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PENNSYLVANIA COALITION AGAINST RAPE

A state network of centers serving victims of sexual assault.

TESTIMONY ON
HOUSE BILL 826

HOUSE JUDICIARY COMMITTEE
HOUSE AGING AND YOUTH COMMITTEE

MAY 6, 1993

I am pleased to present testimony today on behalf of the Pennsylvania Coalition Against Rape (PCAR). The issue of false allegations is not new to this legislature. Nearly four years ago, PCAR addressed the issue as part of its testimony before the Aging and Youth Committee on proposed legislation regarding custody and visitation. Unfortunately, in the intervening years, this same issue appears to have generated more heat than light.

As both the Judiciary and Aging and Youth Committees consider this issue, I urge that you place great priority on generating light and not further contribute to the intensity of the heat. As an advocate on behalf of children and adults who have been abused as children, PCAR strongly believes that the best interests of our children must be aggressively protected.

In preparing for these hearings, I once again researched the existing literature about the issue of false allegations. Much of that research has arisen out of studies involving custody issues in cases of divorce. A number of the articles reviewed included some that have already been cited by others presenting testimony here today. Although perhaps repetitive of other testimony, the

information contained in research bears repeating - for time after time, research consistently shows that false allegations of abuse are the exceptional situation. There is not an explosion or epidemic of false allegations.

In one of the most comprehensive studies conducted by the Association of Family and Conciliation Courts Research Unit in Denver, Colorado, more than 9,000 families involved in custody disputes in eight major urban locations were studied. Slightly less than 2% of these disputes involved allegations of sexual abuse. Specifically, out of more than 9,000 cases included in this study, 165 involved an allegation of sexual abuse. A mother accused a father or stepfather in 54% of cases; in 10% of the cases, fathers alleged that a child was sexually abused by the mother's new male partner; in 6% of the cases the mother was accused of the abuse; nearly 20% involved accusations by mothers or fathers against other relatives and family friends; and 11% of allegations originated with someone other than the parent.

In one half of these cases, sexual abuse was substantiated by at least two evaluators. In another 17% of cases, although no determination could be reached, at least one evaluator concluded that sexual abuse had occurred. Therefore, in fully two-thirds of the cases where sexual abuse was alleged, sufficient evidence existed so that a conclusion of no abuse could not be reached.

In the remaining one-third of cases, a conclusion was reached that no abuse was believed to have transpired. In real numbers,

this means that in 42 of more than 9,000 disputed custody cases, an allegation of sexual abuse was made and found lacking. In reaching this conclusion, there is no indication that the original allegations of sexual abuse were the result of "unlawful persuasion" or made "without having reasonable grounds to believe the report to be true".

The concluding summary of this study is clear:

... the findings presented ... offer little support for the assumptions that an epidemic number of mothers are falsely accusing fathers of sexual abuse during custody and visitation disputes. Rather, the study suggests that these cases are relatively rare, are often complex, involving a variety of accused and accusing parties, young children, and serious allegations, are no less likely to be "unfounded" than are any other reports of sexual abuse made to protective service agencies. As a result, the study does not suggest the need for methods to discourage such reports or to reduce their numbers. [Emphasis added.] Rather, the study reveals the need for courts and CPS agencies to develop cooperative, coordinated approaches to manage these cases, and to offer them the full and unbiased time and attention that they require.

One of the most intriguing articles that I reviewed in preparing this testimony was coauthored by Lucy Berliner and Elizabeth Loftus. In most situations these two are on opposite sides of the issue, Berliner as the advocate for the child, and Loftus as the advocate for the defendant accused of abuse. The article titled "Sexual Abuse Accusations: Desperately Seeking Reconciliation", contains not a single statistic and cites not a single study. Rather it acknowledges areas of general agreement between two persons who are usually at odds in individual cases.

Both agree that the sexual abuse of children is alarming -

even when the most conservative figures are used.

Most interestingly, both agree that when the disclosure of sexual victimization occurs, reports may contain inconsistencies, hesitancies and even retractions. They agree that true reports can contain these features as well as false ones.

Both agree that memories can be recalled accurately and that victims, including children can be resistant to suggestive questioning. They also agree that memory is not always accurate or complete and is sometimes subject to influence.

Most surprisingly, they agree that a small percentage of reports of sexual abuse, after investigation, are not true. They jointly assert that fictitious reports, especially with younger children, may have nothing to do with deliberate lying; but occur because of misinterpretation, misunderstanding or influence.

Perhaps of most significance to the legislation under consideration today, is their joint belief that generalizations from separate and individual cases are difficult to make and can be damaging to our ability to address the larger issue of the sexual abuse of children.

In this portion of their discussion they say "Most of us probably have relatives, friends, and colleagues about whom we would never believe an accusation of sexual abuse no matter how convincing the allegation. This is not necessarily a failing; it is human nature. And all of us hope that there are those on whom we can count should we be falsely accused. . . . This is not to say

that believing is the same as being right, only that belief is more an emotional act than a scientific one, especially when it is personal."

Finally, their conclusion is that the implications of findings to practice and policy are where the debate should focus. In this instance, the findings consistently indicate that the incidence of false allegations is minimal - less than 2% according to all research using generally accepted and rigorous methodology. In the heat versus light debate, heat gives way to the brightness of light.

An examination of research consistently supports the prevalence of child sexual abuse and the minimal likelihood of false allegations. These are the findings which professionals must use to develop practice and which legislatures should use to establish legislative policy. The weight of the recountings of individuals must be tempered by Berliner's and Loftus's caution that discussion that only focuses on specific cases risks ignoring the consequences of being wrong - either too quickly assuming that an allegation is false or in concluding that abuse occurs in all instances where an allegation is made.

What seems the more overriding issue is that in this Commonwealth we have neither sufficient resources nor people to always quickly, comprehensively and accurately investigate allegations of child abuse. In this situation, allegations may be falsely made. Most importantly, allegations generated out of

concern and supported by fact may be inadequately investigated. The abuse will continue.

In PCAR's experience, it is only in the last few years that the issue of child sexual abuse has become something that can be talked about with some degree of openness. It is only in the last few years that we have devoted limited resources for services to those who are the victims of child sexual abuse. It is only recently that we have finally concluded that child sexual abuse is a matter of public concern that requires us to act to protect our children.

The facts as reflected in all accepted and credible research does not support the need for legislation such as proposed in HB 826. If out of the heat of debate, this legislature ignores the light of information, the already low incidence of false allegations may be reduced - but only because of the "chilling effect" created by this legislation. In the process, legitimate and real cases of physical, emotional and sexual abuse will also go unreported and unaddressed. For our children, that would be the cruelest of resolutions to already tragic situations.

PCAR cannot support HB 826. Instead, PCAR urges that we quickly move on to the substance of how we provide the resources and demonstrate a commitment to ending the abuse of our children.

Berliner, Lucy and Loftus, Elizabeth. "Sexual Abuse Accusations: Desperately Seeking Reconciliation". Journal of Interpersonal Violence, Vol. 7, No. 4, December 1992.

Thoennes, Nancy and Tjaden, Patricia G.. "The Extent, Nature and Validity of Sexual Abuse Allegations in Custody/Visitation Disputes". Child Abuse & Neglect, Vol. 14, 1990.