1        pontificating about the best interests of children from  
2        one side of their mouth while rationalizing emotional  
3        indifference from the other side of their mouth must  
4        not be tolerated. And if you don't debate this issue  
5        along with the others I raised and make the changes  
6        necessary, somehow you will fail.

7                        . Again, the question, did my daughter ever  
8        make the statement she was alleged to have made? And  
9        if so, why? Never once, never once has anyone said  
10       anything in direct reply to that question, except to  
11       say it can't be answered. How is it that a judge, a  
12       lawyer, an agency official, or a law enforcement person  
13       dares to say that a reasonable investigation is not  
14       warranted because they know beforehand that the answer  
15       cannot and will not be found? That is outrageous. And  
16       that is the issue I hope you will be sure this bill  
17       addresses if you even hope to make a real difference to  
18       the children.

19                        If you want this legislation to make a  
20       difference to them, you must address every charge from  
21       both sides by pursuing the truth, the whole truth, and  
22       nothing but the truth. Not doing that expertly and  
23       objectively results in abuse every time. I keep saying  
24       that. I keep saying abuse. But what do I mean by  
25       that? The people at Children and--

1                   CHAIRMAN CALTAGIRONE: Could I interrupt  
2 you? I know that we have an awful lot of testifants to  
3 testify yet and I know you put a great deal of work  
4 into your testimony, it shows, but could you summarize  
5 as briefly as possible?

6                   MR. ABROMOWITZ: Yes, I can.

7                   CHAIRMAN CALTAGIRONE: We're going to be  
8 here for quite a while yet, it would appear, and if you  
9 could, and I would say that to probably the rest of  
10 those who are going to testify. I'll be here the rest  
11 of the day, as long as it takes, it doesn't bother me,  
12 but we will continue to lose members and probably  
13 staff, and our poor stenographer's fingers will  
14 probably fall off. If it's possible to summarize.

15                  MR. ABROMOWITZ: I understand, sir.

16                  I know this subject wouldn't be complete  
17 without some numbers to bandy about. In 1991,  
18 according to the Pennsylvania Department of Public  
19 Welfare, there were 23,861 reports of child abuse in  
20 our Commonwealth. That was one year. Of those  
21 reported cases, 66.4 percent were determined to be  
22 unsubstantiated. I personally have little tolerance of  
23 numbers. So many beans counted. What tends to occur  
24 is that when the number of beans counted reaches the  
25 point where it's too unsettling to consider the

1 ugliness of so many beans, we just start counting jars,  
2 moving on to larger jars, if necessary.

3 Look in the jar marked 1988, Mr.

4 Chairman, ladies and gentlemen, and hear this: The  
5 reason I speak of your numbers as beans is to say that  
6 we are not beans, whether it be 23,000 or 1. Mr.  
7 Chairman, my little girl is not a bean. The difference  
8 between a bean and my daughter can be noticed in the  
9 way a bean counter speaks about beans and the way I  
10 speak about my little girl. Let this go another year  
11 or two without making any changes and you won't believe  
12 what you'll have on your hands. Wait. Let the  
13 children grow up not only with the effects of abuse but  
14 also with the effects of being treated for abuses which  
15 never occurred, with feelings of betrayal, confusion,  
16 hatred, and most of all, the sense that lies of tools  
17 for success. Do you see how America is now? Wait  
18 until these of our creation grow up and take charge.

19 So where do you start to make a  
20 difference? Let's make sure, not just hope, that they  
21 are adequately staffed, the Children and Youth Services  
22 and the Child Protective Services, with highly  
23 qualified, well-paid, intensely trained experts,  
24 supervised by politically neutral, non-biased managers  
25 and administrators, then give them solid,

1 well-conceived, up-to-date guidelines to follow and the  
2 encouragement and support to pursue the interest of the  
3 children, not the bureaucracy. Also, a mistake  
4 corrected is worth any cost, because it saves a child.  
5 Admit them and correct them when they occur.

6           Address the problem of lawyers and judges  
7 as well, or the other problems will continue despite  
8 your efforts. And please pass this bill as a  
9 foundation upon which to build rather than as the  
10 solution itself.

11           As for me, all I can say is that my name  
12 is Michael Abromowitz, and that means that the day will  
13 come when the people I have named today will address  
14 that question that I raised. And now you know the  
15 reasons why I raised them. The true answer to whether  
16 you have done something worthwhile comes not at the  
17 polls or in the papers but when you look at yourself in  
18 the mirror all alone and when you think the thoughts  
19 you do in bed just before you fall asleep, and finally,  
20 when you stand naked before God, which we all must.

21           Mr. Chairman, I do thank you for the  
22 consideration you've shown me today very much, and I  
23 thank you on behalf of my daughter and for your  
24 concern.

25           MR. ALTHAUS: Originally, I was going to



1 say, good morning, but good afternoon, Mr. Chairman,  
2 members of the committee. My name is Richard Althaus  
3 from Mt. Lebanon. I appreciate the opportunity to  
4 speak in front of you this morning in support of this  
5 bill. I might add I've gone through and chopped out as  
6 much as I could, recognizing the constraints of time.

7 Perhaps ours could be the tale of the  
8 system that had failures at just about every place  
9 along the way. In 1990, my wife was diagnosed as  
10 having breast cancer, and thankfully she had successful  
11 surgery, but in her post-operative recovery she hit the  
12 emotional wall and was greatly distressed. At this  
13 point, my daughter was a sophomore, 15 years old, at  
14 Mt. Lebanon High School. She looked for surrogates for  
15 support, and one of these surrogates included a teacher  
16 who started her class out that 10th grade by saying, I  
17 was a victim of abuse as a child and you can come to me  
18 if you have any problems. She also was taken to a  
19 social worker at our request. My wife was going to  
20 this woman because she was leading a cancer support  
21 group at McGee Women's Hospital. We sent her to this  
22 social worker, and unbeknownst to us, the social worker  
23 and the teacher were acquaintances. Together was  
24 hatched this tale to our daughter that what's bothering  
25 you can't possibly just be cancer in your family of

1 your mother and my mother, her grandmother, who had  
2 pancreatic cancer, was just diagnosed, so there must be  
3 something more.. Well, these seeds were later  
4 cultivated into vague improprieties against me in terms  
5 of sexual behavior.

6 In February 1991, my wife received a  
7 phone call at her school from an Allegheny County CYS  
8 worker and said, I'd like to come meet with you. My  
9 wife says, for what reason? She said, your husband's  
10 been sexually abusing your daughter. My wife dropped  
11 the phone, just couldn't believe it, and broke down.  
12 Shortly, she regained her composure and called me. I  
13 was similarly stunned by the accusations. I called  
14 this caseworker back and now she said, I want you to  
15 come down right now, I want you to bring your son and  
16 your wife.

17 Our attorney was contacted at this point  
18 by me and he said, don't go without me. I can't go  
19 right now, he said, but I've had clients who have been  
20 put at severe disadvantage based on judgmental  
21 reporting, and he said, I'll call. I said, great. He  
22 called the caseworker and indicated to her his schedule  
23 did not permit meeting, and he said, I'll call you back  
24 in the morning and we'll work this out. She seemed  
25 agreeable to that. She did tell the attorney, you have

1 three choices, you can tell Mrs. Althaus that she can  
2 throw her husband out and her daughter will come home,  
3 we'll put her with the teacher, or we'll send her to a  
4 shelter. He called me back and I said, none of those  
5 are satisfactory to us. We already knew about the  
6 teacher and we asked him to warn CYS about them. He  
7 called them back and said, are you aware of this  
8 teacher and her comments? They said, we've checked her  
9 out, and since you haven't done anything, we're going  
10 to place her there. So they did.

11 The following morning, a meeting was  
12 scheduled. This is Friday. A meeting was scheduled  
13 for the following Thursday. CYS's caseworker was not  
14 available until then, and no one else seemed prepared  
15 to pick up and do the case. We did not know until  
16 later, of course, this same day that CYS went to the  
17 Mt. Lebanon police about this, started an investigation  
18 with them, pulled my son out of his class, where he  
19 denied all allegations. Based on not talking to me and  
20 only talking to my daughter and with my son's denial,  
21 Mt. Lebanon had a warrant sworn out for my arrest, came  
22 and arrested me at 11:30 at night, dragged me out of  
23 bed, and I was arrested and incarcerated for three days  
24 on \$50,000 straight bail and was not released until  
25 Monday night, following a bail reduction hearing.

1                   CYS and the police later enlisted others  
2 to legitimize their actions. Two weeks later, or a  
3 week and a half later, my daughter was taken to  
4 Pittsburgh's Children's Hospital, where a credibility  
5 exam or report, if you will, was conducted by a  
6 psychologist. The report contained numerous red flags,  
7 such as, if this young lady was so abused, why was she  
8 a high honors student? How was she able to participate  
9 in so many extracurricular activities? Why was her  
10 attendance record so good? Why were there no medical  
11 evidence of any abuse? And, in fact, if this family  
12 was abusing them, why would they send their child to a  
13 social worker, who was a mandatory reporter?

14                   Well, unlike the lady from Children's  
15 Hospital in Philadelphia, this review that we had there  
16 was nothing at all like that. We received later a  
17 handwritten, scribbled report of five or six pages  
18 which said that my daughter was the product of an  
19 incestuous home. Basically, the whole exercise was  
20 pre-determined and part of a confirmatory system.

21                   Two weeks after my arrest, CYS scheduled  
22 a placement hearing in juvenile court. Prior to that  
23 hearing, I had submitted voluntarily to a polygraph  
24 examination administered by a Pittsburgh police  
25 officer. I passed this test. Our attorney advised our

1       CYS caseworker of this fact and the Mt. Lebanon  
2       detective. Neither was the least bit interested. Bear  
3       in mind at this point, no one had talked to us. In  
4       fact, no one ever did through this entire 14-month  
5       exercise.

6                        Later on, while in a foster care setting,  
7       my daughter would embellish her allegations that would  
8       be induced from her to include murder, multiple child  
9       births, Satanism, drugs, pornography. These  
10      allegations then included others, including a couple, a  
11      George and Heidi Stipetich from Upper St. Clair, who I  
12      was alleged to have taken my daughter to on a weekly  
13      basis for two years.

14                      I was arrested a second time in August of  
15      '91 at my work, and when told what I was being arrested  
16      for, my only response was, who the hell is George  
17      Stipetich? We don't even know these people.

18                      On the first day of school, approximately  
19      three weeks later, my wife had started her class when  
20      she received a call to report to the office. My wife  
21      was then arrested and she was sent to a holding cell,  
22      where she was alleged to have abused my daughter in our  
23      home. The arresting officer made the suggestion that  
24      if you know that your husband has been doing something,  
25      you better come clean now. Well, she denied all

1 allegations, and so a week later she was arrested a  
2 second time. This time she was tied into the Stipetich  
3 affair, if you will.

4 I have a similar indicated report, as  
5 does my wife, from Mr. Lewis, and my daughter also then  
6 said that my mother-in-law, her other grandmother, and  
7 her brother were, in fact, also abusers. My  
8 mother-in-law is on file now in Harrisburg with an  
9 indicated report. She did not meet with CYS either, at  
10 the recommendation of our attorney, as it was obviously  
11 at this point not going to do any benefit to talk and  
12 everything was going to be twisted every which way.

13 My son, however, since he was a minor,  
14 was required to talk. He came in and basically, thank  
15 God, they listened to him, and in fact they said, yeah,  
16 okay, you were originally alleged to have been abused,  
17 now you're alleged to be an abuser. We think neither.  
18 You're clean.

19 I'd like to point out, if I could, a  
20 major inconsistency in CYS' handling. I told you what  
21 they did to me. The Stipetichs, at the time of their  
22 arrest, had four minor children under the age of 15  
23 living at their home. CYS never contacted that family.  
24 They never contacted those children. You would think  
25 with the gross allegations and the media publicity

1 about our case in Pittsburgh that they would have  
2 checked these people out. Were they not at similar  
3 risk than what we were alleged to have been?

4 In fact, my wife would meet with CYS on  
5 occasion with our attorney to discuss family service  
6 plans. The family service plan would contain generally  
7 three points: One, that we concurred that we had  
8 abused our daughter. Two, we concurred in the  
9 continued placement of our daughter in this foster care  
10 with the teacher. And three, we concurred with the  
11 continued treatment at Western Psych's sexual abuse  
12 clinic. Obviously, we shared none of those three goals  
13 and we never signed anything.

14 CYS, in the middle of this, assigned an  
15 independent-minded caseworker. She came in, lasted  
16 less than two weeks. She was removed at the urging of  
17 the assistant district attorney, the foster parent, and  
18 the chief physician from Western Psych. This is duly  
19 recorded in the notes we later received in discovery  
20 from Western Psych's clinic.

21 Other information gained through the  
22 discovery documents was that CYS lied to us repeatedly  
23 about the health and welfare of our daughter. During  
24 the 14 months that we did not see or talk to her, she  
25 was actually hospitalized. We never were told.

1           Our system of government, as was said by  
2 the chairman early on, is based on a presumption of  
3 innocence until proven guilty. In child abuse  
4 proceedings, however, this right is washed away in a  
5 sea of emotionalism. The San Diego County grand jury  
6 in a February 1992 report on this subject noted the  
7 burden of proof, contrary to every other area of the  
8 judicial system, is on the alleged perpetrator to prove  
9 his innocence. My wife and I have been fortunate. All  
10 charges against us were dropped last April during  
11 pretrial proceedings, when our daughter refused to  
12 continue.

13           After more than a year of therapy, our  
14 daughter has disclosed that the allegations, which she  
15 made under stressful situation, were totally without  
16 substance. Based on her recantation, she has returned  
17 home and our family unit is beginning to get back  
18 together.

19           Incredibly, she had been told by her  
20 court-appointed child advocate that she would be  
21 arrested if she ever recanted. The truth of the matter  
22 is Nicole is not protected by the very system and was  
23 in fact perhaps the greatest victim in this entire  
24 tragedy. After being convinced that she had been  
25 sexually abused, she was placed in a foster care where,



1 again, Western Psych's treatment notes document she was  
2 physically and emotionally abused. And at one time it  
3 became bad enough that they did at least consider  
4 alternate placement.

5 An opinion on the appropriateness of the  
6 entire proceedings against us was issued by Judge  
7 Robert Dauer, Chief Judge of the Court of Common Pleas  
8 of Allegheny County. He wrote, "The horrendous  
9 criminal charges against Mr. Althaus and Mr. Stipetich  
10 were directly attributable to promptings of a teacher  
11 and foster parent, county social workers, treating  
12 physicians, and police officers which may have been  
13 altruistic but were based on false information that  
14 should have been further investigated and questioned.

15 Mr. Marino said earlier today that the  
16 system has the wherewithal to prosecute those who  
17 perpetrate false reports. It didn't happen in my case,  
18 and I wish I could believe him. However, I believe  
19 there needs to be legislative mandates that require  
20 accountability where allegations are determined to have  
21 been filed based on malicious intent or from  
22 individuals who have persuaded a child to make false  
23 allegations. In addition, CYS and its personnel must  
24 be, on an organizational and individual basis, held to  
25 a level of professionalism and accountability

1 commensurate with the power with which we give them and  
2 the responsibilities of their job.

3 Thank you very much.

4 CHAIRMAN CALTAGIRONE: Thank you. Thank  
5 you both.

6 Questions? Representative Manderino.

7 REPRESENTATIVE MANDERINO: Thank you, Mr.  
8 Chairman.

9 BY REPRESENTATIVE MANDERINO: (Of Mr. Abromowitz)

10 Q. Mr. Abromowitz, I appreciate and am very  
11 sensitive to the emotional issue that this is for you.  
12 We have an equally onerous job, as you have indicated,  
13 in trying to determine what's the appropriate or  
14 responsible thing to do. I guess my questions are  
15 going to then just be limited to my concerns with  
16 regard to House Bill 826, and I just want to make sure  
17 that I understood from your testimony that it was your  
18 wife who made the initial reporting of child abuse,  
19 correct?

20 A. Correct.

21 Q. And your daughter was 3 1/2 years old at  
22 that time?

23 A. She just turned 3.

24 Q. Okay. Now, you were here all morning.  
25 Did you hear District Attorney Marino and District

1 Attorney Zimmer?

2 A. Yes, I certainly did.

3 Q. Based on what they said in terms of if  
4 there was 826, would you report your wife for the false  
5 child abuse claims and go through the criminal  
6 prosecution as they described what they would have to  
7 do with your child being the one testifying?

8 A. I think the fastest and most  
9 all-inclusive way to answer that question would be to  
10 recount how I tried to approach this when the  
11 allegations first came down. I said to my wife when  
12 she first told me what happened over the phone, and I  
13 said to the caseworker at Children and Youth Services  
14 who conducted the initial interview, look, if someone  
15 comes to you and tells you, whether it be my daughter  
16 to my wife, which I didn't know whether it happened at  
17 that time, or my wife to Children and Youth Services,  
18 they say to you something like that, how could you not  
19 at least have some suspicion that you must look into  
20 and check this out? I said to my wife, if in fact our  
21 daughter said that to you, I can certainly understand  
22 how you would consider the possibility of it being  
23 true. You must. All I ask is that from this moment on  
24 you pursue the truth with the same relish in every  
25 single direction, pursue all possibilities in an expert

1 way, including me. I insist that you answer the  
2 question of whether or not I abused my daughter, but do  
3 it all the way around.

4 Q. So that what you're saying then is what  
5 you experienced was a travesty of what happened after  
6 the report was made?

7 A. That's correct. It may have been, it may  
8 or may not have been based on motivations of false  
9 allegations in the first place, but that's not  
10 important, and it need not be, and that was the thought  
11 that came to my mind when the district attorneys were  
12 here earlier. What's the difference what the truth is  
13 at the moment that you're told this? What really  
14 matters is the pursuit of truth. When they tell me you  
15 can't have the answer to your question, I say to them,  
16 that may inevitably be true, but the pursuit of that  
17 truth in an expert and deep way will answer a lot of  
18 other important questions and help you get to the  
19 bottom of justice. And that's what you need to try and  
20 accomplish here. And it does.

21 Q. Okay, thank you very much.

22 BY REPRESENTATIVE MANDERINO: (Of Mr. Althaus)

23 Q. Mr. Althaus, I guess my question is the  
24 same to you. The initial report in your case came from  
25 a school teacher. Were you also here when Mr. Marino

1 and Mr.--.

2 A. Yes, I was.

3 Q. --the other district attorney's name has  
4 escaped me--testified. And I guess my question is, if  
5 we had 826, would you pursue criminal allegations  
6 against that initial reporter, or do you think that the  
7 problems came in after the initial report was made and  
8 how the case was handled?

9 A. Based on the documentation that I have  
10 now, yes, I would pursue actively against her. We  
11 have, in fact, filed suit against her in Federal  
12 district court.

13 Q. Okay. And under what grounds did you  
14 file?

15 A. Civil rights violations. She's part of a  
16 multi-defendant suit.

17 Q. Do you feel comfortable with what the  
18 district attorneys told us in terms of there being  
19 other avenues available, I'm talking just from the  
20 initial reporting, when he talked about false reporting  
21 or perjury or those kinds of things, you found an  
22 avenue through a civil rights violation, so you are  
23 pursuing that?

24 A. Well, I'm pursuing it, of course, but I  
25 feel very comfortable that the district attorney's

1 office would not have done anything in this case. In  
2 fact, Judge Dauer in his ruling took -- the headline in  
3 the paper was that he spanked the prosecutors, and in  
4 essence he considered their work in my case to be  
5 borderline prosecutorial misconduct. So I don't think  
6 I'm going to get much support from the district  
7 attorney's office.

8 Q. Okay, so what you're saying is your  
9 feeling is that had you pursued a false accusation  
10 criminal charge, they just wouldn't have taken it up?

11 A. Probably not in my case.

12 Q. Okay, but for those same reasons you feel  
13 that if we had a criminal statute here, they would take  
14 it up?

15 A. I think if it was more specifically  
16 written, as Representative Birmelin has done, yes. I  
17 think they would be forced to.

18 Q. Thank you.

19 MR. ABROMOWITZ: May I, if I just may.

20 REPRESENTATIVE MANDERINO: Sure.

21 MR. ABROMOWITZ: If remember earlier when  
22 you asked the district attorney, or it might have been  
23 you, sir, had they ever pursued through the tools that  
24 exist now, his answer was no.

25 REPRESENTATIVE MANDERINO: Well, Mr.

1 Marino from Montgomery County said that in his cases  
2 that he prosecuted and in his years when he was DA  
3 didn't remember one. Chairman Blaum said that when he  
4 checked with the Luzerne County DA, which is his DA,  
5 that they had, in fact. So there are, you know, it  
6 seems like it's different counties treat it  
7 differently, just as different counties, it appears,  
8 their judges treat it differently, different counties.  
9 Mr. Marino said there seemed to be a county where there  
10 were papers that were, of course, given out pre-signed,  
11 and other counties would never do that. So I'm  
12 understanding all those issues. I'm just trying to put  
13 it all together and get your feeling in terms of since  
14 you've had the specific experience with the judicial  
15 system how you would view those at that particular  
16 point.

17 MR. ABROMOWITZ: I do, by the way, also  
18 have a civil suit against Allegheny County Children and  
19 Youth Services.

20 REPRESENTATIVE MANDERINO: Very good.  
21 Thank you.

22 CHAIRMAN CALTAGIRONE: Thank you,  
23 gentlemen, for testifying.

24 We'll next hear from Nancy Rorem, Larry  
25 Breitenstein. Warren Lewis. So if you want to

1 identify yourselves for the record, and some other  
2 people here. If you want to start from the right and  
3 go left and identify yourself and start your testimony.

4 MS. ROREM: Good afternoon. My name is  
5 Nancy Rorem, and with me is Lynn Keltz. She is  
6 replacing Larry Breitenstein, who is in court today.

7 MR. LEWIS: My name is Warren Lewis. I'm  
8 with the Department of Public Welfare, the Division of  
9 State Services. One program in that division is the  
10 ChildLine and abuse registry.

11 MR. MILLER: Good afternoon. My name is  
12 Lee Miller. I'm with the Department of Public Welfare,  
13 Office of Children, Youth and Families, and I'm the  
14 director of the Division of Program Planning and  
15 Development in Children and Youth and Families.

16 MS. ROREM: Well, let me begin. As I  
17 said before, Lynn Keltz is sitting in for Larry  
18 Breitenstein. Lynn has just joined the County  
19 Commissioners Association as the assistant director of  
20 Children and Youth Administrators Association and is  
21 formerly the administrator of the Jefferson County  
22 child welfare agency, and I am going to rely on Lynn if  
23 you ask me real technical questions about what exactly  
24 happens in an abuse investigation.

25 We are here today to discuss House Bill



1 826 specifically, and in general to talk about the  
2 problems of malicious and false reporting. I'm going  
3 to try and summarize my testimony. I know that the  
4 hour is getting late.

5 We have asked Children and Youth  
6 administrators what they think of the bill and have  
7 received quite a bit of a response from them. First,  
8 the administrators continue to clearly acknowledge the  
9 problem that false and malicious reporting creates for  
10 both their agencies and the parties involved.  
11 Secondly, they also responded that the proposed law  
12 would not solve the problem in a responsible way. In  
13 fact, we have not yet heard from any county who is in  
14 support of the bill as it is currently written.  
15 Attached to my testimony is a compilation of many of  
16 those comments, and I'm going to go over some of the  
17 other concerns we have about the bill.

18 The first is that we believe that if this  
19 legislation is enacted, it will discourage reporting,  
20 which is the exact opposite of the intention of the CPS  
21 law. Pennsylvania lawmakers, in enacting the CPS law,  
22 made an assumption that persons reporting child abuse  
23 do so out of good faith. In addition, they decided  
24 that the charge of child abuse is a very serious one  
25 and therefore made that definition of child abuse one

1 of the most restrictive in the country. Because of  
2 this narrow definition, and I have to say that Attorney  
3 General Preate has called it one of the worst laws in  
4 the country because of its narrow focus, we do not  
5 presently comply with Federal standards, nor do we  
6 receive Federal funding for child abuse. Our child  
7 abuse definition is significantly more narrow than  
8 others.

9           Pennsylvania, with four times the  
10 population of Tennessee, produces the same number of  
11 founded abuse charges. Is that because Tennessee has  
12 more child abuse? Probably not, but it is, in all  
13 likelihood, because their definition is much broader.  
14 To compensate for this narrow definition, Pennsylvania  
15 lawmakers crafted a system that allows for the widest  
16 reporting possible. In essence, they said that they  
17 did not expect citizens to understand the legal  
18 standards involved and therefore did not want to impede  
19 reporting. Instead, they wanted to give families a  
20 chance for early intervention and services. They  
21 seemed to understand that while some caretakers deserve  
22 punishment, most need help. This position has been a  
23 courageous one and balances the dichotomy of public  
24 opinion, that on the one hand insists that no child  
25 dies as a result of child abuse, and on the other hand

1 warns against overintrusiveness in the lives of  
2 families.

3 Lawmakers also agreed that in order to  
4 encourage reporting, as well as to protect families  
5 being investigated, that confidentiality must be  
6 available to protect the family, the child, the  
7 reporter, and the perpetrator or alleged perpetrator.  
8 These confidentiality laws are sometimes burdensome,  
9 but they are fundamental to the design of  
10 Pennsylvania's Child Protective Services Law. We  
11 believe that if this legislation is enacted, it will  
12 tip the balance.

13 Representative Birmelin says that he  
14 doubts that this law will lead to many convictions. We  
15 agree. But for every one conviction made, there may be  
16 hundreds of reporters who are threatened or harassed.  
17 We can see the threat of legal expenses or possible  
18 convictions coming into the decision making process for  
19 mandated and voluntary reporters. We believe that  
20 mandatory and voluntary reporters will think again and  
21 again for reporting. Again and again thinking may mean  
22 that fewer false reports will occur. That will be a  
23 very positive result, but it may also mean that more  
24 children will sustain serious injury or even death.  
25 We believe that false reporting occurs in less than 5

1 percent of the investigations made.

2 . . . . . And the second reason why we oppose this  
3 bill in its present form is that we believe that if  
4 this legislation is enacted, malicious and false  
5 reporters will quickly learn that they can make the  
6 same report but must do so anonymously, or worse yet,  
7 give a false name. This has come up at least one other  
8 time today, but I can't emphasize it enough.

9 . . . . . Sometimes the best information that child  
10 welfare agencies get from a report made is about the  
11 relationship between the reporter and the child. This  
12 helps us understand the seriousness of the abuse and  
13 gives us a place to start. If reporters report  
14 anonymously or give a false name, that important lead  
15 will be gone, and we think that that's probably what  
16 will happen.

17 . . . . . Administrators report that when malicious  
18 or false reports are made now, they almost exclusively  
19 involve child custody cases and are a symptom of very  
20 serious problems in a family. These reports are not  
21 necessarily malicious or false reports. They do not  
22 indicate a need for protective services, but probably  
23 do indicate a need for a referral to some other agency.

24 . . . . . If there is an answer to the issue of  
25 false or malicious reporting, we believe that this

1 information regarding custody disputes may provide us  
2 with a lead toward a workable solution. We think we  
3 ought to look at the statutes involving custody  
4 proceedings. Mediation prior to custody proceedings  
5 could prevent some of these reports and reduce the  
6 number of referrals the child welfare agencies now  
7 handle. It might also be possible for us to develop as  
8 part of our screening process a look to see if these  
9 are really upsetting custody disputes.

10 The provision about encouraging a child  
11 to make false reports is appealing to us. These cases,  
12 when they happen, are very disturbing. We think,  
13 however, that they might already be covered under the  
14 child abuse definition of emotional abuse, and we  
15 believe that this portion of the bill needs further  
16 exploration but may also provide us with a direction  
17 about solving false or malicious reports. In short, we  
18 believe that the cure that this bill may provide is  
19 worse than the disease. Quite frankly, we would love  
20 to figure out ways to end malicious reports but we need  
21 to do so in a way that will not threaten  
22 confidentiality or harm children.

23 Now let me switch and talk about numbers  
24 for a few minutes. While we readily admit that we do  
25 not have much information about the number of false or

1 malicious reports, some numbers will be helpful to put  
2 this problem in perspective. Earlier this year the  
3 Luzerne County judge who hears Children and Youth cases  
4 and custody cases did some research. He found he  
5 presided over 950 child custody disputes in 1992, of  
6 which he referred about 10 percent or so to the child  
7 welfare agencies as possible abuse cases. The director  
8 also looked at the 1992 data and found that his agency  
9 had done about 2,000 intakes in 1992. About 750 of  
10 them were assigned to CPS, the Child Protective Service  
11 unit, as potential abuse, and 1,250 or so were assigned  
12 to the General Protective Services. Of these cases,  
13 including the judge's 10 percent, 50 cases were also  
14 child custody cases. Of these 50, 5 were eventually  
15 indicated as abuse. This leaves about 45 cases, or  
16 about 2 1/2 percent, where there may have been false or  
17 malicious reports involved.

18 The numbers of calls in Pennsylvania are  
19 going up, but the number of calls in relationship to  
20 substantiated reports is virtually the same as it was  
21 10 years ago. At the back of my testimony there is a  
22 chart that I want you to look at, and it is a chart of  
23 information taken out of the child abuse reports from  
24 the Department of Public Welfare. Approximately 33  
25 percent of the reports received are substantiated, and

1 that has been virtually the same since 1981. We've got  
2 a 10-year period here that we have tracked.

3 And finally, let me add something about  
4 some dollars. Pennsylvania spends, from all sources,  
5 that's Federal, State and local dollars, approximately  
6 \$775 million on child dependency and delinquency  
7 system. Of this figure, \$20 million is spent on the  
8 investigation of child abuse. If we want to curtail  
9 increased costs in the child dependency and delinquency  
10 system, we need to look at the cases that do come into  
11 care and figure out how to prevent the intake in the  
12 first place.

13 Let me end by saying that working in the  
14 child welfare system is difficult. Unfortunately,  
15 mistakes are sometimes made. These mistakes sometimes  
16 mean that administrators or workers get sued or fired.  
17 They mean that families and alleged perpetrators get  
18 hurt, and sometimes they mean that children get injured  
19 or die. We are all too aware of the vulnerability of  
20 our system and the possibility of human error.  
21 Therefore, we are in the process of doing a couple of  
22 things that we think will help.

23 First, we are requiring that all Child  
24 Protective Service workers receive intensive training,  
25 pass a test and are certified. I couldn't agree more

1 with the criticism today about the need for competent  
2 child welfare workers, people that are well-trained and  
3 experienced in the issues around child welfare. We  
4 hope to extend this to the rest of the system as well.  
5 We think that certification for Child Protective  
6 Service workers is not enough, and we believe that  
7 General Protective Service workers, as well as all of  
8 the workers in our provider agencies, need to be at the  
9 point where we are certified as to their ability to  
10 deal with very complex laws and very complex family  
11 problems.

12           Second, we are in our third year of  
13 implementation of something called risk assessment.  
14 This tool and process means that some of the guessing  
15 is no longer necessary. Using risk assessment, each  
16 CPS worker reviews each child and family, based on  
17 reliable measures, and that helps them to assess  
18 whether any intervention is necessary, and if so, at  
19 what level. We believe these two changes, when fully  
20 implemented, will go a long way towards further  
21 professionalizing the child welfare area.

22           Thank you.

23           MR. MILLER: As I indicated, my name is  
24 Lee Miller, with the Office of Children, Youth and  
25 Families, and I've been in this system perhaps too



1 long. I've done child abuse investigations myself many  
2 of them, at least five years of it. I was a supervisor  
3 of tech services. I helped establish ChildLine, and  
4 I'm at the policy end of this business. And I might  
5 add that I've also been personally involved in terms of  
6 experiencing my own divorce, and although I did not  
7 have custody issues, I've had some of the same feelings  
8 that occurred here today. So I bring that perspective.

9 I've heard a lot today about child abuse  
10 laws, and there seems to be a lot of confusion between  
11 a child abuse law and a criminal act, and  
12 understandably, people often confuse those two systems  
13 - civil law, and I guess you would call this social  
14 legislation. Child abuse laws were never intended to  
15 punish people. The standards, if you look at the  
16 national standards of the Child Abuse Prevention and  
17 Treatment Act, if you look at other State's laws, their  
18 intent is not to identify people and punish them. Now  
19 granted, our law was changed somewhat to require  
20 reporting from police, but that's merely all connected  
21 into another system. Our law does connect to the  
22 criminal system, but it's not a criminal statute. And  
23 I think it's important that that be made clear. The  
24 intent of our law is to identify families in need of  
25 service, children in need of protection, if abuse has

1 occurred, to offer remedial action to the perpetrator,  
2 for the child, and only as a last resort to move the  
3 child from the home. And believe me, our child welfare  
4 workers out in the field earning \$14,000 to \$18,000 a  
5 year doing this job aren't in it for the money. They  
6 are not finding child abuse, because all that does is  
7 increase their caseloads and their salary doesn't  
8 change at all

9                   So anyhow, I think it's important to make  
10 that distinction. This act was created to identify  
11 children in need of protection, families in need of  
12 service. You have a difficult job on these issues.  
13 The debates have gone on endlessly, the debate was in  
14 Congress, the debate has occurred in every State. The  
15 same debate occurred in these walls 20 years ago when  
16 Senator Michael O'Pake championed this law. And when  
17 he went around this State, I remember him going around  
18 this State talking about the urgent need for this law.  
19 He made a statement that I think speaks to the balance  
20 that needs to be achieved. He said, child abuse is a  
21 problem which festers within the isolation of family  
22 privacy. Festers within the isolation of family  
23 privacy. That is why child abuse laws are atypical.  
24 That is why when we balance the scale on the child's  
25 side, we change some of the rules of evidence. The

1 traditional criminal accused has the right to face the  
2 accuser is modified because we're talking about  
3 something that has occurred within the isolation of  
4 family privacy. It's a difficult situation.

5 In fact, we were all ready to go with  
6 this law back in 1974 when Governor Shapp vetoed it.  
7 All set to go, everyone ready to begin this process,  
8 and wouldn't you know it, Governor Shapp vetoed the  
9 law. Why did he veto the law? Because of the very  
10 same concerns that you are here to address today. The  
11 primary reason that led him to veto this act was that  
12 there were people, I think it was specifically  
13 Community Legal Services in Philadelphia, that  
14 convinced him that the law was too heavily weighted in  
15 favor of children and that due process protections of  
16 parents, okay, were inadequate. Okay, the law was  
17 vetoed. Then those due process protections, procedural  
18 safeguards, if you will, were ended and then finally  
19 the bill was passed in November of 1975. We started  
20 operating ChildLine I think it was March of 1976. But  
21 there were some significant changes. And I think those  
22 changes were designed to address some of the issues  
23 that you are hearing about today.

24 First of all, the confidentiality  
25 provisions of the law were strengthened during that

1 period of time. There is a close circle of  
2 confidentiality. When a case is reported, these cases  
3 cannot be freely shared with anybody. Another thing  
4 was added was appeal rights, the right to appeal these  
5 situations, the right to appeal information that might  
6 be being maintained in our registry or at the county  
7 agency, information which might be inconsistent with  
8 the law. Another important feature provided for the  
9 destruction of unfounded records. Unfounded reports  
10 are destroyed. They have been and they continue to be  
11 destroyed at the State level and the county levels.

12 Another issue that Ms. Rorem spoke to was  
13 the issue of what constitutes the definition of child  
14 abuse? How broad should we make this definition? And  
15 I think it's safe to say that Pennsylvania's definition  
16 of child abuse is the most restrictive in the nation  
17 right now. This legislature has consistently held that  
18 child abuse is going to consist of serious injury to a  
19 child or sexual abuse. There have been attempts over  
20 the past 10, 15 years to change that, and I think this  
21 legislature has been very consistent in holding to that  
22 standard. But anyhow, I think that was an issue in the  
23 debate back in 1974 and 1975 in terms of balancing of  
24 the scale. How broad do we make the law, how narrow do  
25 we make the law?

1                   In the interest of time, I've been known  
2 to be long winded, I'll just cut through, and you've  
3 heard a lot of this already today, so let me just cut  
4 through what I consider to be considerations, our  
5 recommendations to you in looking at this issue in  
6 terms of what you should consider in making a decision  
7 on this issue.

8                   First of all, what is the extent of the  
9 problem? And that's where we really have a problem.  
10 We don't know the extent of this problem. We're  
11 beginning now to hear today about some surveys in  
12 counties. We're looking at 25,000 reports a year. Is  
13 it 1 percent, 250 situations; 10 percent 2,500? And  
14 that's significant. And we've heard too today the  
15 comment that if it's not broke, why fix it? And I  
16 think it's significant that we determine the extent of  
17 this issue.

18                   Another consideration is let's be careful  
19 that we don't create disincentives for the reporting of  
20 suspected child abuse. The change after the passage of  
21 this law was dramatic in terms of reporting. In 1974,  
22 for example, there were 2,800 reports of suspected  
23 child abuse, and as you've heard, in 1982, over 25,000  
24 reports made, an 800-percent increase in the reporting  
25 of suspected child abuse. And it's no secret that

1 prior to this law being passed, people, many people who  
2 saw suspected abuse turned away, denied existence of  
3 the problem, feared retaliation if they reported, or  
4 sadly just didn't care, as we see so often today.

5 Another consideration I think that you  
6 should keep in mind, as was mentioned by Ms. Rorem, is  
7 what I would call the underground factor, and that is,  
8 will this policy lead to more anonymous reporting, thus  
9 lowering the amount and quality of information  
10 available to conduct an adequate investigation? We  
11 heard a lot today about the competency or incompetency  
12 of the system and doing a good job in investigating.  
13 If we push reporting underground, so to speak, we're  
14 going to have less access to the people that are  
15 reporting. Information that we get will not be as good  
16 and as sufficient and it will affect the quality of our  
17 investigations.

18 Fourth, is the policy connected in a  
19 logical sequence? And what I'm speaking of here is as  
20 an example, if penalties are established for malicious  
21 reporting, how will an alleged perpetrator of child  
22 abuse know who to initiate the action against? The law  
23 prohibits the routine sharing of the identity of the  
24 reporter to the alleged perpetrator of the abuse. And  
25 if more reports were made nominally, the issue, of

1 course, will be moot, so that we don't see a logical  
2 connection in how this will work. In talking today we  
3 heard about, well, we can charge them, we can do all of  
4 this. Well, this law, except for the Secretary, only  
5 the Secretary can disclose the identity of a reporter,  
6 and we receive those requests. Mr. Lewis can talk  
7 about that. But people making reports, the identity of  
8 such persons are not routinely shared with the alleged  
9 perpetrator of child abuse. So we don't see how this  
10 system fits and how it would work.

11 Then finally, I think it's finally, well,  
12 not quite, and this I spoke about earlier and it  
13 relates to staying fixed on that star, that guiding  
14 star, that goal which I spoke about that this law seeks  
15 to achieve. What will be the impact of the policy on  
16 the child? Will the policy serve to protect the child  
17 and his or her parents, or place the child in conflict  
18 with his or her parents? And we heard a lot of  
19 discussion about that.

20 And I would like to say, too, that you're  
21 hearing about cases here today, unfortunate situations,  
22 but the cases that you don't hear about are the ones  
23 that we are able to resolve, the thousands of  
24 situations that our system is able to resolve. We know  
25 that we can resolve most situations with the child

1 intact with his or her family and safe from further  
2 abuse. There are thousands of those situations. And  
3 unfortunately, what we tend to hear and see are the  
4 children that die from abuse or people who are abused  
5 by the system. There are thousands that are held by  
6 this law. Let's make no mistake about that.

7 Now I would like to talk just briefly,  
8 and then I'll be finished, about the child custody  
9 issue, and having investigated cases and been involved  
10 in these, and as I said, personally involved, these  
11 situations are tough... Our State staff struggle with  
12 some of these situations. And they, I would say, are  
13 right in terms of for abuse of the system, as we heard  
14 here today. But let's not forget that these situations  
15 are also ripe for child abuse. They are ripe for child  
16 abuse. And what I'm saying is that the vindictive  
17 reporter today presents a higher risk of real child  
18 abuse tomorrow. The vindictive reporter of child abuse  
19 today could be a real report of child abuse tomorrow.  
20 In these situations, all of the ingredients that we  
21 know lead to child abuse come together. They all come  
22 together - high anxiety levels, hostility, projection  
23 of anger onto children. I know. I've been there....  
24 They come together. Don't let anyone ever tell you it  
25 isn't a situation where children aren't at risk.



1                   So, I think that pretty much summarizes  
2 the notes I made here. We certainly stand ready and  
3 willing to work with both committees for a solution.  
4 If you need us, we're here. I'll now defer to Mr.  
5 Lewis.

6                   MR. LEWIS: Mr. Chairperson, ladies and  
7 gentlemen, thank you for allowing us the opportunity to  
8 share some information with you. I would like to  
9 briefly describe, in respect of time, some of the  
10 operations of ChildLine, the program operated directly  
11 by the department and how they lay blame to the issues  
12 discussed today, which is clearly looking at the false  
13 reporting of child abuse.

14                   At ChildLine we use professional and  
15 trained caseworkers to receive reports of suspected  
16 abuse across the State. And as you've heard a number  
17 of times today, there is a requirement that certain  
18 persons who routinely see children and suspect abuse  
19 are required to contact ChildLine.

20                   The average length of time that our  
21 caseworkers have been in the CPS or child welfare  
22 system is approximately six years. Understandably, you  
23 have heard today about some county agency staff that  
24 may have a lot less experience in underlying  
25 investigative reports. That is a difficult problem to

1 deal with. Again, ours have an average of about six  
2 years' experience when they come to the program. As a  
3 result, they know the need to have specific information  
4 and as full information as possible when they are  
5 accepting their report of suspected abuse that needs to  
6 be investigated.

7 Sunday night is the night that we pay  
8 greatest attention to the issues of custody battles  
9 which can often lead to malicious reports or false  
10 reports. And I say Sunday night because we continue to  
11 try and be alert to issues that do affect a reporting  
12 of suspected child abuse and the safety of the children  
13 out there, as well as the rights of the parents and  
14 other family members involved. And of course the  
15 non-family members might also be in a position of  
16 responsibility for the children. But nonetheless,  
17 because that seems to be the time of the week that  
18 coincides with the ending of the custody visitation and  
19 the return of youngsters to the parent that has custody  
20 during the week, we've noticed that there's a trend to  
21 receive more complaints of that nature during the  
22 Sunday evening time, so we pay a great deal of  
23 attention to those issues.

24 In all calls that are received, not just  
25 Sunday night but all calls that are received, we look

1 for three issues that have to be present. We have to  
2 look for a specific child that's been identified as an  
3 alleged victim of suspected abuse, one who is under the  
4 age of 18 when the alleged incident occurred. The  
5 second thing that we look for is whether there is  
6 either an act of abuse or an injury that the youngster  
7 sustained. And then the third thing we look for is  
8 whether there's a perpetrator that falls within the  
9 definitions of the protective services law. As you  
10 know, it's confined right now to four categories -  
11 parents, paramours of parents, persons living in the  
12 same home as the child, and others persons who might be  
13 responsible for those youngsters.

14 If those three elements are not in place,  
15 then we do not assign that for investigation of  
16 suspected abuse. There are approximately 8,000 such  
17 reports annually, close to 9,000, that we refer to the  
18 Children and Youth agency not as suspected abuse but as  
19 other matters that would require their inquiry and  
20 investigation. Some of those do turn out later to be  
21 reports of suspected abuse. If those three elements  
22 are present, we do assign them for investigation.

23 For those who want to remain anonymous  
24 when making a report, we have a rather lengthy protocol  
25 that we have developed some years ago, in an attempt to

1 insure that there is some credibility for the  
2 information that they are providing to us. Likewise,  
3 we want to share our concerns with you and with the  
4 county agency in having someone that can be reliable  
5 and credible in making those kinds of reports, and  
6 therefore be available for the investigation as the  
7 agency pursues the pros and cons of whether something  
8 actually occurred with the child.

9                   We have a couple of other informal  
10 policies that may help you understand the efforts to  
11 which we go in being concerned about whether false  
12 reporting might occur. One is we have alerts, pieces  
13 of information that are shared with staff wherever  
14 there's been complaints particularly received from the  
15 county Children and Youth agencies, sometimes from the  
16 general public, about repeated reports of suspected  
17 abuse that may not have any basis to them. So we  
18 attempt to keep staff informed of those specific ones  
19 so that if we get a subsequent call about that, that we  
20 can pursue the inquiry in more depth. Again, in trying  
21 to weed out the false reporting, if you would.

22                   A second policy that we attempt to put in  
23 place and use as often as necessary is that when an  
24 agency has received an investigation from us and  
25 they've looked at this situation a number of times, we

1 will agree to what we term as voiding the  
2 investigation. The agency has looked into the safety  
3 of the child and determined that this latest completes  
4 another one in a series of what appears to be perhaps  
5 harassment calls or unnecessary calls. So there are  
6 things that we have done and continue to do and we  
7 continue to be alert to the need for those concerns.

8 When the Children and Youth agencies  
9 complete their investigations, we then have another  
10 responsibility at the office, and that is to review  
11 those summarized reports to insure that they have the  
12 documentation that comports with the regulations.  
13 We've heard today that it appears as though there are  
14 no standards by which the agents as such conduct their  
15 investigations. That's not really accurate. There  
16 are, in fact, regulations which specifically detail  
17 what the criteria must be in order to determine what  
18 abuse has occurred.

19 Of course, as Mr. Miller also mentioned,  
20 when reports are unfounded, they are destroyed, and  
21 that generally occurs within four to six months after  
22 they have been reported. That's a safeguard that we  
23 think is appropriate, necessary, and has been in the  
24 law since its existence.

25 And the last part of some of the steps

1 that are taken as defined by the statute are the appeal  
2 rights. We have heard today some testimony about how  
3 that appeal system does work and how sometimes it does  
4 not work.

5 I want to give you some statistical data  
6 as well. This is from the 1992 report, which is being  
7 released this week, and you will be receiving that as  
8 well. In 1992, there were 25,891 reports of suspected  
9 abuse, 8,419 of those were confirmed. I'd like to  
10 share with you some excerpts of these statistics that  
11 to us are indicators that the system may not be in as  
12 bad a shape or as much difficulty as you might think it  
13 would be in terms of concerns about false reporting or  
14 malicious reporting.

15 For example, anonymous reports comprised  
16 138 reports that turned out to be substantiated, or  
17 about 10 percent of all reports. Indicating that when  
18 an anonymous report is made, there certainly appears to  
19 be some very close scrutiny in arriving at a decision  
20 as to substantiation of existence of abuse. When  
21 reports are made by a parent or guardian, we've seen  
22 that about 30 percent of those were substantiated in  
23 1992. Again, an indicator that just because it comes  
24 from a family source doesn't necessarily mean that it  
25 could be substantiated, but on the other hand, we can't

1 rule it out as something that could not exist, because  
2 we are talking about those kind of problems that exist  
3 within the family circle. Relatives, reports that we  
4 get from them, the non-sibling, non-immediate family  
5 relatives, turn out to be about 25 percent of the  
6 substantiated reports -- I'm sorry, not 25 percent of  
7 the substantiated reports, about 25 percent of those  
8 reports made by them end up being substantiated. And  
9 about 40 percent of those made by siblings end up being  
10 substantiated.

11 I can also share with you something that  
12 I think is very important. About 62 percent of the  
13 reports that are investigated in Pennsylvania do come  
14 from mandated reporters. So that means less than 40  
15 percent are coming from what some may feel are less  
16 credible sources of information. Of those reports made  
17 by mandated reporters, approximately 72 percent of them  
18 are substantiated.

19 As you are also aware, there is a  
20 requirement for the Children and Youth agency in  
21 conducting their investigation to share certain reports  
22 with law enforcement authorities. In 1982, there were  
23 almost 9,000 of those reports shared with law  
24 enforcement, and about 5,300 of those reports that were  
25 shared with law enforcement were also substantiated.

1 Only 63 of those reports that were substantiated came  
2 from an anonymous reporter. Again, those that were  
3 anonymous but were referred to law enforcement agencies  
4 as required by the statute, and about 860 of those came  
5 from a parent or a guardian.

6 We had about 800 appeals in 1992, and  
7 generally about 17 to 20 percent of those appeals were  
8 overturned each year. To us, these are indicators that  
9 show that the system can work and does work. We  
10 continue to be concerned about this, and I would  
11 emphasize, as Mr. Miller had, that we are certainly  
12 open to working with the committees and with the  
13 legislature in attempting to look more closely at  
14 whether there's a better way to address the problem.  
15 Perhaps these indicators would say to you some of the  
16 things that they say to me, that the problem may not be  
17 as large as someone said, although that's certainly not  
18 intended to dismiss the fact that when the problem  
19 might occur, it can be very dramatic, very serious, and  
20 can harm an awful lot of people.

21 Thank you.

22 CHAIRMAN CALTAGIRONE: The increase that  
23 you're asking in the budget this year is the second  
24 largest, if memory serves me correctly, in the entire  
25 budget, is that correct? Do either of you know that?



1 Children and Youth Services, \$67 million, second only  
2 to Department of Corrections.

3 MR. MILLER: Oh, I'm not aware of what it  
4 is in relation to--

5 CHAIRMAN CALTAGIRONE: I'm aware of it.  
6 That's an accurate statement, and you could probably  
7 verify that with Appropriations, if you would like.  
8 That means we're spending a tremendous amount of money,  
9 taxpayers' money, in this area.

10 Let me pose a question to you gentlemen,  
11 and if you would care to jump in at any time, please do  
12 so. Would you consider it to be an ethical violation  
13 if there were an employee or employees working for CYS  
14 in any of these counties and also in the evening  
15 working for a psychological or psychiatric firm? And  
16 let me add one more proviso to that, that they might  
17 also happen to be seeing the same clients during the  
18 day that are then coming to them, directly or  
19 indirectly, by both directors and counselors at CYS  
20 agencies to psychological and/or psychiatric services  
21 that are treating these clients in the evening? Do you  
22 think that's an ethical violation?

23 MR. MILLER: Let me try to rephrase your  
24 question.

25 CHAIRMAN CALTAGIRONE: Anyway you want.

1                   MR. MILLER: The Children and Youth  
2 worker also works or is affiliated with a psychological  
3 firm in the evenings on the side, is that what you're  
4 saying?

5                   CHAIRMAN CALTAGIRONE: Yes.

6                   MR. MILLER: And that the firm--

7                   CHAIRMAN CALTAGIRONE: During the day the  
8 primary employer is--

9                   MR. MILLER: And that the firm then  
10 evaluates cases that arise out of that agency?

11                   CHAIRMAN CALTAGIRONE: Absolutely.

12                   MR. MILLER: Yeah, I think there may be a  
13 problem there.

14                   CHAIRMAN CALTAGIRONE: An ethical  
15 violation?

16                   REPRESENTATIVE MANDERINO: What ethic?

17                   CHAIRMAN CALTAGIRONE: State ethics law.  
18 I've checked with them, okay? I tried to get their  
19 answers before I got the question...

20                   REPRESENTATIVE MANDERINO: Mr. Chairman,  
21 I don't mean to be disrespectful. I do know that there  
22 are ethical requirements on me from my Bar Association.  
23 I was just unsure what ethical standards you were  
24 referring to for a State social worker.

25                   CHAIRMAN CALTAGIRONE: State ethical--

1                   MR. MILLER: I'm not aware of whether  
2 they're violating any laws. I would say that common  
3 sense says that there may be a potential for conflict  
4 of interest.....

5                   CHAIRMAN CALTAGIRONE: Can I suggest to  
6 you that I have documentation that that's going on and  
7 I can present that to the department?

8                   MR. MILLER: I think we would take a look  
9 at that.

10                  CHAIRMAN CALTAGIRONE: Would it concern  
11 you if there was a director of one of these agencies  
12 that is a director at CYS during the day and in the  
13 evening working at a psychological firm that is doing  
14 the direct counseling and maybe a very large percentage  
15 of that work?

16                  MR. MILLER: It would depend on the  
17 nature of the work, what's being done.

18                  CHAIRMAN CALTAGIRONE: Psychological  
19 services for children and families that are being  
20 treated.

21                  MR. MILLER: Is there a conflict of  
22 interest here would be one to look at.

23                  CHAIRMAN CALTAGIRONE: Is there?

24                  MR. MILLER: I don't know. That would be  
25 the issue... That would be the question.

1                   CHAIRMAN CALTAGIRONE: Legal counsel in  
2 the State Ethics Commission clearly indicated to me  
3 this week that they are very concerned, that that is  
4 directly a conflict of interest, without any  
5 equivocation.

6                   MR. MILLER: Representative, we receive  
7 many complaints. The State receives hundreds, I guess,  
8 I won't say thousands, of complaints of this nature  
9 about the system that we check out routinely, daily.  
10 We'll certainly be willing to, more than willing to  
11 explore.

12                   CHAIRMAN CALTAGIRONE: We will give you  
13 documentation. I have it from several attorneys that  
14 are concerned that this is taking place.

15                   I also was intrigued by the comment that  
16 you made from your personal experience, I guess we all  
17 have from various personal experiences.

18                   MR. MILLER: Sure.

19                   CHAIRMAN CALTAGIRONE: The original maker  
20 of this legislation, you have to ask yourself, was that  
21 person ever married? Did that person ever have any  
22 children? Did that person ever go through any life  
23 experiences? I mean, those are things that help to  
24 broaden your expertise, supposedly, in the crafting.  
25 Not that it's absolutely needed, but you were alluding

1. to--

2. MR. MILLER: You're speaking of the  
3. workers in our system?

4. CHAIRMAN CALTAGIRONE: No, not your  
5. workers, the crafter of the original legislation, the  
6. Senator who crafted the original legislation. It does  
7. help, I think that was the point that you were making,  
8. if you have some life experiences.

9. MR. MILLER: (Indicating in the  
10. affirmative.)

11. CHAIRMAN CALTAGIRONE: The number of  
12. employees, and I want to share this for the record, for  
13. the members and the public, the amazing growth, like a  
14. mushroom -- see, I was a production supervisor in Fresh  
15. Pack Mushrooms, and it's an interesting phenomena in  
16. State government. We keep trying to shrink it and  
17. agency people keep trying to balloon it, and I keep  
18. thinking to myself, dear God, I've been here since  
19. Shapp. When are we really going to start to see the  
20. shrinkage in government? And all we see is explosive  
21. growth, and I think Clinton is going through the same  
22. thing in Washington. But you've got to get the meat  
23. cleaver out at some point and you got to say, do it.  
24. Do it. Sunset them. Do it. Cut their existence. Cut  
25. their budgets. Force them to retrench.

1                   Number of employees. A local director  
2     from a certain county, a small county, I might add,  
3     Children and Youth Services--Philadelphia would of  
4     course come first, Allegheny County is second, who do  
5     you think ranks third in the State in the number of  
6     reported cases and is gloating over the fact that he is  
7     now in charge of 125 employees? Do you have any idea  
8     what county ranks third? Take a guess.

9                   MR. LEWIS: Is it Berks County?

10                  CHAIRMAN CALTAGIRONE: It is Berks  
11     County.

12                  You're familiar with the population size  
13     of our counties, and I think Berks probably ranks  
14     around 10, 11, 12, somewhere in that neighborhood. It  
15     certainly isn't third. Montgomery, Delaware, Bucks,  
16     much, much larger. You know, I want you to ponder some  
17     of these things as I throw them out. I'm intrigued by  
18     some of these little bits of information. You know, we  
19     all get these bits of information. And we're looking  
20     at very difficult times in our State budget, and I  
21     happen to have co-chaired the judiciary hearings with  
22     Dwight Evans just recently, and I said to Joe Lehman  
23     from Corrections, Joe, close down some of the older  
24     prisons. It will force solutions. Don't keep building  
25     a dynasty on the backs of the taxpayers in this

1 Commonwealth, because the more you build, the more we  
2 will pay. Come up with other solutions.

3 . . . If you think that this is only a sampling  
4 of the number of people, we plan to hold a hearing,  
5 unauthorized, in Philadelphia tomorrow about the number  
6 of false charges and false reporting. That if you  
7 think this is just a sampling of what's going on around  
8 the State, I'll say to you right now I can bring a  
9 thousand or more people to Harrisburg, and I think  
10 we're only on a tip of the iceberg about the false  
11 reporting and the intrusion into the people's lives.

12 . . . Now, I'm not saying this legislation is  
13 perfect. Nothing in the 17 years I've been up here  
14 have I ever seen is perfect. It isn't. I don't think  
15 there is anybody perfect around. The only guy that was  
16 was nailed to the cross. None of us are perfect.

17 . . . How much documentation I think was a good  
18 question is going to be needed to start to change the  
19 system. People have said to me, Tom, we really wanted  
20 to shut this system down and drive your hotline nuts,  
21 and I would like to hear from either one of you, is  
22 there a penalty if somebody calls in a report on a  
23 hotline which isn't true? I mean, can you do anything  
24 to that person? Especially if it's anonymous and it's  
25 a 1-800 number, correct?

1                   MR. LEWIS: That's correct. If it's  
2     anonymous and someone is making a call to a toll-free  
3     number, there is little, if any, opportunity to try and  
4     determine who that person might be.

5                   CHAIRMAN CALTAGIRONE: Would you follow  
6     up on it though? I mean, if there were reports,  
7     suppose your increase starts to build all of a sudden  
8     like on a Sunday evening, instead of this week a  
9     thousands calls you're going to get 5,000 calls. Maybe  
10    of them not all true, maybe some of the people will be  
11    shattered to have their names reported falsely and be  
12    under the incident number and be investigated, would  
13    that hurt the hotline?

14                  MR. LEWIS: Well, we would certainly be  
15    very concerned about reports that would continue to  
16    increase from anonymous reporters and we would  
17    obviously be concerned about anyone who might be doing  
18    so as some particular maneuver to prove a point. In  
19    fact, it might not be on the basis of that, because  
20    that would only exacerbate the problems that you've  
21    been hearing about in the hearings.

22                  CHAIRMAN CALTAGIRONE: Exactly. It would  
23    prove the point, though, that there is that potential  
24    that that is currently going on, setting forth a chain  
25    work of reaction. You talk about cases once they're



1 destroyed at the State level and you're insisting that  
2 they're destroyed at the county level, and I'm telling  
3 you that that is not the case. That is not the case.  
4 It is not the case... We will substantiate that.

5 MR. LEWIS: When that occurs, that's a  
6 violation of the statute.

7 CHAIRMAN CALTAGIRONE: It is a violation,  
8 and I am telling you right now it is not occurring, and  
9 I don't know how many counties that it's not occurring  
10 in, but that is a fact. Now, this is the thing that  
11 concern members, and I think your association  
12 particularly somebody ought to be put out on alert  
13 that, hey, this is the law and they are not following  
14 the law. Now, I'm very serious when I say that. And  
15 I'm telling you about some of these other incidents.  
16 There's going to be action taken. I mean, somebody is  
17 going to come up with some red faces before this is all  
18 over with. We're not just whistling Dixie here. We've  
19 got proof.

20 MR. MILLER: If you have such situations,  
21 please bring them to our attention. We have taken  
22 action in the past.

23 CHAIRMAN CALTAGIRONE: It will be.

24 MR. MILLER: We've had workers dismissed  
25 over this issue, or at least through our efforts the

1 county has dismissed them, so it's not that we haven't  
2 had involvement with this problem. If you have  
3 information, we need to know it.

4 CHAIRMAN CALTAGIRONE: Having dealt with  
5 hearings last session, not of my own choosing. These  
6 hearings were not of my choosing, as a matter of fact.  
7 The weapons in the arsenal for divorce and custody  
8 actions, we've heard it today here, we certainly heard  
9 it last year, and I think we're going to continue to  
10 hear it, and I think we need to come up with some type  
11 of solution and we were saying, and I think many of you  
12 agree that understaffed, overworked -- I was a social  
13 worker with Head Start back in the '60s. I was a  
14 special education teacher back in the '60s, and I'm  
15 telling you, unless you pay people a decent salary,  
16 especially social workers, you're going to have them in  
17 and out, in and out.

18 One of the suggestions that I would like  
19 to float, and it's only a suggestion, cut the size of  
20 the staffs in half and double their salaries. There's  
21 a chart that I just received on some of the lowest paid  
22 people in the county governmental area, and they are  
23 caseworkers. And it's a stopover point for most of  
24 them. They can't continue the training and educational  
25 qualifications that other people were talking about.

1 today because they're just barely existing. And  
2 instead of doubling the size of the staff at Children  
3 and Youth Services, maybe you ought to think about  
4 cutting the size of the staff and doubling the salaries  
5 for those that are there so that they can afford to  
6 live a decent life and you won't continue to see the  
7 turnover. It's just a suggestion. Very simplistic,  
8 probably won't work, or probably won't even be  
9 considered, but it's a thought.

10                   Somebody said to me, as a matter of fact,  
11 it just happened to be the Speaker of the House  
12 yesterday -- Tuesday. Sorry, Tuesday. CNN had a  
13 special on about these very issues that we're talking  
14 about, it was on, evidently, all day Tuesday. Of  
15 course, we were in until 11:30 that night and didn't  
16 get out of this place, but I would suggest that maybe  
17 somebody get a copy of that if somebody taped that. I  
18 think it would be a very, very interesting piece. I  
19 think CBS was doing something also. There were several  
20 other channels just recently that also did something  
21 very similar. So there's an outcry from people saying,  
22 hey guys, hey ladies, help us. There's abuses going on  
23 within the system and we think that there ought to be  
24 some cures. And when somebody's rights are being  
25 trampled upon, I don't care who it happens to be -

1 black, white, Hispanic, rich, poor, different, east  
2 west, whatever - all of our rights are being trampled  
3 on. And when these type of abuses continue, we all  
4 lose something. You've heard some of these stories  
5 here today and we're going to hear some more horror  
6 stories even worse, I think, in Philadelphia tomorrow.  
7 When those are happening, you've got to say to  
8 yourself, that's not justice.

9 I'll see if there's any questions.

10 CO-CHAIRMAN BLAUM: Mr. Chairman, I would  
11 just like to thank the members of the panel for their  
12 testimony. I think Chairman Callagirone raises some  
13 good points. I think some things were brought up  
14 earlier today, the fact that incorporating risk  
15 assessment throughout the system is a dramatic  
16 improvement which will better enable caseworkers to do  
17 a more effective and accurate job. The idea of raising  
18 the standards and certification and training for  
19 caseworkers, and from the comments made by the chairman  
20 just a few minutes ago, I think what we are looking at  
21 now, a minimum salary bill for these people who do this  
22 heroic work with huge caseloads of protecting children  
23 throughout our 67 counties, and if we can establish a  
24 minimum salary for these people, I think that we will  
25 vastly improve the system.

1                   So I think there are things we have to do  
2     and continue to do. But there's three very good  
3     examples that we can incorporate in legislation and  
4     pass and I think will do a much better job of  
5     protecting kids in Pennsylvania and weeding out any  
6     false reports from people who should, which is  
7     atrocious. It just continues to be my belief, and many  
8     people have testified, that this legislation won't do  
9     that, and I agree with some of the people here that it  
10    will just force more anonymous reports, and that's not  
11    what we're interested in, because the information,  
12    there is no ability to get information from those kinds  
13    of people that make those reports.

14                   So I think if we look toward the risk  
15    assessment, the better training and certification and  
16    raising the standards, and perhaps establish a minimum  
17    salary for Children and Youth workers, I think we'll  
18    begin to improve the system even more. Just my  
19    comments. Thank you very much.

20                   One question. One point I think I would  
21    like to make. When we talked about the number of  
22    reports that are made on a yearly basis, and I look  
23    forward to your 1992 report coming out, and X number  
24    are found to be indicated or founded reports,  
25    approximately about 34 percent, which is a conservative

1 figure. That is not to say, and I would like to ask  
2 you to respond to the statement, that is not to say  
3 that those found, those which are not found to be  
4 indicated or founded does not mean that there's not a  
5 problem there, does not mean that that person who  
6 picked up the phone and did their duty did not have a  
7 darn good reason for doing so. It just so happens that  
8 through the process of investigation it did not reach  
9 the standard of substantial evidence indicating serious  
10 physical injury or sexual abuse on a child, does not  
11 mean that that kid wasn't in trouble. And we can  
12 provide help to those families and hopefully prevent  
13 that child from ever being seriously injured and  
14 prevent that child from ever being sexually abused, and  
15 I would like you to respond to that, because I think  
16 when we talk about the fact that only 34 percent are  
17 indicated or founded does not mean that the remainder  
18 are not cases which were appropriately referred, and it  
19 was a darn good thing they were referred, because we  
20 can get help for those families and those kids. If you  
21 would just respond to that.

22 MR. LEWIS: You may have comments from a  
23 couple of us on that, but you are accurate that there  
24 are, as the law has clearly provided for since its  
25 establishment, that we're looking at cases of serious

1 abuse. And for Pennsylvania, in comparison to other  
2 States, our substantiation rate being around 33 to 34  
3 percent is lower than what it is in other States, where  
4 it's approximately 42 percent. The reporting rate for  
5 Pennsylvania is about 11 to 12 percent per thousand,  
6 and in Pennsylvania it's just shy of 9 percent on that  
7 one. So while we are slightly below the numbers of  
8 reports for the population and slightly below a  
9 substantiation rate, the legislature has clearly taken  
10 a position that what needs to be dealt with in  
11 Pennsylvania is the more serious cases. The other  
12 cases that are not labeled, so to speak, as child abuse  
13 are eligible and do receive services whenever there's  
14 an appropriate determination made. That's all part of  
15 the larger protective services system. The latter part  
16 of course being aimed at trying to prevent future  
17 abuse, particularly where it becomes of a serious  
18 nature.

19 MS. KELTZ: I would just like to add that  
20 as a former director of Children and Youth and a former  
21 caseworker, a large number of our clients did come to  
22 us through these initial abuse reports which became  
23 unfounded or unsubstantiated. Those were troubled  
24 families. We may have found children with special  
25 needs that were causing the family problems and then we

1 were able to tie those kids into services. We might  
2 have found an alcohol problem or a drug problem that  
3 would have become abusive in the future but instead we  
4 worked with the parents today to prevent the abuse of  
5 the future. So I think when you do look at those  
6 numbers it can look like, oh, well, those are false  
7 reports, but I would say from personal and professional  
8 experience that those are generally reports of troubled  
9 families, probably less than 5 percent of those had no  
10 problems at all, and probably less than 5 percent of us  
11 in this room have no problems at all. So I think that  
12 we do need to consider that our General Protective  
13 Services are very vital to the children of the  
14 Commonwealth.

15 REPRESENTATIVE BIRMELIN: Thank you, Mr.  
16 Chairman.

17 I am hesitant to engage myself in a  
18 numbers game. I know a lot of numbers have been  
19 bandied about today, and I would draw your attention  
20 back to the purpose and the reason of the legislation,  
21 which I indicated in my opening remarks, and I know  
22 that Nancy was here, I'm not sure that the others were.  
23 It doesn't matter to me whether or not one person was  
24 falsely and maliciously accused and destroyed or if  
25 there were 1,000. If there is a problem with that



1 being done and there is no recourse in law to correct  
2 that or to prevent it from happening in the future, we  
3 have to do that. And so I am not quoting any figures  
4 at you. I'm not talking about how many are founded or  
5 unfounded, because that's not the issue here, I don't  
6 think. The issue is whether or not the system of child  
7 abuse reporting can be used to destroy the lives of  
8 people through malicious and false reports; and I think  
9 that can happen today and I think we need to look at  
10 what we can do to prevent that from happening. So I  
11 hope we don't get -- and I'm not accusing you of this,  
12 but I hope we don't get defensive about this and start  
13 to back up, you know, why we think we should or  
14 shouldn't do something based on numbers. I don't think  
15 that's the correct approach that we need to take.

16 I will say I appreciate the participation  
17 and this dialogue with Ms. Rorem and et al, and will  
18 continue to do so with them and anybody else who is  
19 interested in discussing and working towards a solution  
20 to this issue. The bill, as I had indicated earlier,  
21 can be changed. It's only words on paper. Obviously,  
22 it would have a great impact if passed into law, and so  
23 we need to examine what would happen, but I believe  
24 that we want to pursue, at least I do, I want to pursue  
25 this issue. I do not want to let it drop. I'm not.

1 going to take the advice of our district attorneys who  
2 come in and say, well, it's fine, it ain't broke, and  
3 we don't need to do anything. Something is broken  
4 somewhere. Lives are being broken, and whether or not  
5 a district attorney believes that the law itself should  
6 be changed or not, to me it is not going to solve the  
7 problem, and I would encourage you folks, since you  
8 have probably the greatest experience in this area, to  
9 think seriously along those lines of how can we prevent  
10 false and malicious reports and destroying lives of  
11 people, a few of whom we've heard today, and I'm sure  
12 there are many more stories that could be repeated who  
13 didn't come.

14 So I would ask for your participation and  
15 encourage you to do that and let you know that as the  
16 prime sponsor of this bill, that's what I'm interested  
17 in. I'm not interested in ramming through the  
18 legislature my own personal agenda of what I think  
19 should and should not be done. I'm interested in  
20 solving what I think is a legitimate problem that needs  
21 to be addressed and is not being addressed today. So I  
22 thank you for coming and I appreciate your future  
23 cooperation.

24 MR. LEWIS: Thank you. I would just like  
25 to respond, speaking on behalf of the group, that our

1 presentation of numbers was not intended to be the  
2 answer to say that there is no problem. What it's  
3 intended to say is that we have been attempting to  
4 monitor what problems might occur under the protective  
5 services law under the child welfare system, and I have  
6 attempted to stay on top of the indicators that are  
7 there, and that's a sign of our willingness to continue  
8 to be interested and resolve problems.

9 CHAIRMAN CALTAGIRONE: Representative  
10 Manderino.

11 REPRESENTATIVE MANDERINO: Thank you, Mr.  
12 Chairman.

13 First, let me say that I share  
14 Representative Birmelin's concerns that we don't have  
15 laws designed that can ruin people's lives, and I do  
16 think that we've heard instances of that, but I also  
17 want to emphasize the other bounds which I'm sure  
18 Representative Birmelin agrees to, is that in looking  
19 at how we fix the problem, we want to equally make sure  
20 that we're not ruining or killing young lives as a  
21 result. So I really urge you to work with us on that.

22 Before I start my questions, I just want  
23 to make clear to most of the panel who I don't know  
24 that I'm a first-term legislator. My area of expertise  
25 is not the child protection laws, but yet as a member

1 of the Judiciary Committee I sit in evaluation on House  
2 Bill 826 and try to determine with the utmost sincerity  
3 and to the best of my ability whether or not 826 solves  
4 a problem that exists, whether or not it's the best way  
5 to fix the problems that we have. And so my questions  
6 are going to be designed specifically to ask that.

7 BY REPRESENTATIVE MANDERINO: (Of Mr. Miller)

8 Q. Our chairman, maybe Mr. Miller if you  
9 would, I'm sure anyone would feel comfortable but I'll  
10 ask you to, since you responded to most of Chairman  
11 Callagirone's questions, to respond to mine, asked  
12 about particular ethical violations from Children and  
13 Youth Service employees and whether or not they created  
14 a potential conflict of interest, and I did hear your  
15 answer. My question to you is, in your opinion, will  
16 House Bill 826 fix those or is something else necessary  
17 to fix that? If there is a problem, does House Bill  
18 826 fix it?

19 A. With conflict of interest?

20 Q. Yes.

21 A. I don't think it has anything to do with  
22 conflict of interest.

23 Q. Okay, so what you're telling me is that  
24 House Bill 826 doesn't fix the problem of potential  
25 ethical violations?

1           A. Right. I didn't understand that as being  
2 related to the bill.

3           Q. No, but what I'm trying to do is make the  
4 point that while we may have problems in the system, I  
5 am not sure that 826 fixes it, and if there are some of  
6 these problems that we're exploring that do exist and  
7 we've acknowledged that they exist and we've heard  
8 testimony that they exist and 826 addresses it, tell  
9 me, because then that impacts on my evaluation of 826.

10           Do county Children and Youth employees  
11 originate the reports of child abuse or do they  
12 investigate them after the reports have originated?

13           A. They investigate them after the reports  
14 have been originated. We always investigate them both  
15 at the statewide hotline, ChildLine, as well as locally  
16 in each county agency, and if a report is received  
17 locally first, the county is required then to register  
18 with the county.

19           Q. Okay, so if a child protection agency is  
20 being overzealous in their investigation, for whatever  
21 reason, their personal biases or because they have too  
22 many employees that they need to keep them occupied, is  
23 826 addressing that problem?

24           A. No. No.

25           Q. Something that really concerned me,

1 because a number of people -- you made the comment, I  
2 believe, or maybe it was Mr. Lewis, and whoever is  
3 appropriate, please respond, that there is a real  
4 concern about confidentiality and that documents are  
5 destroyed if claims are unsubstantiated, and yet a lot  
6 of people who testified here seem to know where the  
7 source of their reporting came from, who originally  
8 reported that. . . . Could you explain to me, since I'm not  
9 familiar with the system, why that is that everyone  
10 seems to know where the report came from.

11 MR. LEWIS: I can speak to that in some  
12 avenues. There are times when a reporting source is  
13 clearly willing to have their identity made known to  
14 the person on whom they are reporting. For example, it  
15 might be a therapist who is treating either the child  
16 or parents or the entire family and would share with  
17 them his or her obligation to make the report of  
18 suspected abuse based on information that came to that  
19 person's attention. Another example might be where  
20 someone made a report, they aren't necessarily directly  
21 involved with the family in a professional way but the  
22 family expresses an interest in knowing who made the  
23 report, expressed that to the investigative agency, the  
24 investigating agency speaks to the reporting source and  
25 that reporting source says, I'm willing for them to

1 know who I am. You can tell them and reaffirm to them  
2 what my concern was..

3 The third thing that happens, and perhaps  
4 this happens most often, is that clearly there are  
5 times when the reporting source may be one of a very  
6 few people and perhaps the only person who might know  
7 the events of a suspected abuse incident, and it would  
8 not be altogether possible for an accused person, an  
9 alleged perpetrator, to deduce that report came from a  
10 certain party.

11 And the fourth opportunity that arises is  
12 when the person who is alleged to have been the  
13 perpetrator simply guesses who it might be and talks  
14 as though they know or have been informed and when in  
15 fact they might not have been informed but by speaking  
16 as though they have they may receive some sort of  
17 confirmation that that is who the reporting source was.

18 REPRESENTATIVE MANDERINO: My next  
19 question is for Ms. Rorem. You told us something that  
20 I didn't know because of my newness, and that is that  
21 we do not, that there are Federal funds available that  
22 Pennsylvania does not receive because of how we choose  
23 to define child abuse?

24 MS. ROREM: Right.

25 REPRESENTATIVE MANDERINO: And could you

1 tell me what the distinctions are that make us  
2 ineligible, and if you know, how much money would be  
3 available to Pennsylvania, or by comparison to what  
4 other States get, how much money do they get from the  
5 Federal government?

6 MS. ROREM: This will be a group  
7 response, because I probably can't remember all the  
8 details. This was, in fact, a big issue about probably  
9 four or five years ago, and it was the introduction of  
10 House Bill 900. Governor Casey was proposing that we  
11 expand the definition of child abuse in this State in  
12 order to draw down Federal funds. What that basically  
13 entailed for us was to expand the definition of child  
14 abuse to include a lot of what we call neglect right  
15 now. And so it was the County Commissioners  
16 Association who objected to the expansion of the  
17 definition saying that it was going to cost the State  
18 approximately \$30 million more in the way of funds  
19 because all of those children would have to be run  
20 through investigations, and that the amount of money  
21 available from the Federal government was about  
22 \$600,000, I believe.

23 MR. MILLER: About 7 to 8.

24 MS. ROREM: So that we felt that we  
25 already had a system that dealt with those neglect kids



1 in a way that's smarter, in a way that is not so  
2 evidence-oriented and prone to move into court and  
3 adversarial. We felt that we should keep the  
4 definition narrow but continue to protect all-kids.

5 Now, the actual issues of the definition,  
6 we have in our definition something that talks to  
7 religious beliefs and trying to not intervene in  
8 families in an abuse sort of investigation way when  
9 families hold religious beliefs that deal with medical  
10 practices. The Federal law would not allow that as a  
11 portion of our abuse definition. And then the other  
12 one was that neglect piece, that it was not serious  
13 injury, it was rather much, much wider.

14 MR. MILLER: Harm. The Federal  
15 definition speaks to harm or threatened harm, as  
16 opposed to our definition, which requires that if a  
17 child is to be considered, at least the child has to  
18 have suffered from serious injury, physical neglect,  
19 serious physical neglect, or sexual abuse. Now, sexual  
20 abuse doesn't have to qualify as serious. It's sexual  
21 abuse. So that's the basic difference. And the reason  
22 why -- well, there are other technical reasons.

23 REPRESENTATIVE MANDERINO: Okay, so if  
24 New Jersey -- does New Jersey follow the Federal  
25 definition, do you know?

1                   MR. MILLER: I'm not sure.

2                   REPRESENTATIVE MANDERINO: Just as an  
3                   example, if New Jersey follows the Federal definition,  
4                   an investigation of the exact same situation in New  
5                   Jersey might be considered substantiated, but in  
6                   Pennsylvania might not be considered substantiated?

7                   MR. MILLER: That's correct. Right. Our  
8                   threshold is considerably higher. Before, we called  
9                   the child a victim. And like I said before, the  
10                  legislature has been very consistent in this State  
11                  since 1975.

12                  REPRESENTATIVE MANDERINO: And then  
13                  finally, for whoever is most appropriate to answer  
14                  this, because I don't really know, I've heard alluded  
15                  to today as well as in the past, and again, this is my  
16                  ignorance of child protection services, of a registry  
17                  that once people are reported, their name ends up in  
18                  this registry, it kind of stays forever, even if it's  
19                  unfounded. Or at least that was the impression I got.  
20                  Could you explain to me the registry, how it works, and  
21                  where the potential problems might be from the registry  
22                  point of view that people are complaining of?

23                  MR. LEWIS: The registry is part of the  
24                  responsibility of the ChildLine program, the State's  
25                  child abuse hotline, and the statute very clearly..

1 states that only reports that are confirmed as abuse  
2 may be entered into that. If there are reports that  
3 are unfounded, they are never entered into that  
4 registry. They are, if you will, maintained for the  
5 period of time that they are being investigated up  
6 until the time that they are expunged, but there are no  
7 references to them, so that, for example, if I were  
8 alleged to have committed abuse and it were an  
9 unfounded report, while the clearinghouse, the central  
10 registry program would be aware of that report in my  
11 name because of the normal duties and the agency that  
12 handled it was aware of it, it is not maintained in any  
13 kind of a way that is available to anyone outside of  
14 that short period of time.

15 REPRESENTATIVE MANDERINO: Okay. So when  
16 we say something has to be founded or substantiated, is  
17 that just within the departmental procedures of  
18 Children and Youth, or does that include some sort of  
19 judicial proceeding at some level?

20 MR. LEWIS: Substantiated does include  
21 founded reports, which are those that involve judicial  
22 proceedings, and indicated reports, which are those  
23 that are based on other forms of evidence as required  
24 by our regulations.

25 REPRESENTATIVE MANDERINO: Okay. And

1       then I guess my last question about the registry, and  
2       maybe now I'm understanding it, because we only define  
3       people in Pennsylvania who are -- you gave us your  
4       three criteria, and under the persons in those  
5       criteria, people such as teachers aren't in that  
6       criteria, correct?

7                       MR. LEWIS: That's correct.

8                       REPRESENTATIVE MANDERINO: Okay, so for  
9       example, when I had an incident in my district that  
10      dealt with sexual abuse perpetrated by a teacher and  
11      the uproar in the community was that the teacher was  
12      not in the registry and so the next school district  
13      didn't know that when they hired him, in order to  
14      rectify that, we would have to expand maybe not what we  
15      define as child abuse but who we define as falling  
16      under the statute?

17                      MR. LEWIS: As perpetrators. That's  
18      correct.

19                      REPRESENTATIVE MANDERINO: Thank you.

20                      CHAIRMAN CALTAGIRONE: Let me just  
21      mention for the record, and I know you're still  
22      learning, you're in your 5th month, I'm in my 17th  
23      year, this bill could very well become a vehicle for  
24      all sorts of things, anything you can imagine. I know  
25      that some of you have been here a long enough time to

1 know what the amendment process is all about. It could  
2 eliminate the Department of Welfare, it could do a  
3 million and one different things, as a matter of fact.  
4 So amendments to any bills, sometimes called Christmas  
5 trees, can do all sorts of things to legislation. And,  
6 of course, it takes the magic number of 102 on the  
7 floor of the House and 26 in the Senate, and your  
8 father, who was an excellent master at developing  
9 legislation when we happened to have been in the  
10 minority and/or when the other Chamber happened to be  
11 controlled by the other party, we were notorious for  
12 doing things like that to legislation in order to get  
13 issues addressed, and he taught me well.

14 REPRESENTATIVE MANDERINO: God bless him,  
15 Mr. Chairman.

16 CHAIRMAN CALTAGIRONE: God bless him is  
17 right.

18 Counsel Andring.

19 BY MR. ANDRING: (Of Mr. Lewis)

20 Q. A few questions to clarify some of your  
21 testimony. A number of the witnesses have referred  
22 repeatedly to substantiated or unsubstantiated reports.  
23 By that the term you mean founded or unfounded?

24 A. Correct. Unsubstantiated reports are  
25 those that are unfounded. Substantiated are founded

1 and indicated.

2 Q. Okay. So when you referred to a  
3 substantiated report, it's either been founded or  
4 indicated?

5 A. That's correct.

6 Q. Okay, just to clarify that.

7 Now, did I get this correct, 60 percent  
8 of all reports come from mandated reporters?

9 A. That's correct, about 62 percent.

10 Q. Sixty-two percent come from mandated  
11 reporters. And of those, about 72 percent are  
12 substantiated?

13 A. That's correct.

14 Q. Okay. Well, I've got a numbers problem  
15 here. The first one is that if 62 percent of all  
16 reports are coming from mandated reporters, and 72  
17 percent of those are substantiated, that means you have  
18 well over 40 percent of the total reports that are  
19 substantiated right there, yet the numbers I see  
20 repeatedly are that only a third of the reports that  
21 are received are substantiated. Somehow that, unless  
22 you're saying that no other report other than from a  
23 mandated reporter is ever substantiated, even then the  
24 numbers don't add up.

25 A. Well, you're right about how you look at

1 statistics and use them, but the key here is that the  
2 72 percent of all substantiated reports refers to that  
3 portion that were confirmed or substantiated as abuse.  
4 We're switching our percentages, if you will, from  
5 talking about the total reports.

6 Q. Right.

7 A. Which 62 percent come from mandated  
8 reporters, to the substantiated ones, the 8,400. And  
9 72 percent of those--

10 Q. Come from--

11 A. --came from mandated reporters.

12 Q. Okay, so you're not saying that 72  
13 percent of all reports from mandated reporters are  
14 substantiated then. Some other figure?

15 A. I'm saying that 72 percent of the 8,400  
16 reports were generated by mandated reporters. I think  
17 we are saying the same thing on that last point.

18 Q. I still can't get these numbers right.  
19 Just a second now. How many reports are there total?

20 A. 25,800.

21 Q. Okay, how many of those come from  
22 mandated reporters?

23 A. Percentage wise, about 62 percent.

24 Q. So let's say just approximately 15,000?

25 A. That sounds good.

1 Q. Okay, now how many substantiated reports  
2 come from mandated reporters?

3 A. Of the substantiated, approximately 72  
4 percent come from mandated reporters.

5 Q. Okay, how many are substantiated?

6 A. About 5,900 or 6,000.

7 Q. That are substantiated, the total in the  
8 whole system?

9 A. That's correct.

10 MS. ROREM: That come from mandated  
11 reporters.

12 MR. ANDRING: Okay. That come from  
13 mandated reporters. So there we're looking at 6,000  
14 out of 15,000 that are substantiated from mandated  
15 reporters. And from other people we're talking about  
16 around 10,000 reports, and around 2,400 of them are  
17 substantiated. I'm just trying to get a figure on the  
18 breakdown of substantiated reports, so that 6 out of 15  
19 is, what, 40 percent, approximately, of those coming  
20 from mandated reporters are substantiated, and about 25  
21 percent of those coming from non-mandated reporters are  
22 substantiated. Okay, that's what I wanted to clarify.

23 Okay, another question I have again goes  
24 to terminology, and in Ms. Rorem's testimony here she  
25 says on one page that you believe that false reporting



1 occurs in less than 5 percent of investigations, and in  
2 another place it references 2 1/2 percent are false,  
3 and then it says that only 33 percent are  
4 substantiated, which would lead me to conclude that you  
5 would have 67 percent of these reports where there is  
6 no substantial evidence that any child abuse occurred.  
7 Now, whether you classify those as false are not, and  
8 this is the point I was trying to make earlier with the  
9 first set of witnesses, not indicating that those are  
10 malicious reports, but it seems to me you have a  
11 tremendous amount of resources being wrapped up in  
12 investigating these reports with 67 percent of them  
13 turning out to have no substantiation. And I think one  
14 of the issues here is how do you cut down on the  
15 resources you're wasting investigating reports without  
16 substantiation? I mean, how can we focus the resources  
17 better where there's child abuse occurring?

18 MS. ROREM: Let me address that just  
19 briefly. One of the reasons why I brought out the  
20 figure of \$20 million, \$20 million is what we spend on  
21 investigations, and \$775 million is what we spend on  
22 the child welfare system.

23 MR. ANDRING: Right.

24 MS. ROREM: So we are, if you can think  
25 of \$20 million as being light, we are very much

1 . spending a small amount of money doing these  
2 . investigations, making sure that we are focusing our  
3 . resources on those persons who really are abused, those  
4 . kids who are abused. . If you wanted to cut down on the  
5 . costs of the child welfare system, it's probably not  
6 . the abuse area that we ought to look at. Instead, we  
7 . ought to look at the number of kids that we provide  
8 . services to that are not indicated child abuse cases.  
9 . These are the kids that we accept into care, because  
10 . like Lynn was saying, there is something going on there  
11 . and that family is in trouble. But that is, by and  
12 . large, the majority of the kids that we're serving.  
13 . That's the big group of kids that we're dealing with.  
14 . And the Pennsylvania law discusses the importance of  
15 . dealing with abused people and abused cases in a very  
16 . aggressive, almost legalistic sort of way, and our  
17 . regulations speak to dealing with the General  
18 . Protective Services population in a preventive sort of  
19 . way.. So hopefully prevention keeps things from  
20 . becoming more in the abuse category.

21 . MR. ANDRING: Okay, now another question  
22 . I have here. Throughout the testimony there are  
23 . references to a lack of need or desirability for the  
24 . bill under consideration because we have such a  
25 . supposedly narrow definition of child abuse and this I

1 think the term is delicate balance has been referred to  
2 here and tipping the balance if we would enact  
3 Representative Birmelin's bill. Now, as I understand  
4 it, the County Commissioners Association is, in fact,  
5 helping draft or sponsoring or promoting a piece of  
6 legislation that would greatly expand the definition of  
7 child abuse, and in fact makes no changes in most of  
8 the reporting system where the protection is for  
9 parents. Now, if we have this delicate balance right  
10 now that we can't disturb by considering Representative  
11 Birmelin's legislation, how can we then turn around --  
12 how can you turn around and promote a bill that's going  
13 to vastly expand a definition of child abuse without  
14 putting in more safeguards for parents to keep that  
15 scale in balance?

16 MS. ROREM: I think that it would be fair  
17 to say that we view 1001, House Bill 1001, as a  
18 compromise. I gave you a little bit of background. We  
19 began this whole process understanding that Governor  
20 Casey wanted to open up the definition of child abuse  
21 very, very widely to include all abuse and neglect, and  
22 we disagreed with that. We said that that is way too  
23 far and we're going to wind up spending lots more  
24 resources on what we consider to be not the most  
25 important issue, which is that investigation. We think

1. the most important issue is dealing with kids who are  
2. abused. So from our point of view, 1001 is a  
3. compromise. And it does not expand the definition  
4. widely, it opens the door, we think, 10 percent. We  
5. think that our number of cases that may be founded as  
6. abuse will increase by 10 percent, and that's that  
7. threatened harm category. It has been very difficult  
8. for us to explain to the public how if a parent points  
9. a gun at a child, shoots the gun and the bullet misses  
10. the child, how that's not child abuse, and so it's very  
11. difficult for us to go back and say, well, but that  
12. child was not seriously harmed, therefore it's not  
13. child abuse. So we view 1001 as a compromise and a  
14. small expansion, and it's likely that it's not new kids  
15. that are going to be brought into the system, it's just  
16. moving some kids who are in our neglect population up  
17. into that child abuse category.

18. MR. ANDRING: Okay, now that example of  
19. shooting the gun at the child, that's the one that's  
20. been in all the papers and all the stories, which I  
21. think simply illustrates one of the problems in this  
22. whole approach is that there is no consistent  
23. integration between the provisions in Title 42 relating  
24. to dependency and child abuse law, because actually  
25. there's no such crime as child abuse. When you say

1 that a parent wouldn't be guilty of child abuse, they  
2 would be guilty of a crime, the child could easily be  
3 declared dependent. There's a vast range of court  
4 options, so, you know, that's one example that's used  
5 repeatedly to somehow create this impression that if a  
6 parent shoots a gun at their child, the child is going  
7 to end up staying in the home in Pennsylvania, which is  
8 absolutely not true. The child is going to be  
9 adjudicated dependent and the parent is going to be in  
10 jail for assault.

11 MS. ROREM: But that's exactly our point.  
12 We don't believe that this expands what it is that  
13 we're going to do. That child is probably, if they're  
14 not in the CPS category, they're in GPS.

15 MR. ANDRING: Well, this, I think, ties  
16 into another serious problem. It was indicated that  
17 the purpose of the Child Protective Services Act is to  
18 identify families in need of service. That's one of  
19 the purposes. It's very clear that this act has as a  
20 central purpose identifying alleged perpetrators of  
21 child abuse and plugging them into this statewide  
22 registry and telling people that they are these  
23 perpetrators. Now, again, whenever you mix up  
24 definitions, as I read the expanded definition in House  
25 Bill 1001, you could have a situation where a parent

1 has never touched a child in any manner, but if CYS  
2 would go into that home and determine that there's an  
3 unreasonable or substantial danger of harm--I would  
4 have to get the exact definition--that parent would  
5 then be entered in a statewide registry as a child  
6 abuser, even though the activity giving rise to the  
7 alleged abuse never involved any physical contact at  
8 all, or emotional contact. I mean, it could be a  
9 situation where maybe he had a father who drank too  
10 much and CYS thought that he presented a real potential  
11 of danger to a child. Now, under the new definitions,  
12 that father could be listed in a statewide registry as  
13 a child abuser and fall within the definitions.

14 MR. MILLER: The issue in those  
15 situations is that just by happenstance the abuse did  
16 not occur, but that all the ingredients that constitute  
17 child abuse are otherwise present. The system doesn't  
18 pretend to stop the initial abuse. I mean, we don't  
19 know, in most cases, unless we've already worked with  
20 the family, we don't know these families. They come to  
21 our attention when that first incident has occurred.  
22 So in these instances you have the ingredients of child  
23 abuse. The only thing that's absent is that by  
24 happenstance the bullet missed, the child wasn't hurt,  
25 et cetera, et cetera. The issue then becomes

1 protecting the child from further abuse, and that's our  
2 interest.

3 MR. ANDRING: Okay, that's not a problem.  
4 But again, you're not addressing the specific issue I  
5 raised... By your own statement you're indicating that  
6 you would have all the ingredients for finding child  
7 abuse under the expanded definitions in a situation  
8 where the actual abusive action has not yet occurred,  
9 where the conditions for abuse exist, and you're going  
10 to list somebody in a statewide registry, prevent them  
11 from being a school teacher or a child care worker or a  
12 number of other jobs because it had been determined  
13 that the potential for abuse exists in their home?  
14 That's, I think, again, a problem where you're mixing  
15 up definitions in an act that has in a number of  
16 different purposes and it's really not being thought  
17 through.

18 MR. MILLER: I think we respect your  
19 opinion on that and I think that is an issue that  
20 perhaps should be debated--

21 MS. ROREM: Will be debated.

22 MR. MILLER: --as we look at 1001.

23 CHAIRMAN CALTAGIRONE: If I may add  
24 something, and I know the prime sponsor of the bill  
25 sits right behind me, maybe some thought ought to

1 really be given to recommit the bill back to committee  
2 for some public hearings, because that bill has in fact  
3 been voted out and is ready for action, or at least  
4 could be potentially ready for action, without the  
5 benefit of additional information such as you just  
6 alluded to, and I think you had just indicated to  
7 Counsel Andring that there are some concerns that might  
8 need to be addressed.

9 MR. MILLER: We don't have concerns with  
10 it. We're clear. We support the inclusion of  
11 threatening serious harm in 1001, in part of developing  
12 that language. So we really don't have concerns. I'm  
13 just saying that I don't know that this is the forum to  
14 debate that.

15 CO-CHAIRMAN BLAUM: If I might, Mr.  
16 Chairman, 1001, which is the bill this session, was  
17 introduced last session and hearings were held on it by  
18 Chairman Ted Stuban and was thoroughly aired and  
19 reported out of committee and ready to go when the  
20 '91-'92 session of course came to a close and we merely  
21 reintroduced it, tinkered with it but did not change  
22 the definition of imminent risk of serious injury,  
23 sexual abuse, or sexual exploitation, and the idea of  
24 protecting children before the injury occurred even  
25 though the situation is the same and you can rescue the



1 child before it occurs, also the point being that was  
2 made by Ms. Rorem that the change in the definition  
3 still does not go as far as 49 other States. We hope  
4 that the change in the definition that will bring us  
5 into the 20th century can free up that Federal money  
6 that Pennsylvania does not get at this particular time  
7 because our definition is so narrow, and we're hopeful  
8 that the change will do that. But it must be  
9 recognized that even the change that's in 1001 is not  
10 as broad, is not as inclusive in protecting children as  
11 49 other States do it.

12 CHAIRMAN CALTAGIRONE: Let me just add  
13 that, you know, in fairness to this bill that we're  
14 talking about here today, this bill was voted out of  
15 committee in the last session, was dealt with. And I  
16 just think that it points out the need that maybe that  
17 1001 should have some hearings so that additional  
18 information would be gathered to help to improve the  
19 bill.

20 Now I'll refer back to Counsel Andring.

21 MR. ANDRING: Because there's another  
22 issue here that comes up in reading the testimony  
23 that's been submitted and referring to what's proposed  
24 in 1001 is risk assessment. And the testimony reads,  
25 "using risk assessment, each CPS worker reviews each

1 child and family, and based on reliable measures,  
2 assesses whether any intervention is necessary."

3 Now, in reading the statutory section, I  
4 really couldn't understand exactly how that would be  
5 applied, because it's very vague in there. After  
6 hearing the testimony today, I think it's clear that  
7 this intervention will occur in situations where there  
8 is not child abuse, is that correct?

9 MS. ROREM: No. It's a tool during the  
10 investigation process, and it's a tool then throughout  
11 the time that the case is in front of the county, it  
12 continues to be a tool and a process that's available  
13 to continually assess how the kid is doing, how the  
14 family is doing and whether it's safe to have that  
15 child living at home.

16 MR. ANDRING: But isn't it correct that  
17 even if there are no findings of child abuse, CYD will  
18 still be free to do risk assessments? Isn't that  
19 correct?

20 MS. ROREM: Let's begin by saying that we  
21 are currently doing risk assessment in nearly all  
22 counties in Pennsylvania. It was felt that it was good  
23 professional practice to do a better job of  
24 standardizing how it is that we look at kids and look  
25 at families and look at safety. So it's something that

1 we are currently doing not in every county but we are  
2 doing it in most counties. And it is -- we do risk  
3 assessment of sorts in the mental health system. We do  
4 risk assessment of sorts in nursing homes. It's a  
5 professional practice tool and process that allows us  
6 to take a look at the family and have a better  
7 understanding of what it is that's going on.

8 MR. ANDRING: But the purpose of the risk  
9 assessment, or one of the purposes is to require the  
10 family or members of the family to anticipate or  
11 partake of certain services.

12 MS. ROREM: You're going way too far with  
13 risk assessment.

14 MR. ANDRING: Well, you know, I'm sorry,  
15 but that's what 1001 says. And I'll quote here, and I  
16 mean, this is the thing that troubles me as far as  
17 standards, you know, in your testimony you refer to  
18 risk assessment "whenever any intervention is  
19 necessary. Intervention is primarily the provision of  
20 services." There's no requirement here that this  
21 intervention be tied to child abuse. There's none  
22 whatsoever, and in your bill you've got a specific  
23 section that says, "if a county agency determines that  
24 protective services are in the best interest of the  
25 child....". Now, that doesn't say child abuse, it says

1. if you simply determine that these services are in the  
2. best interest of the child and an offer of those  
3. services is refused, then the county agency shall  
4. initiate appropriate court proceedings. I mean, what  
5. does that mean? If you think somebody ought to go to a  
6. psychologist and they don't want to go, then you're  
7. going to go to court and force them, even when there's  
8. no child abuse? I mean, that's what it says. Whether  
9. that's what you meant, that's what it says, and that's  
10. a real serious problem with some of these provisions.

11. MS. ROEM: I think that talking about  
12. risk assessment is one thing, and then I think you're  
13. quoting from the GPS section of 1001. The two are not  
14. necessarily connected.

15. MR. ANDRING: Okay, again, the way the  
16. bill is written, this section is put at the end, it  
17. begins with section 6373, General Protective Services;  
18. section 6375, county agency requirements for General  
19. Protective Services, subsection (c), assessment of  
20. risk. That's part of the General Protective Services  
21. section that's in here. I mean, again, I don't know  
22. what you intended, but this is how it's drafted, and as  
23. I read it, that's what it says, that what you're doing  
24. is creating a situation where CYS goes out and  
25. investigates, even if they can't find child abuse under

1 the expanded definition, they have done a risk  
2 assessment, they determine if they think further  
3 services are necessary, and I'm not saying it isn't bad  
4 in all cases or most cases, but then you give yourself  
5 the authority here to order people to do this, even  
6 when there is no evidence of child abuse. And I think  
7 a lot of people have a serious problem with county  
8 agencies going around telling people to go to  
9 psychologists or therapy sessions or this kind of thing  
10 simply because an agency thinks it's in, quote, "the  
11 best interest of the child."

12 MS. ROREM: I think actually you're going  
13 right back to what you had said a little bit earlier,  
14 and that is the Juvenile Act. I mean, regardless of  
15 whether abuse is found, as you were just saying, the  
16 Juvenile Act allows you to require all sorts of  
17 different things or could require somebody to do things  
18 just because the child is found as dependent.

19 MR. ANDRING: Right, but only subsequent  
20 to a court proceeding with a judge where people are  
21 represented by counsel and have the right to  
22 cross-examine witnesses and do all those other due  
23 process things, and that really isn't in here. I  
24 mean--

25 MR. LEWIS: Well, actually, it is.

1 MS. ROREM: It is.

2 MR. ANDRING: There's a big difference  
3 between CYS people going out and saying, if you don't  
4 go to this counseling session, even though there's no  
5 child abuse, if you don't go to this counseling session  
6 where we want you to go, then we're going to haul you  
7 into court and force you to go there. I mean, it's--

8 MR. LEWIS: I'm not certain that we could  
9 say that because a family had been taken to court that  
10 they're going to be forced to accept services. The  
11 basis for going to court is when the agency feels there  
12 is a need for services and the family is not  
13 voluntarily accepting of it. Then the agency is  
14 responsible to present to the court why they feel the  
15 need for services exists, and the family likewise has  
16 an opportunity to present why they feel they don't need  
17 them and the court makes the decision. And the  
18 remainder in other portions of that section, in other  
19 portions of that section it talks about where the  
20 family is refusing a service and the agency feels the  
21 need, feels that there is a need for the services, then  
22 the matter goes before the court.

23 MR. ANDRING: What is the authority for a  
24 court to order people to undergo services? I mean,  
25 where does that authority come to the court, other than

1 ... in this section that you're putting in House Bill --

2 ... MR. LEWIS: It would be based on the  
3 dependency under the Juvenile Act.

4 ... MR. ANDRING: Which would require a  
5 separate adjudication of dependency before--

6 ... MR. LEWIS: Yes, that's correct.

7 ... MR. ANDRING: Okay, this does not require  
8 that.

9 ... MR. LEWIS: What it does require, sir, is  
10 that the agency offer the services and when the family  
11 isn't willing to accept them, that the matter must go  
12 before the court, and the agency is obligated to  
13 present evidence why they feel as though there is a  
14 need for services. Part of that evidence might be  
15 based on the use of the risk assessment tool that  
16 determines whether the youngster is at risk staying in  
17 that same setting with certain services or staying in  
18 that same setting without services at all.

19 ... CHAIRMAN CALTAGIRONE: To me, that's a  
20 total intrusion upon the sacred rights of the family.

21 ... MR. MILLER: You have to understand--

22 ... CHAIRMAN CALTAGIRONE: I beg to differ  
23 with you because when Representative Gamble and some of  
24 the others, Representative Leh, get a hold of this, I  
25 want to see how they're going to react to it. They

1 have made it paramount as far as protecting the  
2 families and family rights in this State. The mandate,  
3 that absolute mandate that you will do thus and such,  
4 God bless you.

5 MR. ANDRING: And frankly, looking  
6 through the Juvenile Act, I don't see right offhand,  
7 maybe it's in here, but I don't see a provision  
8 authorizing the court to order people to undergo  
9 mandatory counseling. I mean, sometimes these things  
10 are involved as conditions of various court orders, but  
11 the ability to simply order people do this.

12 MR. LEWIS: You're correct, the court  
13 wouldn't have the authority to order those services if  
14 they did not find dependency, if there was an absence  
15 of care, supervision or control.

16 MR. ANDRING: Even if they found  
17 dependency, they can't force a person to go to  
18 counseling.

19 MR. LEWIS: You're also correct about  
20 that, except that by virtue of taking the action--the  
21 court, that is--and making a finding of dependency,  
22 they will then normally award custody of that youngster  
23 to the agency which, if you will, certainly presents a  
24 pressured situation for the family to make a decision  
25 on whether they will accept the services or have their



1 youngster go into placement until such time as the risk  
2 is no longer present for the child. But it is a court  
3 determination, so that due process rights are  
4 protected.

5 MS. ROREM: an example that might  
6 illustrate what it is that we're talking about with GPS  
7 is take a situation where a parent and a child are  
8 living in a car and have been doing so for some period  
9 of time. Child welfare agents -- that child has not  
10 been harmed, but the conditions I think we would agree  
11 are not what they should be in order to raise the child  
12 in a healthy way. And so the child welfare agency  
13 might use that section of the law to push the parent  
14 into finding other housing, doing something else. And  
15 if the parent said, no, I don't want to accept any  
16 services, my son and I are going to continue to live in  
17 this car, that would allow us to move into a dependency  
18 hearing and we would have some information as a result  
19 of going out and talking to that family and assessing a  
20 risk and trying to get some idea about whether we've  
21 got a child who's really in danger.

22 MR. ANDRING: But then again, you know,  
23 as it's been said repeatedly, if it's not broken, don't  
24 fix it. Under the statute right now in that situation  
25 the child clearly falls within the definition of

1 dependent and court action could be initiated and  
2 pursued. You don't need a section saying that if you  
3 think it's in the best interest of the child to have  
4 services, you know, you could order people to go to.  
5 You know, and if they refuse, haul them into court. I  
6 think your statute creates another question of what  
7 standard is used, because again, the standard being  
8 utilized here is the best interest of the child, which  
9 has nothing to do with the dependency standards. And I  
10 don't know if you're changing the standard or not.

11 MS. ROREM: Well, I think probably all of  
12 this will be part of the debate about whether 1001  
13 should go anywhere or not.

14 CHAIRMAN CALTAGIRONE: Would you agree  
15 that hearings would be helpful?

16 MS. ROREM: I think we've had enough  
17 hearings on this subject. I really do. Probably  
18 because I've been to all of them.

19 CHAIRMAN CALTAGIRONE: Did you write the  
20 legislation?

21 MS. ROREM: Me? I didn't write the  
22 legislation, but I certainly was a big player in  
23 negotiating. As I said before, the administration  
24 wasn't very happy with us, and Secretary White was  
25 furious in fact with me when House Bill 900 was

1 defeated the first time that it was in the Youth and  
2 Aging Committee. And we asked legislators to vote  
3 against it because we thought it was far too broad and  
4 too intrusive... So since that time I have been very  
5 involved in trying to write this piece of legislation  
6 in such a way that it's a compromise and something we  
7 can live with.

8 CHAIRMAN CALTAGIRONE: You've had a hand  
9 in that?

10 MS. ROREM: Sure.

11 CHAIRMAN CALTAGIRONE: Was Representative  
12 Kukovich the prime sponsor last session?

13 MS. ROREM: In fact, that's where I met  
14 him. He was prime sponsor of House Bill 900. So that  
15 was five years ago. And I defeated his bill in  
16 committee.

17 CHAIRMAN CALTAGIRONE: Interesting.  
18 Thank you.

19 MR. KRANTZ: Mr. Chairman, I would like  
20 to make a little statement... I was the individual in  
21 the staff who organized this hearing primarily, and to  
22 date I have had 13 percent of the witnesses cancel out,  
23 and this is canceled out due to intimidation by CYS,  
24 the courts, and district attorneys. And I find it  
25 extremely appalling, and I may suggest that we consider

1. in the long run a total separate system for children  
2. and families divorced of the court, divorced of the  
3. welfare system, and begin anew, because it's obvious in  
4. talking to these families and the intimidation, we had  
5. one witness hand us a five-page handwritten statement  
6. without her name because she's afraid of recrimination.  
7. I'm having a tape transcribed right now that's 20  
8. minutes long of an individual who does not want to be  
9. identified due to recrimination, and I think that the  
10. CYS and the Welfare Department should get their act  
11. together because there's obviously something wrong.

12. Thank you, Mr. Chairman.

13. CHAIRMAN CALTAGIRONE: Thank you.

14. Thank you for your testimony.

15. CHAIRMAN CALTAGIRONE: We'll next move to  
16. Larry Frankel and Sam Bleistein.

17. MR. FRANKEL: Thank you. I'm glad to  
18. have an opportunity to return to the topic of House  
19. Bill 826. I did prepare testimony. I'm not going to  
20. read it because much of what I prepared has been stated  
21. today. I just hope that those who are here will note  
22. an unusual, although probably not historic, occasion  
23. when the district attorneys of the Commonwealth of  
24. Pennsylvania and the ACLU of Pennsylvania actually  
25. agree and take the same position on a bill. I don't

1 think this happens very often in this Chamber, but I  
2 think it should be noted.

3 We also oppose House Bill 826, for many  
4 of the reasons which have already been stated.  
5 However, I do appreciate the concerns that have been  
6 expressed today for the rights of the accused and what  
7 the Constitution guarantees, and I am encouraged by the  
8 comments made by members of the committee today with  
9 regard to those provisions and the rights of people who  
10 are accused of crimes or even of acts that are not  
11 defined as crimes, because they, too, are entitled to  
12 due process rights.

13 I also have an additional concern which  
14 the DA did not mention as to why I believe these bills  
15 are unnecessary. That it becomes one more tool for an  
16 abusive district attorney who wants to go after an  
17 accused person, one more charge that they can bring  
18 onto their laundry list of charges. We know that many  
19 district attorneys like to overcharge people with  
20 numerous charges in an attempt to get them to plead  
21 guilty, and we do not believe that you should give them  
22 yet another tool in their vast resources of ammunition  
23 to use in that regard.

24 I am concerned, however, I did listen to  
25 most of the testimony today, to what are the stories

1 that have been told and to what it appears to be some  
2 abuses that do exist in the system, and I do think they  
3 must be examined. However, I will emphasize that in  
4 order to protect those who have been accused of child  
5 abuse, the proper remedy is not to create another  
6 category of accused people, which is what House Bill  
7 826 would do. In order to give some kind of relief to  
8 people who have been victimized by the system, we  
9 shouldn't be creating more victims. I think we need to  
10 look at the evidentiary standards that are used in the  
11 hearings associated with this child abuse or whatever  
12 arena we are going to examine these issues in. I'm  
13 concerned about the use of hearsay, I'm concerned about  
14 the standard of proof. I'm concerned about the  
15 inequity of resources between the ones who are trying  
16 to prove that the events occurred and the resources  
17 available to those who are accused. I think those are  
18 issues that need to be explored. I think those are  
19 issues that really need to be examined and should be  
20 the subject of legislation.

21 The witnesses who testified, some of them  
22 because they have obtained attorneys are pursuing legal  
23 remedies. Many of those are civil in nature rather  
24 than criminal in nature, and that is what is available  
25 to other people who are falsely accused of crimes.

1 They have recourse through the civil court. That is  
2 the appropriate means for remedying the problem, and I  
3 would be more than happy to work with members of both  
4 committees in examining those kinds of procedural  
5 issues.

6 (Whereupon, Co-Chairman Blaum assumed the  
7 in chair.)

8 CO-CHAIRMAN BLAUM: Thank you very much.  
9 Are there any questions?

10 Representative Manderino.

11 REPRESENTATIVE MANDERINO: Thank you, Mr.  
12 Chairman.

13 BY REPRESENTATIVE MANDERINO: (Of Mr. Frankel)

14 Q. Mr. Frankel, why do you think that a  
15 civil route of recourse is more appropriate than a  
16 criminal one?

17 A. I believe a civil route of recourse is  
18 more appropriate because you're not going to end up  
19 with all of the resources of a district attorney's  
20 office looking to put somebody in jail. Certainly a  
21 civil action with the kind of discovery that's  
22 available, which isn't necessarily available in a  
23 criminal action, offers both sides in the case an  
24 opportunity to properly prepare. But the main reason  
25 is you don't want to inflict criminal penalties on

1 people.

2 Q. Do you think it would have the same  
3 deterrence factor? I mean, apparently people who have  
4 been before us today don't feel like they have any  
5 recourse and they are looking to a criminal statute to  
6 give to it them, and I guess I'm interested in your  
7 comments, if you don't think that would work, why; or  
8 what it is we can do that make sure they understand  
9 what recourses might be available to them?

10 A. Well, the one gentleman who testified, I  
11 think his name is Mr. Althaus, obviously has retained  
12 an attorney and has been successful at least in  
13 initiating litigation. One does not know how that will  
14 turn out. Similarly, in areas where police abuse or  
15 other kinds of abuse by law enforcement agencies there  
16 are attorneys who do prosecute -- not prosecute, pursue  
17 those cases in terms of civil remedy. I think that as  
18 awareness of the availability of those remedies is  
19 known, if Mr. Althaus wins any kind of substantial  
20 verdict, I'm sure that more people will be aware of the  
21 situation and will become -- I'm not even advocating  
22 the passage of any civil remedies. I think they are  
23 already available and I think it's just a matter of if  
24 these abuses are occurring and there are losses brought  
25 and they become that publicly known, I think you will



1 have people who are plaintiffs if they indeed have been  
2 abused by the system coming forth. And secondly, you  
3 will have agencies being much more careful in terms of  
4 how they pursue cases to make sure that they don't end  
5 up with these kinds of damage awards, which certainly  
6 are in the realm of possibility if the claims which  
7 were made here today are substantiated.

8 Q. Thank you.

9 CO-CHAIRMAN BLAUM: Thank you very much.

10 MR. FRANKEL: Thank you..

11 CO-CHAIRMAN BLAUM: Sue Cameron and Joan  
12 Parker.

13 We have gone much longer than we thought  
14 we would, so I would hope that all of our witnesses and  
15 questioners could keep it all on the subject of 826.

16 MS. PARKER: I'll do my best.

17 CO-CHAIRMAN BLAUM: Thank you very much.

18 MS. PARKER: Good afternoon.. My name is  
19 Joan Parker, and I'm an attorney with the Pennsylvania  
20 Coalition Against Domestic Violence. I've submitted  
21 written testimony which is fairly long and as the day  
22 has worn on I have taken my pen to it time and again.  
23 I wouldn't be here to waste your time, and so believe  
24 me when I tell you that I think what our organization  
25 has to say is important and we want to make sure people

1 don't overlook the connection between child abuse and  
2 domestic violence.

3                   The focus of my testimony addresses what  
4 Representative Birmelin earlier acknowledged as the  
5 primary problem which led to this proposed legislation.  
6 That is, false reports by one spouse against another  
7 involved in custody disputes. It is a privilege to  
8 offer this testimony on behalf of abused children and  
9 protective parents. We commend efforts to insure child  
10 protection and are confident that the testimony today  
11 will greatly inform the development of laws related to  
12 child abuse. We appreciate the opportunity to present  
13 our perspective and encourage this legislature not to  
14 pass House Bill 827 because of its chilling effect, but  
15 rather to allow the necessary access to courts and  
16 investigative agencies to protect abused children.

17                   The incidents of the false reporting of  
18 child abuse and child sexual abuse is not of crisis  
19 proportions. There is no question that the majority of  
20 child abuse allegations concern intrafamily violence.  
21 Opponents of child protection unjustly accuse children  
22 and their caretakers, usually mothers, of falsely  
23 accusing adult male relatives, often fathers, of child  
24 abuse and child sexual abuse. Although there has been  
25 an increase in the number of custody and post-divorce

1 . . . allegations of child abuse, and particularly sexual  
2 . . . abuse, over the last decade, there is no reason to  
3 believe that there has been an increase in the  
4 percentage of false allegations. In fact, according to  
5 one study, the percentage of false allegations in  
6 custody cases is no higher than the percentage of false  
7 allegations in other contexts. When allegations are  
8 found to be untrue, they are rarely fabricated in a  
9 vacuum but are usually grounded in some honestly held  
10 though erroneous belief. Although allegations are on  
11 the rise in custody and post-divorce litigation, those  
12 allegations still arise only in a small fraction of  
13 such disputes. Less than 2 percent, according to one  
14 study.

15 . . . . . The reason for the introduction of House  
16 Bill 826 is because some people believe that false  
17 allegations are rampant and that children manufacture  
18 claims of child abuse. But this committee must hear  
19 that violence against children has reached crisis  
20 proportions. One study shows that there was a  
21 36-percent increase in the killing of children in the  
22 years 1985 to 1989, and there is no reason to believe  
23 that these numbers are going down. This legislature  
24 must take a proactive stance to provide the greatest  
25 protection to children at risk.

1                   Child abuse and sexual abuse is anything  
2 but exotic or rare. It is an everyday sort of  
3 experience for hundreds of thousands of children in  
4 every economic or cultural subgroup in the United  
5 States. Whether the incest victim is either male or  
6 female, the offender is more frequently the father or  
7 stepfather. A common pattern among families in which  
8 incest occurs is a rigidly patriarchal family structure  
9 and a mother who is powerless and often abused  
10 themselves. Men who batter their wives are likely to  
11 assault their children. The battering of women who are  
12 mothers usually predates the infliction of child abuse.  
13 At least half of all battering husbands also batter  
14 their children. The more severe the abuse of the  
15 mother, the worse the child abuse. Daughters are more  
16 likely than sons to become victims of the battering  
17 husband. Want of abuse is also the context for sexual  
18 abuse of female children. Where the mother is  
19 assaulted by the father, daughters are exposed to a  
20 risk of sexual abuse 6 1/2 times greater than girls in  
21 non-abusive families. Where a male is a perpetrator of  
22 child abuse, one study demonstrated that there is a 70  
23 percent chance that any injury to the child will be  
24 severe. Eighty percent of child fatalities within the  
25 family are attributable to fathers or father.



1. and maintains that just because experts cannot identify  
2. physical behavior or emotional indicators of sexual  
3. abuse, this does not mean that the abuse did not occur.  
4. Courts often perceive mothers who allege child sexual  
5. abuse during a custody or visitation proceeding as  
6. vindictive women who fabricate abuse allegations and  
7. brainwash their children for vengeful purposes.  
8. Ironically, these allegations are usually not the  
9. mothers at all but the child's. The judicial system  
10. forces the mother to be the child's voice and to raise  
11. allegations that she herself may not want to believe.

12. The stereotypes subject the abuse  
13. allegations to an inaccurate and biased assumption of  
14. invalidity. Incorrect assumptions cause courts to  
15. disregard allegations of sexual abuse, thus subjecting  
16. vulnerable children to ongoing abuse and lifelong  
17. damage. As a result, the focus becomes not whether the  
18. abuse occurred, but rather on the mother's credibility.  
19. And thus, many women are reluctant to report actual  
20. child abuse. And if women are reluctant now to report  
21. actual abuse, the threat of criminal sanctions which  
22. House Bill 826 would impose for reporting those  
23. actions, which by their nature are hard to prove, would  
24. even further reduce the reporting of valid abuse  
25. allegations. Abused children will only be harmed by

1 the passage of this proposed measure.

2                   Contrary to what was earlier stated, that  
3 this is used as a tactic to deprive people of custody  
4 and visitation, most allegations of child abuse are not  
5 met with protective measures for children pending or  
6 following the resolution of the case. Restricted and  
7 unsupervised visitation is seldom awarded, often  
8 despite substantiation of child abuse allegations.  
9 According to one major study, accused parents were  
10 allowed unsupervised visitation in 39 percent of cases  
11 during investigation of a sexual abuse allegation.  
12 Unsupervised visitation was also allowed in 29 percent  
13 of final orders in cases where allegations of sexual  
14 abuse had been determined to be valid by the caseworker  
15 or court affiliated custody evaluator. At least two  
16 studies suggest that courts punish mothers who  
17 interfere with father's visitation rights, citing them  
18 with contempt for protecting their children from abuse.  
19 In fact, in some extreme cases mothers are being  
20 penalized for reporting child abuse by having custody  
21 removed from them and placed with the molester. This  
22 is the ultimate betrayal of a child who will suffer the  
23 consequences the rest of his or her life. Mothers who  
24 are willing to go to jail rather than turn their  
25 children over to fathers who have molested their

1 children are not crying wolf.

2                   the coached child is the most infrequent  
3 explanation for abuse allegations. In one study of law  
4 enforcement and mental health professionals, the  
5 majority believe that children told the truth in child  
6 sexual abuse allegations. Specifically, between 44 and  
7 61 percent of those professionals reported never having  
8 encountered a false allegation of child sexual abuse.  
9 Further, these professionals perceived fewer false  
10 reports among younger children ages 0 to 6 years than  
11 among 6- to 9-year-olds and 10- to 12-year-olds. The  
12 researcher concludes that professionals perceive that  
13 children rarely make false allegations of abuse, and  
14 that these people are in the best position to know how  
15 often false allegations occur.

16                   Another another study of 100 county  
17 departments of social services in North Carolina  
18 revealed that these professionals believed the abuse  
19 allegations. The percentage of cases in which the  
20 worker believed that the child's report of abuse was  
21 false varied considerably across ages. In fewer than 2  
22 percent of the cases involving children under age 6,  
23 but in only 8 percent of those involving adolescents,  
24 the child was believed to have made a false report.  
25 There is even reason to believe though that the rate of



1 false allegations obtained in the current study is  
2 inflated, one of the researchers said, because many CPS  
3 workers are predisposed against believing child or  
4 adolescent claims of having been abused.

5 We are not convinced that there is a  
6 crisis regarding false reports but rather there is a  
7 crisis of failure to believe valid abuse allegations  
8 and failure to investigate and protect. To impose  
9 sanctions for false reporting would discourage  
10 protective parents and abused children from reporting  
11 valid yet potentially hard to substantiate claims of  
12 child abuse and child sexual abuse. Those who argue  
13 for a balanced approach are willing to trade off  
14 children's safety to protect the alleged innocent  
15 victims who were unjustly accused.

16 The real innocent victims are children -  
17 children who are being abused and not protected.  
18 Further abused by the system designed to insure share  
19 protection. By creating an atmosphere hostile to the  
20 reports, an investigation of valid child abuse  
21 allegations in order to prevent unjust victimization in  
22 only 2 to 8 percent of all reported cases, the 92 to 98  
23 percent of actual victims will be hurt. Unless those  
24 limited resources allocated to the investigation of  
25 child abuse allegations are focused on the

1 investigation of abuse allegations rather than on the  
2 investigation of the reporter's credibility, children  
3 will continue to be beaten, molested and killed. This  
4 is the crisis. When mothers who allege incestuous  
5 abuse are automatically disbelieved and labeled as  
6 vindictive or delusional, the harm is great. Women are  
7 harmed by being denied appropriate orders for custody  
8 and visitation. Children are harmed because they are  
9 not protected from abuse. And our society is  
10 diminished by its failure to provide informed and  
11 unbiased access to justice. The legislature should not  
12 deny children access to protective services and should  
13 not place undue burdens upon obtaining such access.

14 CO-CHAIRMAN BLAUM: Thank you very much.

15 Is it possible to ask for written  
16 testimony to be submitted, and I think we get a better  
17 exchange by the question and answer between the  
18 committee members and the witnesses anyway.

19 MS. PARKER: I put some open copies some  
20 on table.

21 CO-CHAIRMAN BLAUM: I was just suggesting  
22 in the interest of time, instead of reading it, to  
23 submit it and allow us to go back and forth with  
24 questions, it might be even more helpful.

25 MS. CAMERON: Thank you, and I was going

1 to summarize my testimony and I assume that it will be  
2 submitted in the record. I might add that I referenced  
3 two particular articles in my testimony. We have  
4 submitted the complete articles to the committees so  
5 you have reference to that.

6 We've testified on a number of occasions  
7 on this issue. Most recently, I think about three  
8 years ago when it came before the Aging and Youth  
9 Committee with regard to custody and visitation. At  
10 that time we also clearly supported additional  
11 standards in these cases, additional training, and also  
12 additional funding, and I would reiterate that support  
13 again today.

14 One of the things that I tried to do was  
15 look at what research was available. I've cited one  
16 particular study which I think was one of the most  
17 extensive and most recent that was done involving 9,000  
18 families that were involved in custody disputes,  
19 because I think that is where the core of this problem  
20 seems to arise. And as I say, the full summary of that  
21 study I've already submitted. But I think what's  
22 signify is out of 9,000 cases where custody was in  
23 dispute, there were 165 allegations of sexual abuse, 40  
24 of those came down to they were not able to  
25 substantiate and therefore might be worthy of

1 investigation under the proposed legislation. That  
2 there might be some reason to believe that false  
3 allegations had been made maliciously. Forty out of  
4 165, and out of the range of 9,000 cases to begin with.  
5 . . . . . The conclusion of that study very clearly  
6 says that they do not see that as indicative of the  
7 need for the kind of legislation proposed here today  
8 but rather it was indicative of the need for greater  
9 assistance to both courts, CPS agencies--and this was a  
10 national study--so that they can better coordinate  
11 their approaches to really begin to solve the problem.  
12 . . . . . The other article that I call to your  
13 attention to, because I found it most intriguing  
14 because it didn't include a single statistic, was  
15 co-authored by two women, Lucy Berliner, who some of  
16 you may know is well-known as a child advocate and an  
17 expert in child sexual assault. . . . The other one Melissa  
18 Loftus, who oftentimes will be an advocate for the  
19 defendant of those accused of sexual abuse. And what  
20 they tried to do was to identify areas where they seem  
21 to at least identify areas where they were in  
22 agreement. And it's interesting to my to look at what  
23 they said, because I think it bears some relevance to  
24 the hearing today. Both of them agreed that sexual  
25 abuse of children is alarming, no matter what statistic

1 you use, whether you take the most conservative, the  
2 numbers that we are seeing today must be dealt with  
3 seriously and be cause for alarm. They both agree that  
4 when victimization occurred, the reports may contain  
5 inconsistencies, there may be hesitations involved,  
6 there may be even occasion when those reports are  
7 retracted. This can happen in situations where there  
8 is a true report made as well as where there is a false  
9 report. Both agree that memories can be recalled  
10 accurately, and that victims, even including young  
11 children, can be resistant to suggestive questioning.  
12 They also agree that the reverse can sometimes happen.  
13 Most surprising, I think there was agreement that a  
14 small percentage of reports were, in fact, after  
15 investigation not true and the result of some kind of  
16 false accusation with some kind of malicious intent.

17 But I think what I found most significant  
18 was their joint belief, and I want to reiterate how  
19 strongly they seem to focus on this, was that it's  
20 difficult to come to sweeping generalizations about  
21 something based on separate and individual cases. To  
22 do that is not only difficult but it's damaging to our  
23 ability to begin to get a grasp of the larger issues  
24 involving the sexual abuse of children particularly.  
25 And I want to quote their concluding or one of their

1 statements in that article. They said, quote, "Most of  
2 us probably have relatives, friends and colleagues  
3 about whom we would never believe an accusation of  
4 sexual abuse, no matter how convincing the allegation.  
5 This is not necessarily a failing, it is human nature.  
6 All of us hope that there are those upon whom we can  
7 count should we be falsely accused. This is not to say  
8 that believing is the same thing as being right. Only  
9 that belief is more an emotional act than a scientific  
10 one, especially when it is personal."

11 And I think the conclusion is that we  
12 have to look at the implications of the research. Not  
13 the individual cases, but the implications of what we  
14 see in toto and look at those findings to dictate both  
15 practice and policy. I submit that with regard to 826,  
16 the issue before the legislature is one of policy and  
17 whether or not the incidents of false reports with  
18 malicious intent is sufficient to rise before the level  
19 of exception and therefore warrant legislative action.  
20 It would be my conclusion that that's not the case.  
21 More than 20 years ago, when I was in school, I had a  
22 professor who said that the law based on exception  
23 usually is bad law. And I didn't understand what he  
24 meant at that time. After 20 years here in Harrisburg,  
25 I understand what he means. I would submit that

1       regardless of the numbers here, we are still looking at  
2       the exception, and enactment of law based on that  
3       exception will be bad law.

4                       CO-CHAIRMAN BLAUM:  Are there any  
5       questions?

6                       Representative Manderino.

7                       REPRESENTATIVE MANDERINO:  Thank you.

8                       Ms. Parker, early in your testimony you  
9       referenced the fact that the quote, unquote, "experts"  
10      in the field say that children don't lie when it comes  
11      to incidents of sexual abuse, and as a matter of fact  
12      just today during the break in talking to somebody who  
13      was here listening to testimony he raised a very valid  
14      point in that they tell you that, but we all know that  
15      kids lie, and kids lie about whether they stole candy  
16      from the store.  I know I probably lied to my parents  
17      about that stuff, too.  I'm sure I did.  I guess what  
18      I'm saying is, but how do I really know that?  I know  
19      that kids lie.  They know when they're going to get in  
20      trouble and they don't tell the truth.  Is there  
21      something different that you can point me to that would  
22      lead me to believe that I can rely on those kinds of  
23      statements?

24                      MS. PARKER:  I hope so, and that is that  
25      especially the age group that was mentioned that is the

1 most believable is those from up to 6 years old, and  
2 especially as it relates to child sexual abuse is that  
3 these professionals say that there is no way those  
4 children can have such a vast knowledge to make the  
5 allegations... They haven't been exposed to sexual  
6 conduct, to sexual talk, to bodies of the opposite sex,  
7 or to even know what the bodies do to make those kinds  
8 of allegations. For example, a case that I learned of  
9 only two days ago, a 2-year-old girl who was having  
10 night terrors finally told her mother that after she  
11 returned from an enforced visitation with her father,  
12 who was a batterer, with her father's parents, that she  
13 was crying out her grandfather's name. This 2-year-old  
14 said, grandpa had something pink in his pocket that he  
15 squirts on my face and white stuff comes out and I  
16 don't like the taste of it. I don't think that's a  
17 lie...

18 REPRESENTATIVE MANDERINO: That's a  
19 poignant example. I think your percentage was only 8  
20 percent with adolescents, and I guess my question was  
21 then, because, I mean, there's an area where surely  
22 adolescents would know the difference, and, I mean, I  
23 guess, I'm trying to be cautiously skeptical, because,  
24 you know, I do see that there could potentially be  
25 areas of problems there with getting back at your



1 parents, which is also another typically adolescent  
2 thing to do.

3 MS. PARKER: And my understanding of the  
4 increase in the percent advantage from 2 to 8 percent  
5 is for that reason, that there is more of a belief by  
6 the professionals that they do have more knowledge and  
7 more exposure to that information that they could in  
8 fact manufacture that information, and yet those  
9 statistics, from two different studies of the  
10 professionals in the field, support that. I'm only a  
11 lawyer and I don't pretend to understand all that  
12 myself, but I do commend the studies to you. I was  
13 surprised to learn the results myself.

14 REPRESENTATIVE MANDERINO: Then I guess  
15 my second question would go to both of you, and do you  
16 actually prosecute or represent victims of domestic  
17 violence in your capacity

18 MS. PARKER: As an attorney for the  
19 Pennsylvania Coalition Against Domestic Violence, I  
20 provide technical assistance both to lay advocates and  
21 to attorneys, usually Legal Services attorneys but  
22 other attorneys. In my previous job I was a Legal  
23 Services attorney and I represented battered women and  
24 abused children.

25 REPRESENTATIVE MANDERINO: Ms. Cameron,

1 is it the same for you, with the Coalition Against  
2 Rape, I guess?

3 MS. CAMERON: No. Rape crisis centers  
4 will provide counseling assistance, they will provide  
5 court advocacy, they will provide counseling to  
6 non-offending parents. We do not do investigations and  
7 are not involved in the prosecution of cases.

8 REPRESENTATIVE MANDERINO: Now I'm going  
9 to ask both of you a question that I'm sure you're  
10 going to tell me we don't do this, but I'm going to  
11 pose it anyway. Another criticism that I've heard is  
12 that whether it's the social workers or particularly  
13 the attorneys, the people in our legal process pretty  
14 much, particularly when you're dealing with battered  
15 women or battered children types of situations, will  
16 pretty much come out and tell their prospective clients  
17 that you better make these allegations or else you  
18 don't have a snowball's chance in you-know-what of  
19 getting your way through court. And while I'm sure  
20 you're going to tell me that you don't do that, I guess  
21 my question really goes to where do those beliefs come  
22 from, and if you don't think that happens, can you  
23 enlighten me as to where those horror stories come  
24 from?

25 MS. CAMERON: I think in our situation at

1. least we've been the subject of the reverse kind of  
2. criticism, that we discourage clients or victims from  
3. going, for instance, to the police in cases of rape and  
4. reporting the situation. That, in fact, is not the  
5. case. What we will do is support that client, that  
6. victim, in coming to a determination on her own, or in  
7. the case of her children, the parents of that child, as  
8. to what they feel is most appropriate in their own  
9. specific situation. In some cases, that means that  
10. they will go forward, in other cases it does not. It  
11. does present some dilemmas sometimes in terms of making  
12. the reports and what the mandated reporter is required  
13. to do.

14. REPRESENTATIVE MANDERINO: I'm sorry.  
15. Are you a mandated--you meaning the Coalition Against  
16. Rape--a mandated reporter?

17. MS. CAMERON: Sexual assault counselors,  
18. yes, are mandated reporters of child sexual abuse.

19. MS. PARKER: And the same with domestic  
20. violence counselors. But I feel compelled to respond  
21. to your question in my former capacity as a Legal  
22. Services attorney who represented battered women, and I  
23. think a lot of the representation of battered women in  
24. divorce and custody proceedings are in fact by Legal  
25. Services attorneys, and that is we were so careful

1       because we have so many charges coming from all around,  
2       from a President who wanted to eliminate Legal Services  
3       to the general Bar who thought we were too aggressive  
4       in all areas, not just domestic violence, but ranging  
5       from consumer to landlord-tenant. So we were always  
6       very careful and never used as a litigation tactic  
7       false allegations. They were employed in the  
8       retaliation by opposing counsel, who often admitted to  
9       me that the reason they were doing that is because  
10       there were allegations from my client. Didn't matter  
11       that they were substantiated. They just decided to use  
12       this as a tool. And I think what I cited earlier, that  
13       those cases which proved to be unfounded, many of those  
14       are, in effect, grounded in good faith, and I think as  
15       attorneys and as counselors, that we have to give the  
16       most information that we can to our clients, and when I  
17       heard information from my clients that may have  
18       suggested that abuse was going on, then I felt  
19       compelled to probe that. Under my ethical guidelines,  
20       I could not ignore something like that and zealously  
21       represent my clients.

22                               REPRESENTATIVE MANDERINO: Thank you.

23                               One final question, and answer this more  
24       from your former capacity when you were representing  
25       clients. One of the suggestions made to us very early

1 in the day in terms of the broader child protection law  
2 was that perhaps attorneys should be in the enumerated  
3 list of mandatory reporters, and I didn't quite know  
4 how that would work with regard to client  
5 confidentiality or privilege, and I just wondered if  
6 you had an opinion. Were you, as a CLS attorney doing  
7 domestic violence, considered a mandatory reporter, and  
8 what impact do you think it would have had if you were?

9 MS. PARKER: You just answered the first  
10 part. No, we were not mandatory reporters, and I think  
11 there's a clear conflict if you are. Especially if  
12 your client is an adult who you receive some  
13 information from that she may be the abuser. You  
14 cannot violate that attorney-client relationship, at  
15 least that's my interpretation of it. That proposal to  
16 me was yet another chilling effect. I think the  
17 attorney-client privilege is sacred, and that you  
18 jeopardize your ability to represent your client if  
19 you're also on the look-out for anything that could  
20 remotely cause you reasonably to suspect that your  
21 client is abusive. Fortunately, I was never faced with  
22 that dilemma.

23 REPRESENTATIVE MANDERINO: Thank you.  
24 Thank you, Mr. Chairman.

25 CO-CHAIRMAN BLAUM: Any other questions?

1 (No response.)

2 CO-CHAIRMAN BLAUM: Thank you very much.

3 The last panel, Mary Ann Thompson I  
4 understand because of time restraints is asking to go  
5 first... Sam Bleistein, Margaret D'Alesandro, and George  
6 Mattingly...

7 If you would like to submit your  
8 testimony for the record and speak to the issue.

9 MS. THOMPSON: Mr. Chairman, ladies and  
10 gentlemen, I am here today because I personally have  
11 lived through the horrific nightmare of false child  
12 sexual abuse charges. Next week will be three years  
13 since my relative has seen, talked to, or had contact  
14 of any kind whatsoever with his little boys. This  
15 mother, while my relative was at work, sneakily left  
16 with the children and would not let the father know  
17 where his children were, and this mother tried to use  
18 every excuse and reason she could think of as to why  
19 this father should not be allowed to have visitation  
20 rights of his children. She immediately slapped the  
21 infamous PFA on him, and he was not allowed to even try  
22 to talk to his children on the telephone. Eventually,  
23 the court did grant this father joint legal custody and  
24 liberal visitation of his children. Isn't it ironic  
25 that 11 days after he was granted these parental

1 rights, this mother accused him of sexually abusing his  
2 sons. Keep in mind that never before this, even at  
3 multiple court hearings, did this wife ever even hint  
4 to these allegations.

5 When we were made aware of these  
6 accusations, my relative immediately contacted Children  
7 and Youth in our county, with the belief that after he  
8 was able to meet with them and explain what the status  
9 of this visitation battle was, this bad dream would be  
10 over. Not so. Children and Youth refused to talk to  
11 him. It is said that in our judicial system an accused  
12 is innocent until proven guilty. Again, not so. In  
13 cases of false child sexual abuse charges, a man is  
14 guilty until he proves his innocence; or should I say  
15 guilty forever. In fact, to this very day there was  
16 not one government agency or a person that ever cared  
17 to talk to this father to hear his side of these  
18 accusations to let him explain why these charges were  
19 being made against him, to let him explain that this  
20 was a difficult marital separation and a bitter custody  
21 battle. No. No one cared to listen to him. He was  
22 the father. She was mother and had all the rights  
23 under our system. It's a sad fact that there are no  
24 advocates in our judicial system for fathers, yet  
25 mothers have Children and Youth, Victims Advocate,

1 Women's Resource Center, and many others.. Where does  
2 the father go?

3 Children and Youth should be there for  
4 the benefit and safety of the children involved. Isn't  
5 it an abuse to not allow children to see their father  
6 just because a vindictive woman doesn't want her  
7 estranged husband to be part of their lives anymore?  
8 Where are the children's rights?

9 False sexual abuse charges is a heavy  
10 tool mothers use to keep fathers from seeing the  
11 children. Believe me, I know. It is an effective tool  
12 because once these charges are brought against a  
13 father, all existing visitation orders cease, and all  
14 contact between a father and children is severed. Then  
15 comes the easy part for the mother. She now has free  
16 rein to brainwash the children and make them say and  
17 even believe anything she wants them to.

18 Why can't we protect the children from  
19 this horrible fact, and at the same time protect the  
20 father, by setting up supervised visitation until an  
21 investigation into the charges is complete? There is  
22 no doubt in my mind that if my relative had continued  
23 to have contact with his children, this entire case  
24 would never have ended up the way it did. If contact  
25 between the father and the children continued, the



1 mother would not be able to brainwash the child.

2           What happens to the accuser when these  
3 accusations are unfounded? Nothing.. What happens to  
4 the father, and even to members of his family? He is  
5 dragged through the newspapers and his name is all over  
6 radio and television stations. He spends every hour of  
7 every day wondering what is going to happen to him.  
8 The sleepless nights, the thousands and thousands and  
9 thousands of dollars to pay legal fees to fight these  
10 accusations, the loss of his reputation. In many cases  
11 the loss of his job. Even having to move away to find  
12 work, and just a complete shattering of his life. And  
13 we didn't even get to what this father went through  
14 from having his children ripped out of his life, not  
15 knowing when he was going to see them again. Can you  
16 imagine what Christmas Eve is like?.. Can you imagine  
17 what Easter and the 4th of July is like? That you  
18 can't even give your sons a sparkler that they so much  
19 loved to play with?.. Can you just begin to imagine what  
20 Father's Day was like? It's like a death in the  
21 family. That endless pain in the pit of your stomach  
22 that just won't leave. How do you make up for three  
23 years of lost time between a father and his sons? How  
24 do you heal all the heartaches? You can't. Nobody  
25 can..

1                   And what about the children? What about  
2 the children? They are the victims in these cases as  
3 much as the fathers. Why aren't their rights  
4 protected? The right that they have to a mother and a  
5 father. I often wonder what my two little relatives  
6 went through when their daddy never came back to see  
7 them, as he had promised he would do the night he  
8 returned them to their mother. Will that sudden  
9 separation from the father cause permanent scarring? I  
10 know these children loved their father very much, and I  
11 know that their little minds were tormented by what  
12 their mother was doing to prepare them for what was to  
13 come. Only after these charges were filed were our  
14 eyes and minds open to the comments the children made,  
15 comments like, Daddy, let's play court. This sick  
16 mother was preparing these children long before she  
17 even filed the charges, and in this case, this fact is  
18 just the very tip of the iceberg. Many of the other  
19 facts would turn your stomachs, as they have turned  
20 ours for years.

21                   And what about the taxpayers' money?  
22 Mothers who bring these false charges against fathers  
23 do not have to put out one red cent. She has  
24 everything and everyone at her disposal. Children and  
25 Youth, victims advocate people, the district attorney's

1 office, all the experts that are needed to prosecute  
2 the case... These are all paid for with tax dollars,  
3 while the father must hire and pay for all legal fees,  
4 court costs, experts he must have to help prove his  
5 innocence. Do I sense bias?

6 We desperately need legislation enacted  
7 that would make it a crime to bring such an accusation  
8 against an innocent man and to protect our children  
9 from this fabrication... We must remove this evil tool  
10 and not allow one more man to go through the fear and  
11 anxiety and heartache that my relative and all of us  
12 have had to bear. How would you handle it if someone  
13 told you tonight that you're not allowed to see your  
14 children for three days? How would you feel if you  
15 didn't see your children in three years?

16 I feel that making this crime a  
17 misdemeanor is nothing more than a slap on the hands of  
18 a vindictive estranged wife and mother, but it is a  
19 start... It's better than what we have right now, but  
20 it's just not enough.

21 And obviously, this Legal Services  
22 attorney who just spoke did not investigate all of the  
23 cases on child sex abuse charges, and obviously she has  
24 never been involved in a case of false accusations.  
25 Thank you.

1                   MR. BLEISTEIN: My name is Sam Bleistein.  
2                   In looking at this bill and hearing some of the  
3                   testimony I heard today, I'm somewhat alarmed at some  
4                   of the things some of the people had to say. Using  
5                   statistics about comparing, as an example 9,000 cases  
6                   where only 100-or-some were substantiated as be being  
7                   false claims, I know as far as the gentleman who was  
8                   here earlier who had the daughter from Allegheny  
9                   County, if that was to happen to this one person, as  
10                  far as I'm concerned, then there's a need for  
11                  legislation to change that.

12                  I don't have the horror stories to tell  
13                  only because the attempt failed, but I am in the middle  
14                  of a divorce and my wife's attorney had encouraged her  
15                  to have my children begin seeing a psychologist  
16                  approximately two months before a child custody  
17                  hearing, even though we had been separated several  
18                  years. And I didn't find out about this until later,  
19                  and I had asked my children about it and I said, why  
20                  are you guys going to a psychologist? And they told me  
21                  that because mom's lawyer told her to. The only thing  
22                  I can see that could be added to this bill is some  
23                  extra wording, and that would include where it says  
24                  "causes or persuades a child to make allegation," you  
25                  could include the word "conspires with any other

1 person," to include any attorneys who would be involved  
2 with something like this.

3 In my profession, I know of several  
4 people who have had their ex-wives try the same type of  
5 situation, and I know both the ex-wife and the husband  
6 and they have deliberately attempted to make false  
7 accusations against the husband. One guy I know of  
8 hasn't seen his kids in six years because of it, and  
9 it's completely untrue.

10 From a legal standpoint, you have a lot  
11 of laws in place to protect children from child abuse,  
12 which is good, and to prove a case, the law enforcement  
13 authorities will have to have all their evidence. By  
14 the same token, with a law like this, if someone is  
15 going to be charged with this and convicted, they are  
16 also going to have to prove that case, too, so I don't  
17 see where there is anything out of balance here.  
18 That's all I have to say.

19 MS. D'ALESSANDRO: I'm in total agreement  
20 with the gentleman who spoke right before me because  
21 we're living in a situation that the bottom can drop on  
22 us any day. My daughter-in-law was reported to  
23 Children and Youth Services, and within two hours they  
24 found that the claim was unfounded and they told her,  
25 you don't have to keep the paper a year, just toss it

1 away, nothing is going to come of this, because she  
2 said, I'm going through a vicious divorce. The divorce  
3 wasn't vicious. My son just filed for a two-year  
4 no-fault divorce, not claiming anything, because he  
5 left the marriage because a fellow, a man who moved  
6 into their house temporarily, had been arrested on drug  
7 and firearm charges and he was waiting to be sentenced.  
8 So my son said he wanted out of this situation. He  
9 didn't want the man in the house, and she said, you  
10 leave for three days and you go to a motel, don't go to  
11 your family, you go alone and see if it's worth letting  
12 me have my friends or you seeing your daughter. And  
13 then she had two children from two other marriages  
14 also. So my son left and he immediately filed for  
15 divorce because the week before he found immunity from  
16 prosecution papers where she had taken her oldest  
17 daughter, who was 8 at the time, on a drug trafficking  
18 trip to Florida with a young man so they looked like  
19 husband and wife. While they were down there, they put  
20 the 8-year-old in an adult shelter while they went to  
21 the bars to pick up the drugs. This was almost three  
22 years before my son had met her, and he didn't know  
23 this. So on the way back then they were followed by  
24 the police, so he hid -- so whenever they got home she  
25 hid her child out and she went someplace, but in the

1. meantime, she was picked up but then she traded her  
2. testimony for immunity. So this is why he left this  
3. house and he left the child. She hid the child for  
4. seven weeks when he didn't come back in three days, and  
5. we couldn't find her because she was going to establish  
6. herself as the person having the child in custody. And  
7. her sister came to us at Christmas and she said,  
8. there's something I have to tell you, Sue has been out  
9. here trying to coach her 17-year-old daughter to say  
10. that my son molested her while he was teaching her to  
11. drive. And her sister wouldn't have any parts of this,  
12. so Sue said, well, then my daughter will. She'll get  
13. her daughter to make charges against my son. Well,  
14. then her family went up against her.

15.                   But I want you to know that up until  
16. every Friday night when we picked this child up or take  
17. her back Sunday night we always had to walk on eggs  
18. because since this Children and Youth investigation,  
19. it's like, "I heard Ray was going to drop Chrissy off  
20. out of the car because she was crying." I mean, she  
21. just makes insinuations, insinuations of impropriety,  
22. and the child is the whip in her hands. I mean, we  
23. jump, we don't make any accusations because we're told  
24. not to mess her up. She can handle Children and Youth,  
25. but I don't look like anyone going up against me, she

1       says..

2                       So she has come up with whenever she does  
3 something wrong, say she beats the child or she marks  
4 her, and whenever you pick her up and she'll say  
5 Chrissy fell, but she'll say something like, does Ray  
6 ever spend time alone with her? Does he ever take her  
7 out anywhere? Does he take her to friends' houses  
8 overnight? We say, no, we're all in the house  
9 together. So it's just a matter of dodging any  
10 accusations she can make because she had the child --  
11 whenever someone said children don't lie, they don't  
12 lie, but when someone coaches them on something, when  
13 someone coaches them, they will say things that aren't  
14 true.

15                      Chrissy comes over and it's kind of a  
16 game of who makes the little pancakes for breakfast,  
17 who washes her hair, and so the one night she says,  
18 Pap-Pap, she says, it's your turn to wash my hair. So  
19 as my husband goes in to cradle her head and wash her  
20 hair, she says, keep your dirty hands off of me. And  
21 we thought, uh-oh, it's going to start like she does  
22 with everybody else. Everyone in their family accuses  
23 the men of molesting the children. So here my husband  
24 walked out and he says, Margaret, wash her hair. And  
25 she starts screaming, Pap-Pap, come in here and wash my



1 hair. It's your turn. So my husband, I said, please,  
2 you know, wash her hair and I'll grab her and take her  
3 out of the bathtub, and she starts sobbing. I walk in  
4 the room and my husband is crying.

5 We need rules. I mean, we need laws to  
6 protect against persuading children. We have this  
7 every weekend....Do you know why we have her every  
8 weekend? Because she needs us. The second child sends  
9 us a valentine, please let me come over... I have  
10 pictures of Easter baskets here. My daughter-in-law  
11 calls me up and she says, will you make the children  
12 their baskets from the Easter bunny? You're the only  
13 person I trust, and make one for my boyfriend's child  
14 who lives with us, too. We are at her mercy because of  
15 running into Children and Youth, and I was blamed for  
16 making the claim against her, and it was strange the  
17 way it happened because her sister called me to say the  
18 minister was sick and tired of what he heard from their  
19 side of the family and he wanted to report her to  
20 Children and Youth. Well, I called me my niece and I  
21 said to her, will they take the kids and put them in a  
22 foster home? I never had anything to do with Children  
23 and Youth. I didn't know how they operate, and God, I  
24 wish I would have never heard of them... And so here the  
25 minister had to go out of town and my niece calls to

1 check on the story. This is what I just found out this  
2 past November. But for two years, I have been begging  
3 Children and Youth, how did my daughter-in-law's lawyer  
4 have the five-page letter that the child hotline advise  
5 me to write to them so Children and Youth would return  
6 a letter to me so I could go farther with it to see why  
7 I got accused of making a claim? Because my  
8 daughter-in-law's lawyer held this five-page letter up  
9 in court when my son went for custody.

10 But what we're putting up with is this  
11 child last year was in kindergarten, she got off on a  
12 four-lane highway, very busy going out to South Park,  
13 she got off, as she crossed into an intersection, had  
14 to cross an entranceway about half the length of this  
15 room, and then she would go up into an unlocked  
16 apartment where her mother was in bed with the door  
17 shut, she would go in at 11:30, the only child on the  
18 bus, and she would have to go in there and wait until  
19 her 8-year-old sister would get home at 3:30. So her  
20 mother wouldn't check to see that she even got off of  
21 the bus and into the apartment, and then they were not  
22 allowed to waken her, the mother, until 5:00 o'clock.

23 So when I heard about her falling on this  
24 entranceway on the ice, because she was wearing shoes  
25 two sizes too big for her that were her sister's, she

1 fell on a curb, she crawled back out into the  
2 entranceway on the ice to retrieve her shoe, went in  
3 the house and was crying going up the steps but had to  
4 stop before she got in the apartment or she would  
5 awaken Damien, mommy's live-in babysitter. So I told  
6 the police and I told the school, if you hear of a car  
7 sitting over there, you see my car, you see me, I'm  
8 going to be there to watch that child get off of that  
9 buses 11:30 every day. She won't see me, she'll walk  
10 up into that apartment and I'll wait 15 minutes in case  
11 she would be tempted to come back out again, then I'll  
12 go home. That's 38 miles I went every day for nine  
13 months.

14 CO-CHAIRMAN BLAUM: Thank you very much.

15 MS. D'ALESSANDRO: Pardon?

16 CHAIRMAN BLAUM: I thought you were done.

17 MS. D'ALESSANDRO: No, I'm not. But it's  
18 just that there is, I've got all this I really--

19 CO-CHAIRMAN BLAUM: And again, we would  
20 love for you to submit that for the record.

21 MS. D'ALESSANDRO: This is all in the  
22 record. I'll tell you, that young man who sat here,  
23 from the back, I think you noticed I got emotional. It  
24 just looked like my son. My son was supposed to pay  
25 \$480 at the end of the divorce. He was paying her

1 \$1,050 a month, four years to go through a two-year  
2 no-fault divorce because her lawyer dragged it out. So  
3 he was supposed to pay \$480 and he said, Mom, I can't  
4 see Chrissy go through this every time she goes to  
5 check my wages and then brainwashes the child. So he  
6 signed a contract for three years for \$750 a month that  
7 he would give her so pressures wouldn't be put on his  
8 child.

9 I'm like General Stockwell, I don't know  
10 what I'm doing here, I don't know who I am. Something  
11 is wrong. It is broken. It needs fixed. And please  
12 read the rest. I mean, it's been a long day, and when  
13 I hear somebody say about these women and going to  
14 women shelters and I think, hey, one month go to a  
15 grandparents' meeting, Grandparents of Pennsylvania in  
16 you are areas. You go in there and you listen to the  
17 horror stories.

18 Now, this will be my last statement. Do  
19 you know why my son isn't up here instead of me?  
20 Because right here is the man who was living in her  
21 house who has been jailed for 5 to 10 years, and right  
22 here is her name on a prescription bottle as the police  
23 were searching his house and she was a frequent visitor  
24 and he lived in her house, and right here describes the  
25 reason my son isn't here.

1                   We will bring the exhibit up next of the  
2 firearms he has in his place. It's like 10 holsters,  
3 pancake holsters and everything else, but this is what  
4 my daughter-in-law's oldest daughter told me, that my  
5 son was supposed to set up to be killed if he tried to  
6 take the child from her. Is there anything unusual  
7 about this particular bullet that is at the top of this  
8 magazine? It is a hollow point. A hollow point is  
9 meant for massive internal destruction. As it enters  
10 the body, it is made out of a lighter alloy substance  
11 on contact, and as it goes through the body, it  
12 mushrooms where it goes in real small and turns real  
13 big. It tears up internal organs.

14                   CO-CHAIRMAN BLAUM: Thank you very much.  
15                   And please try and keep your testimony to  
16 House Bill 826.

17                   MR. MATTINGLY: Okay, I will.

18                   I'm George Mattingly. I'm here on behalf  
19 of my son, George Mattingly, Jr. Actually, I'm going  
20 to read his prepared statement here:

21                   My major problem started in February of  
22 1989, when my ex-wife Kathy and our two children,  
23 Nichole and Josh, moved into her boyfriend's house.  
24 They never wanted to go home, after the visit with my  
25 wife, Alberta and myself. Alberta is his new wife.

1                   They always said they hated that house.  
2     On March 4, 1989, when my father and I went to pick up  
3     my children, Vince came out and tried to start a fight.  
4     He said, you'll never see your kids again. We had to  
5     get the police, and after arriving, they decided to put  
6     Nichole and Josh in my father's custody. Even though  
7     the court order was for me, they said they had the  
8     right to do so.

9                   On March 5, my children didn't want to go  
10    home to their mother's. It was also their last visit  
11    to our home.

12                   March 8, Vince and Kathy bought PFA to my  
13    home. On March 15, there was hearing on a PFA in front  
14    of Judge Strassburger, with only the lawyers attending.  
15    The judge wouldn't accept the PFA as it was, so Kathy,  
16    her lawyer, Vince, and her mother in just five minutes  
17    decided they would say that I had molested my daughter.  
18    If this had been the case, it should have been listed  
19    on the PFA.

20                   Judge Strassburger accepted this as a  
21    fact and gave me supervised visits at support. After  
22    the third visit, Kathy and Vince terminated the visit,  
23    giving the woman in charge a hard time and using foul  
24    language. On March 16, Kathy and Vince took my  
25    daughter to Children's Hospital. They found no

1 physical evidence where Nichole had been molested.  
2 Kathy and Vince talked with a social worker at the  
3 hospital and she believed that what Nichole said was  
4 true. The social worker then contacted CYS in  
5 Harrisburg. At no time will she talk with me or my  
6 wife.

7 John Bowley was CYS's investigator. He  
8 came to my home and talked with Alberta and myself.  
9 John Bowley stated that he talked to Kathy and Nichole  
10 separately and that Vince was not present. We asked if  
11 Nichole was afraid to talk with him, and he said, no.  
12 I found out later he had lied about both statements,  
13 that my daughter would not talk with him and also that  
14 Vince was present.

15 On April 7, CYS sent my daughter to a  
16 psychiatrist, a Dr. Mann. He talked to Kathy, Vince  
17 and Nichole. He would not talk with me at all. He's a  
18 CYS psychiatrist.

19 June 5, I received a call from Allegheny  
20 County detectives asking me to come in and bring my  
21 lawyer. I was booked at this time. That is when the  
22 detectives told me they had talked with Kathy, Vince  
23 and Nichole at the house. One detective went on the  
24 witness stand and lied about the case. At no time did  
25 these detectives ever come to my home and talk to me.

1                    June 15, I had a hearing in front of  
2                    Judge Olasz, a magistrate, and that same morning a  
3                    write-up appeared in the paper giving my name and  
4                    address. Mrs. Phelps from support was there to testify  
5                    for the fact that Nichole said my daddy didn't touch  
6                    me. The lawyer failed to call her to the stand. After  
7                    the hearing, Vince and Kathy, with Nichole in the car,  
8                    drove by and Vince yelled out the window, you're going  
9                    down, molester, as to say to my daughter, I told you  
10                    your daddy did this to you.

11                    I took a polygraph test and passed it.  
12                    It was given by a Morris Ragus, and I understand he is  
13                    one of the best.

14                    January 24 and 25, 1990, I had a criminal  
15                    trial, a jury trial presided over by Judge O'Brien.  
16                    Before the jurors were brought back with a verdict, the  
17                    district attorney asked the judge to bring in more  
18                    sheriffs. We found out later they expected trouble  
19                    from Vince. I was not guilty on all accounts.

20                    On April 22, 1992, all criminal charges  
21                    were expunged as of this date, which is going into the  
22                    fifth year. I haven't seen my children. My biggest  
23                    problem now is CYS expungement. There has been delay  
24                    after delay by the court allowing my ex-wife to keep  
25                    canceling the hearings. The judge of family division



1 especially believes there is too much animosity, which  
2 is not uncommon between husband and wife--of course,  
3 that part wasn't in there--between us and it wouldn't  
4 be good for the children. He took all my rights away,  
5 but he allows the word "molesting" to be used in his  
6 courtroom whenever Kathy's lawyer feels free to do so.  
7 Both of my children are being brainwashed  
8 by instilling fear in them. Since my trial, things  
9 haven't changed. Every so often false charges are  
10 brought against me in Glassport. I am only allowed in  
11 this town for hearings, since Vince has the police and  
12 the magistrates in his pockets.

13 These false molesting accusations will  
14 always be in the FBI files in D.C. and Harrisburg,  
15 marking me a criminal, even in my own community. If  
16 you only knew the pain and the scars that it has left,  
17 which will never go away as long as I live, mostly the  
18 damages done to--

19 CO-CHAIRMAN BLAUM: It's okay. Take your  
20 time.

21 CHAIRMAN CALTAGIRONE: If you just want  
22 to take a second there, one of the things I think needs  
23 to be done if we need to draft a resolution, I would  
24 like to have bipartisan support on this, that an  
25 independent study, maybe by one of the legislative

1 offices, to find out exactly how many of the actual  
2 numbers instead of playing the numbers games, let's  
3 find out in this Commonwealth how many false reports  
4 are actually taking place and let's have a study and  
5 let's have the legislature and some of the people that  
6 perform these functions prepare those accurate figures  
7 from around our counties to see exactly what are we  
8 talking about and who's telling the truth and who  
9 isn't. Let's cut through all of that. And I'm sure as  
10 all of you are sitting here today I am wondering how  
11 many different counties and how many different people  
12 could come forth and let us know exactly what's going  
13 on in their counties. And this is one of the things  
14 that I'm going to request and we're going to find out  
15 if we can get this type of a study performed, and I  
16 think you would agree that there's nothing wrong with  
17 gathering that kind of information. To see exactly,  
18 and we're not just talking about the sexual abuse  
19 stuff, just the false reporting for one-upsmanship.  
20 Nasty neighbors, teachers. I heard it all out in  
21 Pittsburgh when we were out there. I just think that  
22 maybe we ought to cut through it and find out exactly  
23 how much of this is really going on.

24 And if you would like to continue now.

25 MR. MATTINGLY: Mostly the damage that

1 was done to my two children and extended family. I  
2 think those that make such false charges should be made  
3 to suffer with jail time and fines to cover all costs  
4 also that were brought against. Otherwise a mockery  
5 will continue to be made of our judicial system. This  
6 is my statement.

7 I believe Kathy and Vince have committed  
8 a terrible crime against Nichole and Josh and the rest  
9 of my family. Some of this blame must fall back on  
10 CYS. They did not care about finding out the truth,  
11 only the financial part. And how much money they would  
12 be taking in with this case. My wife and I have three  
13 court-ordered meetings with Mary Beth Hendricks from  
14 CYS. At every one of these meetings she said, I am  
15 going to advise you that your son did this to Nichole.  
16 Mary Beth said they discussed at every meeting how her  
17 daddy had molested her.

18 I understand there has been more money  
19 budgeted for CYS. There should be better qualified  
20 people as well as a board who is more receptive to the  
21 general public. Whenever charges are made, it is  
22 apparent that CYS has little interest in the real  
23 truth. Obviously the welfare of a child must be  
24 paramount in cases such as these. However, once false  
25 allegations are cleared, CYS can still keep the

1 children away from their father and his family based on  
2 those unfounded charges. A process must be adopted by  
3 CYS to reunite their families when such charges are  
4 cleared. Likewise, stiff fines or other civil liable  
5 suits should be filed by CYS against accusers.

6 Thank you.

7 CO-CHAIRMAN BLAUM: Thank you very much.

8 Are there any questions?

9 CO-CHAIRMAN BLAUM: There being none--

10 MS. D'ALESSANDRO: Since I cut this short,  
11 there was something important. And I really did cut it  
12 so short, but I'm so emotional after all this day.  
13 First of all, my granddaughter has to get into her  
14 mother's boyfriend's cars because sometimes they go  
15 somewhere so mommy could sleep in the afternoon because  
16 she works in a bar at night. She wanted to take them  
17 2:30 one night in December a year ago on an icy road to  
18 Indiana to find a man who was her husband before my son  
19 married her, who was the father of her second baby,  
20 because this guy was in the navy, okay, and we  
21 protested it and she kept the child from us for three  
22 weeks...

23 And you say about the courts, you can't  
24 go to the courts. They refuse the child and they say  
25 to her, you know, it will be held against you. I don't

1 know when. Maybe in the next life. And here I have  
2 Chrissy asked when she can talk to our judge. I don't  
3 know.

4 CHAIRMAN CALTAGIRONE: Do you want to  
5 submit that for the record and she can record that?

6 As a reminder to those of you that may be  
7 joining us in Philadelphia tomorrow, this is another  
8 one of the unauthorized--authorized by my point of  
9 view, to be taken care of by my point of view--hearings  
10 that's going to be held to afford the people of the  
11 Commonwealth an opportunity to be heard in this issue,  
12 and I understand there is both pro and con that will be  
13 taking place there, so we do plan to hold a whole day  
14 of hearings tomorrow in Philadelphia at the University  
15 of Pennsylvania at 10:00 a.m., and I wanted to thank  
16 the Universities in this State for affording the  
17 opportunity both in Pittsburgh and in Philadelphia so  
18 that the people of this Commonwealth can be heard. I  
19 think it was very, very gracious of them to open up  
20 their campuses to allow us to gather additional  
21 information on this issue.

22 Mr. Chairman, members of the public,  
23 ladies and gentlemen, this concludes the hearing.

24 (Whereupon, the proceedings were  
25 concluded at 5:40 p.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.

\_\_\_\_\_  
ANN-MARIE P. SWEENEY

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