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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

In re: Senate Bill 1843
Mandatory Registration of Sex Offenders

Stenographic report of hearing held
in Room 22, Capitol Annex, Harrisburg,
Pennsylvania

Wednesday,
November 30, 1994
10:15 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF HOUSE JUDICIARY COMMITTEE

Hon. Jerry Birmelin	Hon. Kathy Manderino
Hon. Mark B. Cohen	Hon. Albert Masland
Hon. Gregory C. Fajt	Hon. Frank W. Yandrisevits
Hon. Timothy F. Hennessey	

Also Present:

Karen L. Dalton, Counsel
Galina Milohov, Research Analyst
Dan DeLash, Committee Secretary
Darlene Zelazny

Reported by:
Kimberly L. Intrieri
Reporter-Notary Public

1 CHAIRMAN CALTAGIRONE: I'd like to start
2 the public hearing on Senate Bill 1843. There has
3 been a packet that has been distributed with some
4 comments and observations from the Pennsylvania Chiefs
5 of Police Association and the ACLU, and that's
6 included in your packet.

7 One of the things I wanted to mention is
8 that according to the Omnibus Crime Bill that was
9 passed by U.S. Congress within three years the states
10 have to comply with some type of registration program
11 or they will be penalized losing approximately 10
12 percent of their funding source.

13 That's one of the carrot stick pieces that
14 we have to comply with. And my very good friend from
15 the Senate, the chairman of the Senate Judiciary
16 Committee, Stu Greenleaf, is here with us today. He's
17 the prime sponsor of this legislation.

18 This of course was an issue that was
19 raised in committee. And due to the lateness of the
20 hour and session days being what they were with just a
21 couple days left members felt that there needed to be
22 a public hearing to discuss the proposed legislation
23 knowing full well that this issue will have to be
24 dealt with at some time in the next session.

25 And there's the possibility that this

1 would be one of the issues that would be dealt with in
2 the special session that will be called for by
3 Governor Elect Ridge, and I think this is the first --
4 Stu and I were talking earlier -- the first time
5 publicly that any hearing had been held on this issue
6 to specifically address the legislation.

7 And at this time if Chairman Greenleaf
8 would come forward and --

9 SENATOR GREENLEAF: Do I sit there?

10 CHAIRMAN CALTAGIRONE: Well, I think the
11 press --

12 SENATOR GREENLEAF: I want to take this
13 opportunity to thank the House Judiciary Committee and
14 its chairman for holding this hearing on a very
15 important topic. It's a topic that has gained the
16 attention of obviously this state and New Jersey and
17 actually the nation of the -- and the unfortunate
18 events that occurred in New Jersey that called this
19 matter to all of our attention, although I know that
20 both you and the Senate have looked into child abuse
21 and other related issues over the years very intently.

22 But this particular incident has called
23 attention to a way -- a specific way at least to deal
24 with this particular problem. So I'm pleased to
25 appear before the House Judiciary Committee this

1 morning to comment on legislation I've introduced;
2 namely, Senate Bill 1843, commonly referred to as
3 Megan's Law.

4 Senate Bill 1843 provides for the
5 registration of sex offenders and the notification of
6 neighbors that the sex offender has moved into their
7 neighborhood. I consider this legislation a top
8 priority for the session beginning next year. And as
9 the Chairman has indicated I'm hopeful that during the
10 special session on crime that has been called by
11 Governor Elect Ridge that this and a number of issues
12 that relate to it will be addressed and will be a high
13 priority.

14 The legislation is named for Megan Kanka,
15 a seven-year-old second grader in Hamilton, New
16 Jersey, who was raped and murdered by a neighbor; a
17 twice-convicted sex offender who lived across the
18 street from Megan's family with two other sex
19 offenders.

20 Megan's family did not know about their
21 neighbors' criminal histories. I introduced a Megan's
22 Law bill in Pennsylvania to protect Pennsylvania
23 children who, like Megan, may become the victims of
24 sexual offenders.

25 Senate Bill 1843 has four key provisions.

1 The first provision of the bill requires any person
2 who has been convicted of a sexual offense against a
3 child to register with the chief of police for the
4 municipality in which he is living. If there is no
5 local police department, the sex offender must
6 register with the State Police troop which has
7 jurisdiction over the municipality.

8 The sex offender must be notified of the
9 registration requirement by the trial judge at the
10 time of sentencing and by personnel at the
11 correctional facility at the time of release. The sex
12 offender's probation officer must notify the local
13 police department that the offender is residing in the
14 municipality.

15 A sex offender has seven days after his
16 release to register. Failure to register is a
17 misdemeanor of the second degree. A sex offender
18 convicted in another state and moving into
19 Pennsylvania has 14 days to register. The Department
20 of Transportation must provide written notice of the
21 registration requirement to any person from another
22 state who applies for a Pennsylvania driver's license.

23 And also an offender who's required to
24 register may petition the court of common pleas to be
25 relieved of any duty to register if they feel that

1 there's sufficient grounds for such an excuse.

2 The district attorney shall be the
3 respondent in the petition, and the court must
4 consider the nature of the sexual offense and the
5 criminal and noncriminal behavior of the petitioner
6 both before and after the conviction.

7 The court may relieve the petitioner of
8 the duty to register only if the petitioner shows with
9 clear and convincing evidence that registration is not
10 necessary to protect the public. Unless the offender
11 is relieved of his duty to register by a court he has
12 a lifetime requirement to register.

13 For purposes of the registration
14 requirement Senate Bill 1843 defines sexual offense as
15 kidnapping, sexual offenses under Chapter 31 of the
16 Crimes Code -- this includes offenses such as rape,
17 statutory rape, indecent assault and indecent exposure
18 -- offenses under the obscenity statute insofar as it
19 relates to minor children and child abuse. The victim
20 must have been 16 years old or younger at the time of
21 the offense.

22 The second provision of Senate Bill 1843
23 requires the chief of police or State Police to
24 provide notification of the registration of a sex
25 offender to any person residing at a residence

1 adjacent to the address at which the sex offender
2 registered his intent to reside.

3 Notification must be written and given
4 within 72 hours after the person registered. In some
5 cases the police may determine that notification to
6 adjacent -- or notifying adjacent neighbors is not
7 adequate and may use such other means of public
8 notification as they deem necessary.

9 The third provision in Senate Bill 1843
10 requires professionals who work with children to
11 report suspected sexual offenses against children to
12 law enforcement officials. This is modeled after the
13 provisions of the Child Protective Services law
14 requiring professionals who work with children to
15 report suspected child abuse to the Department of
16 Public Welfare.

17 The report must be made immediately by
18 telephone to the municipal police department or to the
19 State Police troop with jurisdiction over the
20 municipality. The police must make a written report
21 of the phone call and provide the person making the
22 call with a copy of the report in order to confirm the
23 call. A person making a report under this provision
24 shall be immune from civil -- civil or criminal
25 liability for making such a report.

1 The fourth provision of the bill will
2 authorize the sentencing judge to find that a
3 defendant is a habitual sexual offender and to
4 sentence that defendant to life imprisonment. To
5 qualify as a habitual sex offender the defendant must
6 have been convicted of two sexual offenses that are
7 graded at least as serious as a felony of the third
8 degree.

9 The provision includes other factors that
10 a judge may use in making a determination such as the
11 offender's prior criminal record, whether the offense
12 involved multiple victims, whether the offender
13 completed his prior sentence and participated in
14 available programs for sex offenders and whether the
15 offense included a display of unusual cruelty.

16 Even before the tragic death of Megan
17 Kanka over 20 states had sex offender registration
18 laws, and several of those states had public
19 notification laws. The terrible death of Megan
20 spurred the New Jersey legislature to enact a sex
21 offender registration and public notification law.

22 The National Conference of State
23 Legislators reports that 40 states now require sexual
24 offenders to register with local police. In
25 California which has the oldest statute a study has

1 shown that 72 percent of convicted sex offenders
2 comply with the registration requirement. A
3 Washington state study revealed a similar compliance
4 number.

5 The recently passed federal bill -- crime
6 bill mandates that every state adopt a sex offender
7 registration law within the next three years or risk
8 losing 10 percent of federal crime fighting grant
9 money.

10 While Senate Bill 1843 does not comply
11 with every detail of the federal law I believe the
12 bill provides substantial compliance, and I would be
13 happy to work with you to make sure Pennsylvania's law
14 meets all federal requirements.

15 Senate Bill 1843 passed the Senate earlier
16 this fall by a 49-0 vote. I am hoping that
17 Pennsylvania will follow New Jersey with a Megan's Law
18 early next session. I appreciate the House Judiciary
19 Committee's consideration of this important issue and
20 look forward to working with you in enacting a Megan's
21 Law in Pennsylvania.

22 Let me also make some additional comments,
23 and that is why we need a notification law. I spent
24 some time going over the details of this legislation.
25 For probably at least ten years the -- I'm sure both

1 these committees and in particular the Senate
2 Judiciary Committee have looked into sexual child
3 abuse.

4 And the people who are involved in this
5 activity who we might call a pedophile are people of a
6 high degree of recidivism. This is a life-long
7 activity for them. They hunt down and seek young
8 children.

9 They -- there was recently -- I believe it
10 was U.S. News and World Report did a study and an
11 article on child abusers. And they're interviewing
12 this gentleman -- I think he was at that time in
13 Virginia. He was in his 30s I believe, and he had
14 already molested somewhere over a couple hundred
15 children. And he had a long life ahead of him.

16 Some people say, well, why do we need
17 notification. We need notification because if you've
18 been convicted of a child sexual abuse, probably
19 you've committed hundreds of crimes before you've been
20 convicted because the situation is that the conviction
21 rate for child molestation is very low.

22 And that's why -- one of the reasons why
23 I've been pushing for that bill to allow children to
24 testify under closed circuit TV to at least level the
25 playing field for children. I'm hoping we'll pass

1 that next year. We have it on the ballot as a
2 constitutional amendment next year.

3 But it's clear from talking to law
4 enforcement agencies and others that there's a very
5 low conviction rate for children that have been abused
6 because they're not good witnesses. You know, they're
7 three-year-olds or four-year-olds or five-year-olds.

8 It's not reported. When it is reported,
9 it's not taken seriously. And then of course when
10 they go to court, the children don't want to testify,
11 they're not good witnesses and there are no
12 convictions.

13 So if you have a person who's been
14 convicted of a serious felony child molestation
15 conviction, you've got a guy who has been involved in
16 it for a long time and will continue to be involved in
17 it for a long time.

18 And when they're released, the people next
19 to that home and that resident should have the
20 protection of knowing that that person is next to
21 them. If they had had this law in New Jersey, I would
22 doubt whether the parents of Megan would have allowed
23 her to be playing in the back yard or be inticed into
24 his home and then ultimately molested, strangled and
25 -- and killed.

1 Because of the high recidivism rate
2 there's a need for -- for this. There's a need for
3 registration requirements in Pennsylvania. And as I
4 say I look forward to working with this committee and
5 the chairman in developing that legislation. I'll be
6 happy to answer questions.

7 CHAIRMAN CALTAGIRONE: Thank you, Senator
8 Greenleaf. Representative Birmelin has a question.

9 REPRESENTATIVE BIRMELIN: Senator,
10 Representative Birmelin, fellow Republican from Wayne,
11 Pike County.

12 SENATOR GREENLEAF: Yes.

13 REPRESENTATIVE BIRMELIN: We had a hearing
14 -- a public hearing on Representative Ruth Rudy's bill
15 sometime earlier this year which I guess you're aware
16 of was similar to yours, but there are some
17 differences.

18 And there were some questions that were
19 raised that I'd like to just run by you real quickly,
20 if I could. The first was the inclusion of the
21 offense of indecent exposure as a person who would
22 have this lifetime requirement to register.

23 There was some feeling on the part of the
24 Committee that indecent exposure was somewhat
25 different than the other ones in that it did not

1 violate anybody else physically.

2 And I was wondering if you had any
3 thoughts on whether or not that should still be
4 included in the lifetime registration requirement.

5 SENATOR GREENLEAF: I think that it's not
6 a major blow to the legislation if it was removed, but
7 let me tell you why I include it in -- I included it
8 into the legislation. And I certainly would -- if you
9 wanted to delete that, I would have no real objections
10 to that.

11 The reason I included it in the
12 legislation is you'll notice that it's not adult
13 offenders or it's not an adult perpetrator on an adult
14 victim. We're talking about an adult who is
15 committing his offense against a child under the age
16 of 16 years of age.

17 If they are doing that, then I believe
18 that they're also involved in other activities and
19 they're involved in -- in child abuse. And so I
20 thought that it was important to include that in that
21 they were not -- this is not a situation where they're
22 exposing themselves to an adult.

23 They're exposing themselves to a child.
24 And I believe that that's as much as anything a sexual
25 activity that we don't want our children exposed to.

1 REPRESENTATIVE BIRMELIN: I would agree we
2 don't want them exposed to that. I'm just questioning
3 that there may be a difference between that sexual
4 offense and the others.

5 SENATOR GREENLEAF: Well, I think --
6 there's no question about it. When there's physical
7 contact and all, I mean there's no question about it
8 that that's more serious.

9 And if in the House's wisdom or this
10 Committee's wisdom you feel that that's not
11 appropriate to continue to include it in the
12 definition, I don't have any problems with that being
13 removed.

14 REPRESENTATIVE BIRMELIN: The second
15 question I had for you was dealing with the third
16 provision of this bill which required certain people
17 to report suspected offenses.

18 As you know we passed House Bill 1001 in
19 the waning hours of session, and I was wondering if
20 what you're attempting to do in this third provision
21 has somehow already been taken care of by House Bill
22 1001.

23 SENATOR GREENLEAF: Well, I -- one of the
24 problems as we -- I know we have -- presently we have
25 a law that requires certain child -- people dealing

1 with children generally -- not generally, but
2 specifically like child care providers I guess. With
3 the present law now they have to report child abuse,
4 if I remember right.

5 But I -- it's my belief that anyone who's
6 dealing with children should be required to report
7 suspected sexual offenses against children to law
8 enforcement officers.

9 Right now we have a situation where people
10 are reluctant to do it for a variety of reasons or
11 they don't feel compelled to do it for a variety of
12 reasons, and so I don't -- I would believe that we
13 should expand it as much as possible to require that
14 reporting.

15 Now, whether that's covered by the House
16 bill, I don't remember.

17 REPRESENTATIVE BIRMELIN: I don't
18 remember, and that's what I'm asking you.

19 SENATOR GREENLEAF: I haven't had a chance
20 sit down and compare the two.

21 REPRESENTATIVE BIRMELIN: Well, I know
22 that 1001 did do that; did expand the reporting
23 provision. But I don't know whether or not your bill
24 was a duplication of that or not.

25 SENATOR GREENLEAF: I can't answer that

1 right now because I have not compared the two.

2 REPRESENTATIVE BIRMELIN: One other issue
3 on the reporting section. This is something I've been
4 concerned with for quite some time. And I included an
5 amendment in the House Bill 1001 which required the
6 Public Department of Welfare to do a one-and-a-half
7 year survey of false and malicious report and then to
8 come back to the General Assembly with the results of
9 not only what they feel are the causes of it and how
10 it's done, but what we can do to prevent that.

11 I know that we need to report child abuse.
12 We need to stop it. And we need to make sure that
13 when we suspect it in good faith, report it; that it's
14 done so. But I also have a concern that it's being
15 done by some people to destroy the lives of others.
16 And I'm sure you're aware of that as well.

17 And I'm wondering if in your legislation
18 there ought not to be a provision somewhere along the
19 lines that we protect people from the false and
20 malicious reporting that we've seen happen in the
21 child protective service system currently which
22 hopefully maybe House Bill 1001 and its mandated study
23 by the DPW will result in some positive steps.

24 But what is your attitude on that?

25 SENATOR GREENLEAF: I don't -- I don't

1 disagree with you on that. I think that I have seen
2 that in particular in domestic matters; that there has
3 been an increase in the number of allegations of child
4 abuse made by spouses on both sides. And some of them
5 may be legitimate allegations.

6 Some of them I suspect involving the court
7 personnel at least in Montgomery County, they strongly
8 suspect that some of them are frivolous allegations
9 made in order to gain an advantage in a domestic
10 relations matter. But that's a matter for the courts
11 to decide. That's a matter for fact finders to
12 decide.

13 I think that if someone does make a false
14 and malicious allegation such as that, there should be
15 very severe penalties for that person because what
16 they've done is they've undermined the justice system.
17 They've also undermined those people who have
18 legitimate complaints about sexual abuse, and they've
19 caused a cloud over those complaints.

20 And I don't think that those people should
21 get the -- the punishment could not be severe enough
22 for them when they make those kind of allegations
23 because they've hurt children and they've hurt their
24 own children and -- or the children involved in that
25 matter. And they hurt other children who are truly

1 being abused.

2 And so if we provided some very serious
3 penalties for those people who make such offense
4 allegations, I'd welcome that. I think it would be a
5 constructive issue.

6 REPRESENTATIVE BIRMELIN: The history of
7 this legislative initiative on my part was that in the
8 last session I introduced a bill to do that. Chairman
9 Caltagirone had a public hearing on it, and we were
10 vehemently opposed by the district attorneys among
11 others who said that in any way to do anything that
12 would diminish the number of reports would be wrong.

13 So they're saying -- they were saying in
14 essence let all the false reports come in, we'll just
15 have to sift through them and find the real ones. And
16 I disagreed with them. I felt that does a disjustice
17 -- a disservice to the justice system.

18 And the best I could do was the amendment
19 to have DPW do a study on it in House Bill 1001. But
20 I'm concerned that that's not going to be adequate and
21 that there are people -- you know, in our rush to
22 protect children -- and we should be trying to protect
23 them -- we're also trampling over potentially the
24 lives of others.

25 SENATOR GREENLEAF: I agree with you. And

1 I think that it would not reduce the number of
2 reported cases because if you make a false report to
3 police, that's already a criminal offense in
4 Pennsylvania.

5 By passing a bill such as yours as you're
6 proposing, all that would do is give you a specific
7 bill dealing with that type of offense, and hopefully
8 it would act as a deterrent for people.

9 And if someone was prosecuted under it, I
10 mean it wouldn't be an easy case to prove. If you're
11 prosecuted and convicted for something like that, I
12 mean you really have a very egregious situation
13 because that's the kind of case that is very, very
14 difficult to ever prove.

15 I mean sexual abuse cases are hard enough
16 to prove. And then to prove that the allegation
17 itself was untrue and malicious and amounts to a
18 criminal offense is even harder. So I don't see many
19 people being convicted of it.

20 But hopefully it would act as a deterrent.
21 So if they're going to make a false allegation to
22 police, that's already a criminal offense in
23 Pennsylvania.

24 REPRESENTATIVE BIRMELIN: Well, that's
25 true, and -- but it did not specifically apply to the

1 false child abuse reporting, just in general false
2 reporting.

3 And I asked the district attorney
4 representatives who were there at the public hearing
5 that day how many cases have you ever taken to court
6 or convicted on in Pennsylvania, and the answer was
7 none.

8 SENATOR GREENLEAF: On what kind of
9 offense?

10 REPRESENTATIVE BIRMELIN: On a false child
11 abuse report.

12 SENATOR GREENLEAF: Absolutely.

13 REPRESENTATIVE BIRMELIN: So it meant --
14 what it told me was that, No. 1, the law is not clear
15 enough, not specific enough; and, No. 2, the district
16 attorneys in essence were turning their back to the
17 problem.

18 SENATOR GREENLEAF: Well, I understand
19 why. I spent seven years in the DA's office as an
20 assistant DA, and I -- it would be a nightmare. I
21 mean it's a case that would be very difficult to
22 prosecute. But I'm not saying you couldn't.

23 If you had a specific statute dealing with
24 it and you had -- and a situation where the child
25 finally came out and said under clear and convincing

1 statements that, look, I was told to do this and say
2 it, then it would be I think an appropriate matter to
3 prosecute because it's something that we have to -- to
4 discourage.

5 REPRESENTATIVE BIRMELIN: And my attitude
6 was that if this law were in place, then it would
7 discourage it in the first place. We're not looking
8 so much to get prosecutions from it, but we're looking
9 to prevent the false reporting in the first place.
10 And I think it would have done that.

11 One last subject I wanted to ask you
12 about. You had mentioned in your notes here that 40
13 states now require sex offenders to register with
14 local police including California. A study showed
15 that 72 percent of them comply with the registration
16 requirement.

17 Have there been any studies to show that
18 sex offenders who register with local police is
19 working to reduce the amount of crime that those who
20 register -- obviously it doesn't matter for those who
21 don't register, but have we done enough -- have we
22 done any studies to show that guys who don't register
23 commit more repeat offenses than those who do?

24 SENATOR GREENLEAF: I don't have any
25 statistics on that available to me, but if they don't

1 register, they're going to be back in jail.

2 So they're not going to be committing any
3 crimes because it's going to be a violation of their
4 probation or their parole or the law -- under this
5 legislation it's going to be a criminal offense. So
6 they're going to be back in the jail, and they won't
7 be able to commit any crimes if they don't register.
8 At least that's my hope.

9 What it does do though is it at least
10 allows people to protect themselves. If they know
11 someone is living adjacent to them, that they're not
12 going to let them out in the back yard playing with
13 that guy's dog which happened with Megan.

14 So I don't know of any studies that
15 indicate the impact of these laws, but --

16 REPRESENTATIVE BIRMELIN: I'd be
17 interested in seeing that.

18 SENATOR GREENLEAF: We'll look into that.
19 And if I come up with that, I'll send it to you.

20 REPRESENTATIVE BIRMELIN: I'm planning on
21 staying on the House Judiciary Committee next session,
22 Matt Ryan willing.

23 SENATOR GREENLEAF: Good.

24 REPRESENTATIVE BIRMELIN: And I'm
25 interested in this legislation, and I'm certainly

1 going to be interested in working with you on it.

2 SENATOR GREENLEAF: Thank you.

3 REPRESENTATIVE BIRMELIN: Maybe we can
4 come up with something by the end of the next two
5 years that we can introduce.

6 SENATOR GREENLEAF: I'll supply you with
7 infor -- I have a lot of information. I don't have it
8 with me in this file, but I will supply it to you. We
9 have a fair -- a fairly large file on this. And, if
10 you don't mind, I'll send it all over to you.

11 REPRESENTATIVE BIRMELIN: Okay. Thank you
12 very much, Senator.

13 CHAIRMAN CALTAGIRONE: Representative
14 Manderino.

15 REPRESENTATIVE MANDERINO: Thank you, Mr.
16 Chairman. Senator, my concerns go to the area of the
17 law which is most troubling to me, but it's the one
18 that the general public wants the most. I'm concerned
19 about the practical ramifications of the notification
20 to residents provision.

21 One issue, when I've heard people discuss
22 it, but I've heard no one address is the whole issue
23 of liability of local police departments if somebody
24 -- if they failed to notify somebody next door, if
25 they failed to notify somebody who thought they were

1 close enough that they should have been notified, if
2 after they notify the current resident and somebody
3 else moves in and out and the police weren't aware of
4 it. And then all of the sudden you have folks -- God
5 forbid, something horrible happens -- suing local
6 police departments for failure to notify.

7 And I wonder if you would address your
8 thoughts about the liability issue.

9 SENATOR GREENLEAF: It's my intention that
10 there be no criminal or certainly civil liability on
11 the municipality, on State Police or on the local
12 police for the extent of their notification because
13 under the legislation it requires them to notify the
14 adjacent homeowners.

15 We wanted to be as reasonable as possible
16 in regard to the notifications, unlike I believe the
17 state of Delaware where they put this notification in
18 the paper. And someone told me here this morning that
19 -- your research analyst here -- that I think it was
20 Alaska they post the sign on their front yard.

21 We don't do that. We try to be as
22 reasonable as possible as far as the notification
23 requirements, and that is to notify the adjacent
24 neighbors. Then though I think it's important to give
25 them discretion, and that's where the problem could

1 come in; where we give them the discretion that the
2 police chief has the discretion to notify other
3 persons.

4 We did that for a number of reasons. One,
5 we thought it was important for them because under
6 certain circumstances other people feel it's
7 necessary; necessary to notify. And, secondly, I
8 thought it would deal with that -- this liability
9 problem because in a situation where he would have the
10 discretion to go beyond the immediate neighbors
11 because then someone else could say, well, you know,
12 we should have been notified and there's some things
13 that he should have done. And hopefully that would
14 relieve it.

15 The third area that I believe they should
16 be immune from suit -- from civil suit -- for -- from
17 someone coming in and saying, well, you should have
18 notified the whole community or you should have sent a
19 letter out to everybody in the community or you should
20 have sent -- or you should have put it on TV or should
21 have put it on radio. I mean there's no end to that,
22 and so we don't want to get them into a -- that kind
23 of quadmire.

24 So, you know, it's my feeling that they
25 should be immune from civil suit unless there's a

1 clear, intentional refusal to abide by any provisions
2 of the legislation. And that's another matter. But
3 for a pure, plain negligence suit I would feel they
4 should not be -- they should not be liable for civil
5 suit.

6 REPRESENTATIVE MANDERINO: Along the same
7 lines how do things like our current hate laws
8 dovetail or do you see them not dovetailing with this?

9 I anticipate -- and it would only be
10 natural -- that if I was notified of somebody next
11 door, I mean I could see the pickets developing or a
12 community activism type of reaction to I don't want
13 this person living in my neighborhood.

14 What is the liability of neighbors when we
15 do something like this and they take some sort of
16 action? Would a person who has had to register but
17 has shown no further criminal acts at this state,
18 would they have a claim in the hate laws against
19 neighbors who are trying to drive them out of their
20 neighborhood?

21 SENATOR GREENLEAF: Well, first of all,
22 there's no immunity for neighbors for taking the law
23 into their own hands. I mean we don't -- I don't
24 condone that, and I don't think this legislation would
25 do that. And I don't think anyone here in this room

1 would want to do that.

2 I agree with you. This is merely a
3 notification so they can take offensive, protective
4 steps on their own, not that that -- they can remove
5 that person from their neighborhood or do anything
6 else that is illegal or criminal or civil or a
7 violation of anyone's civil rights. This is not the
8 intention of that.

9 They have a right to live in that home,
10 and they will continue to do that. That's why we
11 haven't provided it be put in the paper, for example.
12 We don't want to create a hysteria.

13 Secondly, I don't believe that that will
14 happen because I have not heard any reports that that
15 has happened in other states. And I don't believe it
16 would happen in this situation.

17 Thirdly, from my observations where there
18 have been knowledge in particular neighborhoods -- in
19 particular I know of a case in Montgomery County where
20 that happened where there was an individual, you know,
21 who actually molested one of the neighborhood kids,
22 and we couldn't get the police involved in it. That's
23 why I'm telling you about the problems of prosecuting
24 these cases.

25 But after looking into it, the background,

1 we found he did have past problems -- past molestation
2 problems. You know, what happened was the neighbor
3 moved out. You know, the mother and the father with
4 the child, they moved out and moved to another
5 community; an adjacent township. That's more likely
6 to happen than the perpetrator moving out.

7 REPRESENTATIVE MANDERINO: This is a
8 question out of ignorance. The federal crimes bill
9 and how to deal with this, does it have a notification
10 to residents requirement?

11 SENATOR GREENLEAF: I believe that it
12 does. I looked at a summary in one of the
13 publications, and, if I remember right, I -- there was
14 a notification, however --

15 REPRESENTATIVE MANDERINO: This is maybe
16 just a comment to the extent that your staff may have
17 it or to our chairman to the extent that our staff may
18 have it.

19 But I would be interested in seeing of the
20 other 40 states that have enacted notification laws or
21 of the states that are currently going to enact them,
22 how are they dealing with the notification to
23 residents. What's the gamut, and how it's being
24 enforced?

25 SENATOR GREENLEAF: It varies. We have

1 that, and I'll provide that to you. It varies. As I
2 say, there's -- research staff told me about posting
3 on the front yard. We looked into it and found that
4 Delaware publishes it in the newspaper. There's
5 others where there's letters sent out to a larger
6 group of neighbors other than just adjacent ones.

7 But I think this proposal is a much more
8 modest proposal with some discretion to go beyond
9 immediate neighbors and the police chief. But we have
10 that information, and I'll supply it to the Chairman
11 and to you.

12 REPRESENTATIVE MANDERINO: Thank you.

13 REPRESENTATIVE HENNESSEY: Senator
14 Greenleaf, in some of the hearings we'd had and some
15 of the therapists and clinicians that I've spoken to
16 there's been some concern about how this is going to
17 impact on families getting back together, if there is
18 intrafamily offenses, if there's abuse by a mother or
19 a father.

20 They go to therapy. They try to get their
21 act together and try to hold the family as a stable
22 unit. And there's concern that notifying neighbors
23 across the street or on either side or behind them is
24 going to only add to the pressures that the family is
25 going through and also in a sense stigmatize not just

1 the perpetrator but also all the members of the
2 family.

3 Have you given any thought to exempting
4 those kinds of situations or has a decision been made
5 not to do that for any particular reason?

6 SENATOR GREENLEAF: I've given -- we've
7 given some thought to the interfamily situation, and
8 we didn't think it was a frequent a situation to
9 particularly address. If you can craft something that
10 would get into that, I would have no objections to it.

11 But I suspect that what this bill is
12 primarily aimed at is those people who are involved in
13 third-party abusers, if you want to call them that,
14 not interfamily although they're just as serious.

15 And I suspect -- I don't have any
16 statistics to prove this, but I would suspect that the
17 number of convictions -- remember, you have to have a
18 conviction for this -- the number of convictions on a
19 felony matter for this type of child abuse when you're
20 involved in interfamily matters are very -- I would
21 think it's a very small number, No. 1.

22 Secondly, all too often what happens is
23 that the child is the one who is -- who is the one who
24 is removed from the family. I remember holding a
25 hearing in Philadelphia City Hall one time where this

1 young girl had been molested. And she's the one who
2 was put into foster care. The rest of the family was
3 together.

4 She reported the event, and nothing
5 happened to the father. He wasn't even prosecuted.
6 The mother stayed with the father because all too
7 often that happens because they don't want to see the
8 family fall apart. So the child is then removed
9 because -- by the social agencies and ends up in a
10 foster family situation.

11 So I -- the reason I mention that example
12 is that I think it's -- it's not -- I suspect that
13 it's not a major occurrence. It's not a major
14 concern, and that's why I didn't address it in the
15 legislation.

16 If you feel that it is and you can craft
17 something to address that problem, I'd welcome that.

18 REPRESENTATIVE HENNESSEY: Okay. I just
19 wanted to make sure that there wasn't a conscious
20 decision to avoid that kind of an exemption in your --

21 SENATOR GREENLEAF: No.

22 REPRESENTATIVE HENNESSEY: -- in your
23 deliberations or the Committee deliberations --

24 SENATOR GREENLEAF: No.

25 REPRESENTATIVE HENNESSEY: -- when they

1 consider this.

2 Also let me ask you about the lifetime
3 registration requirement. On page five of your bill
4 you create a possibility of relief from that -- it's
5 up near the top; lines four, five and six I guess --
6 from that requirement I guess, you know, envisioning
7 that some changes will be made over the passage of
8 time in the person's conduct or habits.

9 But I guess I wondering about the language
10 -- the choice of language that you've used. I've been
11 trying to figure out what a person could possibly do
12 to give clear and convincing evidence to a court to
13 convince him that there's no need for them to register
14 any more. And I thought perhaps it was just done, you
15 know, as a way of trying to meet a constitutional
16 requirement with that language.

17 SENATOR GREENLEAF: My feeling is it's
18 going to be pretty difficult to prove that because my
19 feeling is that if someone's been convicted, they have
20 a long history and a lifetime of child abuse. And
21 it's very difficult for them to overcome that and to
22 -- and to stop that type of behavior.

23 But we thought it was appropriate to at
24 least put that provision in the law to at least allow
25 some process in which if someone can prove and

1 establish in some way that they have -- they've
2 overcome their -- this propensity that they have, they
3 should at least have that opportunity to establish and
4 prove it.

5 If I remember right, there was some other
6 states that also had a provision such as this. And I
7 thought it was a -- a reasonable provision to put in
8 the legislation.

9 REPRESENTATIVE HENNESSEY: As I said I was
10 just having some difficulty in trying to figure out
11 whether or not a person could ever meet the standard
12 providing -- and I gather that it would be --

13 SENATOR GREENLEAF: If I was -- you know,
14 I guess -- you're involved in the law. If I was --

15 REPRESENTATIVE HENNESSEY: And I was
16 thinking back a few minutes ago. There was a case
17 like this we tried years ago.

18 SENATOR GREENLEAF: Yes. In Montgomery
19 County there was a case such like this. I would say
20 that, you know, you'd have a psychiatrist and
21 psychologist and behavioral science people and
22 behavioral science and past records; how long has it
23 been, has it been 30 years since he was convicted, for
24 example.

25 Those are -- the type of offense and some

1 of those criteria are put in the statute. And maybe
2 at that point the court might be convinced to believe
3 by clear and convincing evidence that -- that this
4 person's likelihood of committing another crime is
5 very, very low.

6 REPRESENTATIVE HENNESSEY: If I could
7 direct your attention to the criter -- the standards
8 on page eight and nine; how you define a habitual
9 sexual offender. On the top of page nine you talk
10 about whether the offender completed the prior
11 sentence and participated in available programs for
12 sexual offenders and any mental illness or mental
13 disability.

14 In looking at this I was having some
15 difficulty trying to figure out whether or not
16 completion of a prior program -- therapeutic program
17 of some sort -- if a person had done that -- had
18 completed such a program -- and then got himself
19 involved in another offense, is that an enhancing or
20 mitigating type of criterion because it says that the
21 court can consider that, but it doesn't indicate
22 whether or not -- how that should be viewed.

23 And also the next one; mental illness or
24 mental disability. Again is that something that would
25 excuse the conduct or something that would make it

1 more likely for the person to commit again, and,
2 therefore, should be classified or labeled as a
3 habitual offender?

4 SENATOR GREENLEAF: Well, I think you
5 could probably do both. It's not limited to I think
6 either one. There are factors the court could
7 consider in deciding. It's not -- I didn't want to
8 have a mandatory sentence here because I think that
9 certainly a life -- life imprisonment is a very
10 serious sentence.

11 And it was my thought that we would set
12 forth certain criteria that the sentencing judge could
13 take into consideration; for example, the age and how
14 long -- it might indicate how long they've been
15 involved in this type of activity. Obviously there
16 are prior criminal records. They may have been
17 involved in similar offenses that may not be involved
18 in the definition of a sexual offender in this statute
19 but in related activities.

20 I think it would be important for that
21 judge to determine. That would be obviously an
22 aggravating circumstance. And the AIDS situation
23 could be a mitigating or aggravating circumstance.
24 They could be very young, for example, and that might
25 be a mitigating circumstance under those -- under that

1 particular situation.

2 You know, obviously the multiple offenses
3 and the -- as far as the -- whether they've completed
4 a prior sentence, whether they participate in a -- in
5 a sex offender program, that could be a mitigating
6 circumstance obviously because they're looking for
7 assistance, they're looking for help and pursuing
8 that. So it depends on the particular circumstance.
9 They could be used either way.

10 REPRESENTATIVE HENNESSEY: Yeah.
11 Interesting, with that last example I would think that
12 -- I can sort of envision a judge saying, you've had
13 your chance, you've gone through the program and since
14 you failed and been a recidivist, you're going to be
15 automatically classified.

16 SENATOR GREENLEAF: Right. In that
17 circumstance it could be an aggravating circumstance.
18 And in another area it could be a mitigating
19 circumstance because that person -- let's say, they
20 had gone through three years of a very extensive
21 behavioral modification program inpatient, let's say,
22 and that in that case -- and had very high
23 recommendations from the program and a very high
24 success rate. In that circumstance it could be a
25 mitigating circumstance.

1 REPRESENTATIVE HENNESSEY: Thank you.

2 CHAIRMAN CALTAGIRONE: Thank you,
3 Representative Hennessey. Representative Masland?

4 REPRESENTATIVE MASLAND: Thank you. Thank
5 you, Senator Greenleaf. If I could just pick up where
6 Representative Hennessey left off, in my opinion the
7 way you've worded it is the correct way because I
8 think it's basically saying to the judge it's not a
9 mandatory sentence unless you find this person to be a
10 habitual offender, and these are some factors to
11 consider.

12 It's almost -- it makes me think of the
13 laws on equitable distribution, laws on alimony where
14 we have a long laundry list of things to consider.
15 And I guess you could add or subtract some of the
16 items on that list, but I think the importance of it
17 is to say these are some things that you should
18 consider, among other factors, before you give
19 somebody a life sentence. So I think that's actually
20 a strength of it.

21 Just a couple minor things. You in the
22 first -- in 3108 (a) you refer to the Pennsylvania
23 State Police --

24 SENATOR GREENLEAF: What page?

25 REPRESENTATIVE MASLAND: -- as having the

1 responsibility --

2 SENATOR GREENLEAF: Which page are you
3 referring to?

4 REPRESENTATIVE MASLAND: That's on page
5 two. Basically if there's no municipal police
6 department, it's the duty of the person to register
7 with the State Police. But you don't have anything
8 thereafter in the bill which specifically says that
9 that State Police trooper or State Police sergeant is
10 the one that's going to have to notify people.

11 And maybe a little language change there
12 early on to say that, you know, hereafter where we
13 refer to chief of police, that this is also a duty of
14 the state trooper would clear up any problems because
15 that could be a problem, although I'm sure that --

16 SENATOR GREENLEAF: That's a good
17 suggestion.

18 REPRESENTATIVE MASLAND: As far as the
19 Jacob Wetterling Crimes Against Children Act -- the
20 federal crime bill -- it does have some specific
21 language in there dealing with release of information,
22 and it sets pretty broad guidelines.

23 But those were incorporated -- and again
24 this is just for your consideration in the next
25 session with you and your staff. Those were

1 incorporated in House Bill 3106, Representative
2 Tomlinson's, soon to be Senator Tomlinson's bill where
3 it basically sets some wide parameters on notification
4 and also does contain some language on immunity which
5 I think could be included.

6 Just one question though that I would add
7 on that. I think you need to give a lot of discretion
8 to the police chief or the State trooper as to whom
9 they're going to notify. I don't think -- I think
10 that was one of the weaknesses in one of the House
11 bills to be considered where it said a two-block
12 radius if you're in an urban area or a half-mile
13 radius if you're in a rural area.

14 Well, how do you define urban? How do you
15 define rural? That's pretty tough. Some chiefs of
16 police may take this discretion and run with it
17 fearing that they won't notify enough people and
18 notify the world. That's a problem there, but
19 certainly something that we'll be able to discuss next
20 session.

21 One thing though that has come up
22 previously is the concept of specifically saying
23 something in an act to say that you would notify the
24 school district or that you would notify -- and this
25 is something I just got a letter yesterday. You may

1 have received it from an attorney in Carlisle who
2 practices down the street from me who suggested
3 possibly notifying children and youth services in the
4 county. Just one other thing to consider.

5 SENATOR GREENLEAF: I think they're -- I
6 think they're good suggestions. One of the -- there's
7 a group in Bucks County that has been very, very
8 active in this area, and also they involve a mayor. I
9 believe it was Upper Darby or Media. I'm not sure
10 which one; what community it was.

11 And they're very supportive of that type
12 of a provision to make sure that other -- other
13 institutions within the community are notified who
14 have -- who are involved with children so that they
15 could also take -- not only parents could take
16 protective steps, but also these institutions could
17 take protective steps as well. So I'm very receptive
18 to those kind of ideas.

19 REPRESENTATIVE MASLAND: Yeah. Again, on
20 the whole I think it's a good idea, and I like the
21 general framework that you have. I think it's
22 important to give some discretion to the local police.
23 They're going to know the neighborhood, they're going
24 to know the rural area.

25 SENATOR GREENLEAF: Such as, for example,

1 what if they live in an apartment? You know, there's
2 so many scenarios you just can't anticipate. Even
3 this bill as limited as it is -- even if you're in an
4 apartment, I mean who are the adjacent neighbors?

5 I mean I think I know who they are, but
6 depending on the configuration of the floor and
7 whether it's a two story, whether it's a townhouse,
8 whether it's a garden type apartment and all that,
9 that could be -- that could become difficult.

10 I don't want to raise red flags on the
11 legislation here, but I mean they're the kind of
12 things that it's better to give as much discretion as
13 possible to the local authorities than to be too
14 restrictive and too specific on who the notification
15 should go to because I don't think we can really write
16 legislation that deals with all of the living
17 arrangements that people find themselves in.

18 REPRESENTATIVE MASLAND: And that's why
19 personally I'm glad that we didn't rush to pass
20 something in the last minute of the session because I
21 I think it's important to consider those issues as
22 much as you can.

23 We may not come up with any better
24 solution than what we have right now in the first
25 couple months of next session, but at least we ought

1 to know what the possible red flags are. So I commend
2 you for your work. Thank you.

3 SENATOR GREENLEAF: Thank you.

4 REPRESENTATIVE MANDERINO: Could I just
5 have a quick follow-up on that? Getting back to the
6 issue I raised earlier about immunity I see
7 Representative Masland's point about the validity of
8 notification of other entities, for example, or a
9 school district.

10 But I think any time that we deal with
11 that issue we also have to remember to address the
12 immunity issue and how far does that extend. I mean
13 I've had an instance in my district just in the past
14 couple of months where a parent of one of the children
15 going to school was a sex offender and the school knew
16 but didn't tell any of the other parents whose
17 children were going over to this person's house to
18 play.

19 And everyone got up in arms when they
20 finally found out that the school knew and didn't tell
21 them. The school's concern was I didn't have any
22 authority or right to tell you.

23 SENATOR GREENLEAF: Absolutely. And I
24 think we try to deal with that in this legislation
25 because that's a complaint that we had from that group

1 is that -- is that they're reluctant to disseminate
2 that information because of potential liability and
3 because they don't have any real authorization now to
4 do it regardless of the liability aspects of it.

5 REPRESENTATIVE MANDERINO: And then again
6 I'm playing, but getting to Representative Birmelin's
7 concerns any time you start extending -- and that's
8 why I think it's not a simple issue.

9 Any time you start extending immunity from
10 liability for such reporting then you have to deal
11 with the issue of false reporting no matter where it's
12 coming from; an institutional or an individual
13 concern.

14 SENATOR GREENLEAF: I think you can deal
15 with that. I mean you can provide immunity under
16 certain circumstances that there is immunity, but if
17 you go beyond a certain point where there's actual
18 intentional, malicious action, then that's a different
19 matter. And I think that would be enough of a
20 deterrent for someone to know that to be concerned
21 about in issuing false reports.

22 REPRESENTATIVE MASLAND: Just briefly if I
23 could just follow up on that. The Wetterling Act says
24 immunity for good faith conduct which I think is
25 important. But it just limits it to law enforcement

1 agencies, employees of law enforcement agencies and
2 state officials shall be immune from liability for
3 good faith conduct under this section.

4 So as to whether or not you'd want to
5 include school employees or school administrative
6 staff, things like that, that's another question.
7 Certainly we would have to make these people immune in
8 our act, but whether we wanted to go beyond it is
9 something else.

10 CHAIRMAN CALTAGIRONE: Representative
11 Cohen?

12 REPRESENTATIVE COHEN: Thank you.
13 Senator, continuing the discussion of the practical
14 concerns both in terms of notification and in terms of
15 liability suppose someone sells their house and next
16 door there's somebody who's been convicted. Do they
17 have a duty to explain that to the buyer of the house?

18 SENATOR GREENLEAF: No.

19 REPRESENTATIVE COHEN: Should they have a
20 duty to explain that to the buyer of the house?

21 SENATOR GREENLEAF: No.

22 REPRESENTATIVE COHEN: The realtor should
23 have that duty?

24 SENATOR GREENLEAF: No. It doesn't deal
25 with that issue at all. This is a public duty. The

1 law enforcement agencies and parole and probation
2 agencies have that responsibility.

3 REPRESENTATIVE COHEN: Would they have the
4 responsibility to inform? I mean the guy moves next
5 door, say, in 1994. Someone sells the house in 1996.
6 Should the public agencies have a duty to the person
7 when the person buys the -- when the new person buys
8 the house?

9 SENATOR GREENLEAF: No. The requirement
10 only deals with when that person takes up residence
11 anew. It's not an ongoing requirement that anybody
12 moves in, although as we've discussed here there is
13 discretion with the police chief and local authorities
14 to notify those people they think are appropriately
15 notified. So that could be a continuing
16 responsibility on their part if they think it's
17 appropriate.

18 REPRESENTATIVE COHEN: In other states
19 where we passed this kind -- where they passed this
20 kind of legislation has this led to demand for other
21 disclosures such as murder convictions, rape
22 convictions?

23 SENATOR GREENLEAF: No. And there's a
24 completely -- there's a significant difference
25 between the two as we discussed prior. I think you

1 came in a little bit later.

2 REPRESENTATIVE COHEN: Yes.

3 SENATOR GREENLEAF: These types of
4 offenses are -- there's a very high recidivism rate
5 for pedophiles. And it's a life long activity on
6 people who are involved in pedophile activities. And
7 if they've been convicted, they've been involved in it
8 for a long time and probably have gotten away with it
9 for many years with many victims prior thereto.

10 So the reason and the need for this
11 legislation is to recognize that; recognize the high
12 degree and possibility of additional acts and to allow
13 those people who have children who are exposed or have
14 potential exposure to that person to take offensive
15 action -- not offensive actions, but defensive actions
16 to protect themselves and their family.

17 There's no desire on my part or anyone
18 else I know of to require registration for any other
19 offenses. And I don't think there's a need for it.

20 REPRESENTATIVE COHEN: This offense is
21 unique?

22 SENATOR GREENLEAF: This offense is unique
23 because it involves children, and they prey on
24 neighborhood children, you know -- or, you know, they
25 seek out children. And so this is a unique situation.

1 There is certainly no move on my part or anyone else
2 that I know of to require registration for any other
3 offense.

4 REPRESENTATIVE COHEN: Thank you.

5 CHAIRMAN CALTAGIRONE: Any other
6 questions?

7 (No response.)

8 CHAIRMAN CALTAGIRONE: Thank you, Senator
9 Greenleaf. I certainly appreciate the time you've
10 given us this morning.

11 SENATOR GREENLEAF: And thanks for having
12 me here this morning. I should say you put me through
13 my paces -- that's for sure -- but very
14 constructively. We will certainly provide the
15 information that the members have requested, and I'll
16 also take your comments which were very good into
17 consideration in redrafting the legislation. So thank
18 you.

19 CHAIRMAN CALTAGIRONE: We look forward to
20 working with you again in the next session.

21 We're next going to hear from Brenda
22 Roberson from the Pennsylvania Coalition Against Rape.

23 MS. ROBERSON: Thank you for the
24 opportunity to provide testimony on Senate Bill 1843.
25 My name is Brenda Todd Roberson, public policy

1 analyst, Pennsylvania Coalition Against Rape. The
2 coalition is a network of 47 sexual assault centers
3 which provide services to victims and survivors of
4 sexual violence in all of Pennsylvania's 67 counties.
5 And we have an additional several hundred supporting
6 members as well.

7 PCAR is in agreement with the intent of
8 Senate Bill 1843; however, the coalition cannot fully
9 support the bill in its current form. There are
10 several issues which PCAR would like to address.

11 One, any legislation or registration and
12 community notification should include language to
13 protect the confidentiality of the victim and include
14 specific regulations relating to the release of
15 information included in the registry.

16 Two, the proposed bill allows the chief of
17 police to use such other means of public notification
18 as he deems necessary in addition to the specified
19 notice to adjacent neighbors. This is of concern to
20 PCAR. We think that it's overly broad in authority
21 and raises problems.

22 PCAR recommends that in the best interest
23 of child sexual assault victims and their families
24 that any provision for the dissemination of
25 information to the public be specifically detailed.

1 Third, the bill should include funding
2 provisions for professional training and prevention
3 education programs in order to significantly impact
4 the incidence of child sexual assault.

5 During the last fiscal year ending June
6 30th centers served -- our centers that is -- served
7 more than 8,000 child victims of sexual assault. In
8 addition, counseling and other support services were
9 provided to many, many family members of these child
10 victims to help them deal with the devastating impact
11 which this form of abuse has on their lives.

12 We know that the largest increase in
13 categories of adult victims seeking support services
14 is in that of adult survivors of child incest and
15 sexual assault. This victim population -- the adult
16 survivors -- requires a longer period of counseling
17 due to the complex nature of the impact in many areas
18 of the victims' lives which the sexual offenses
19 inflicted.

20 Thus, PCAR has a vital interest in
21 legislation which serves to protect children from
22 devastation of sexual assault. PCAR has for the past
23 twenty years been the leading advocacy group for all
24 victims of sexual assault, and we support the efforts
25 of legislators who take action to protect children in

1 particular from convicted sex offenders.

2 PCAR recognizes the need for this
3 legislation and is in agreement with the intent of the
4 proposed bill; to reduce the number of sexual offenses
5 against children under the age of sixteen. We support
6 the registration of convicted child sex offenders but
7 with the development of guidelines and procedures as
8 to the release of information contained in the
9 registry.

10 A factor which weighs heavily in this
11 issue is that of sex offenses against children being
12 predominantly perpetrated by relatives of the victims;
13 fathers, stepfathers, brothers and other relatives.
14 Nationally fewer than 20 percent of children are
15 abused by strangers according to a study by the
16 National Resource Center on Child Sexual Abuse of
17 1993.

18 Intrafamilial assault is by far the
19 highest percentage of child sexual assault with a rate
20 of 85 percent of child molestation being perpetrated
21 by family members or by persons known by family
22 members. Then the cite is given.

23 PCAR is concerned about cases of incest
24 being included under the sex offenses within this
25 bill. Cases of incest must be excluded from community

1 notification in order to protect the identity of the
2 victim.

3 It is because of this fact that
4 registration and notification of community members is
5 not a solution to the problem of child sexual assault.
6 Only a few offenders will be identified as convicted
7 child offenders while the majority are unconvicted and
8 unidentified.

9 When consideration is given to the fact
10 that only a small percentage of all sexual assaults
11 are reported to the police and, therefore, a low
12 percentage rate of convictions are made, it is clear
13 that any legislation -- I'm sorry -- registration or
14 notification law will have only a minimal effect at
15 deterring child sexual assault.

16 According to a survey of currently
17 incarcerated inmates conducted by the Pennsylvania
18 Department of Corrections, their research bureau, as
19 of the end of October 1994 -- last month -- there are
20 3,380 inmates serving time on a current sex offense
21 charge. Of this number the sex offenses involving
22 children are incest, twelve; sexual abuse of child,
23 eleven; and statutory rape, 145.

24 Although the number of offenders currently
25 incarcerated is low and indicates that only a fraction

1 of child sex offenders would fall under the
2 requirements of the proposed bill PCAR, however,
3 agrees that if such registration and notification
4 would result in preventing the victimization of even a
5 small number of children, this would be a worthwhile
6 effort.

7 The trend for states to enact such
8 legislation is a recent development, and in fact PCAR
9 has only recently begun to research the issue on a
10 national level. It appears, however, that it is yet
11 too early to determine how effective the laws have
12 been at lowering the incidence of child sexual
13 assault.

14 At least 38 states have passed laws
15 requiring registration. Of those only ten states have
16 included various forms of notification. The Federal
17 Crimes Bill enacted in September of this year requires
18 that all states adopt laws mandating registration
19 within three years or risk the loss of federal crime
20 control grants; however, under the federal act states
21 have some leeway in how this information in state
22 registries will be released.

23 The crime bill states that local law
24 enforcement agencies have the authority to "release
25 relevant information that is necessary to protect the

1 public concerning a specific person required to
2 register." The Attorney General is charged with
3 establishing guidelines for states to follow in
4 developing registration programs. As far as I know
5 they are not yet in effect.

6 PCAR takes a cautionary stance regarding
7 the type of notification to residents of the community
8 which would be utilized. PCAR has a long history of
9 focusing on both public policy and public education as
10 a means to more effectively address the problem of
11 sexual violence in society and to protect and support
12 to the fullest extent possible victim/survivors of
13 sexual assault.

14 A primary focus has been to emphasize the
15 responsibility of the offender for his or her behavior
16 and to focus on that behavior. This bill fits the
17 category of making the offender accountable for his or
18 her behavior; however, by publicly labeling offenders
19 in a community the focus on the need for extensive
20 community education on issues of sexual assault may be
21 diverted.

22 PCAR's concern is that while labeling a
23 few offenders may be minimally helpful, it may not
24 serve to prevent all labeled offenders from committing
25 additional offenses. In fact some specialists in the

1 treatment of offenders purport that offenders will
2 become ever more subversive and, therefore, more
3 difficult to treat. Offenders may simply go further
4 underground or seek out children who are at a greater
5 distance from their neighborhoods of residence.

6 Another result could be that of
7 vigilantism as at least one such case gained national
8 attention in the media last year. The case occurred
9 in Washington state when residents held a rally after
10 being notified that a convicted child rapist would
11 soon be released to reside in their neighborhood and
12 later the rapist's house was set afire.

13 Other types of notification related
14 incidents recorded in the state of Washington
15 according to a study conducted by the Washington State
16 Institute for Public Policy included signs stating
17 move or die placed on offender's apartment door, media
18 coming to the home of the offender's relatives in an
19 attempt to videotape their reaction to the
20 notification, juvenile offenders being harassed by
21 schoolmates and rocks thrown at offender's relatives.

22 That was all in the state of Washington.
23 Their law has been in effect for four years, and this
24 was a three-year study. The study found that as a
25 result of sex offender notifications the offenders

1 frequently leave the community and sometimes the
2 state. Therefore, any offender registration should be
3 standardized, monitored, enforced and provide for
4 interstate communication.

5 PCAR is concerned that by identifying a
6 relatively low number of convicted offenders a
7 community may be lulled into a false sense of
8 security. While attention is focused on the few
9 identified offenders the majority of sex offenders
10 will continue to commit assaults.

11 Therefore, concurrent with the labeling of
12 convicted offenders there must be an increased level
13 of community education. These education programs
14 include teaching parents, daycare workers, teachers,
15 medical care providers and others how to recognize
16 signs that a child is being sexually abused. It is
17 our position that the bill should include funding for
18 this prevention education component.

19 This legislation will not protect the
20 children being abused in their own homes. It is our
21 belief that through extensive educational programs to
22 a wide variety of community groups, to children at all
23 grade levels in schools -- preschool through college
24 level -- and professional organizations there is a
25 greater impact on the rate of incidence of sexual

1 violence.

2 Extensive training to the professionals
3 are required in order to implement the provisions of
4 Section 3109 of this bill dealing with the reporting
5 of suspected sexual offenses. Again, the funding to
6 provide the necessary trainings to professionals
7 should be included in the bill.

8 And in conclusion although the
9 Pennsylvania Coalition Against Rape cannot support
10 Senate Bill 1843 in its entirety in its current form,
11 we expect that it will undergo revision. PCAR would
12 like to be invited to participate along with other
13 victim service organizations in the development of
14 guidelines or procedures related to the enactment of
15 this legislation.

16 Thank you for inviting the coalition to
17 provide testimony, and we look forward to working with
18 you on it in the future.

19 CHAIRMAN CALTAGIRONE: Thank you.

20 Questions. Representative Manderino?

21 REPRESENTATIVE MANDERINO: Thank you, Mr.
22 Chairman. Miss Roberson, you hit on one of my biggest
23 concerns again from the average community living
24 person point of view about legislation like this, and
25 that is that I share your concern that this is going

1 to give a people a false sense of security and do more
2 harm than good when it comes to the protection of
3 their children.

4 I would like to ask you to share with us
5 in more detail and with Senator Greenleaf in more
6 detail the report or wherever it is that you got the
7 fact about 85 percent of the child molestation coming
8 from family members which after the Senator's
9 testimony I have the impression that at least it was
10 his belief that the numbers were probably reversed and
11 that the greatest percentage of it was coming from
12 strangers and --

13 MS. ROBERSON: No.

14 REPRESENTATIVE MANDERINO: You know, maybe
15 in looking at that and understanding it we can mold a
16 bill that takes that into consideration and,
17 therefore, provides the protection where the
18 protection is needed.

19 I note that I'm going to stop there
20 because I know that Representative Hennessey was --
21 also had some concerns about the intrafamily assault,
22 and he's more experienced than me to ask pointed
23 questions about that.

24 But my other I guess issue of -- only
25 because from your criminal justice experience I meant,

1 Tim.

2 MS. ROBERSON: Let me just add I do have
3 one other cite, and this is from the Pennsylvania
4 Department of Welfare; their 1992 child abuse report.
5 Of all abused children in Pennsylvania in 1992 65
6 percent of all the perpetrators had a parental
7 relationship with the child.

8 REPRESENTATIVE MANDERINO: Parental
9 relationship. So not even a distant family
10 relationship?

11 MS. ROBERSON: Exactly. Exactly.

12 MS. MILOHOV: If I could interject
13 something I believe the Senator said that he didn't
14 disclaim that it was intrafamily was the largest
15 percentage of the actual assaults. What he said was
16 intrafamily assaults did not come to a conviction.

17 REPRESENTATIVE MANDERINO: Oh, okay.

18 MS. MILOHOV: And that's a serious
19 consideration as you still have the problem, but you
20 do not have the person convicted. You have the family
21 -- the whole family configuring to try to solve the
22 problem. And sometimes it works, sometimes it
23 doesn't. And you wouldn't have access to identify the
24 perpetrator under that circumstance.

25 REPRESENTATIVE HENNESSEY: Ms. Roberson,

1 I'm also struck by that statistic that fewer than 20
2 percent of children are abused by strangers. Can you
3 give us some insight as to why that occurs? Why is it
4 much more frequent to be an intrafamily relationship?
5 Just the --

6 MS. ROBERSON: The dynamics.

7 REPRESENTATIVE HENNESSEY: -- natural
8 dominance of parent over child?

9 MS. ROBERSON: Power. Uh-huh. And the
10 children being at a disadvantage wanting to seek the
11 approval of a parental figure. And often of course
12 it's highly secretative. The children are told that
13 that's just normal and all families do this, but this
14 isn't something you're supposed to talk to other
15 people about. It's just within our family.

16 REPRESENTATIVE HENNESSEY: The purpose of
17 the legislation is to protect neighborhood children
18 from a person who's been identified as a perpetrator.
19 Given that as the underlying rationale for the
20 legislation is there -- do we -- can we assume that a
21 person in an intrafamily relationship or abusive
22 relationship is either more likely or less likely to
23 do something to some stranger on the outside in the
24 neighborhoods to the neighbor's child?

25 (No response.)

1 REPRESENTATIVE HENNESSEY: Maybe I didn't
2 make myself clear. If a parent is abusing his own
3 child, is he more likely or less likely to abuse a
4 neighbor's child at the same time?

5 MS. ROBERSON: I don't think I have
6 statistics to back that up. I wouldn't want to say.
7 I would think that our -- if we can research the
8 issue, that it would be surprising that he would be
9 more likely to assault other children, but I don't
10 have any data to back that up.

11 REPRESENTATIVE HENNESSEY: It would seem
12 to me that a parent in terms of his or her child has a
13 natural domination or natural dominance so to speak
14 and perhaps would be less likely to have that kind of
15 relationship or power or whatever it may be over a
16 neighbor's child, so perhaps there is less likelihood
17 of that person acting out outside the confines of the
18 family.

19 But I think it would be interesting to
20 know that because if there is an indication that
21 intrafamily abuse goes on this -- you know, to this
22 high a degree, then it seems to me that we have to
23 make a determination as to whether or not the
24 perpetrators of intrafamily abuse have to be warned
25 about -- I mean their neighbors have to be protected

1 in the same way that strangers who abuse children
2 cause protection to be given to the neighborhood.

3 MS. ROBERSON: I agree that's something we
4 need to do some research on.

5 MS. MILOHOV: Could I --

6 CHAIRMAN CALTAGIRONE: Sure.

7 MS. MILOHOV: -- interject something in
8 response to that? There is information as to the
9 number of victims that a convicted pedophile has had.
10 And in general the pedophile began as a youth with a
11 sister, a cousin or someone like this.

12 They become obsessed with it; mentally
13 obsessed with this activity. It extends into their
14 own family. And once they get away with it in their
15 own family, their own children, it -- their circle of
16 victims broadens.

17 And we do -- we don't know, you know, how
18 close the child in the next circle is, but we do know
19 that a pedophile generally victimizes between 100 and
20 400 victims before they're convicted.

21 REPRESENTATIVE HENNESSEY: Are you
22 relating that to the family or are you talking -- when
23 I was talking to Ms. Roberson, we were talking about
24 whether a parent is abusing a child, and the example
25 you used was a child abusing another child.

1 MS. MILOHOV: A child -- oftentimes sexual
2 offenders begin their sexual offense activity when
3 they are juveniles. They carry through for the rest
4 of their lives psychologically obsessed with this,
5 addicted to it if you'd like to call it that. And
6 these people are known to offend in much broader
7 circles than just within their families.

8 And the longer they offend the more bold
9 they become in attracting victims. And there have
10 been studies and there is documentation that a person
11 that has been convicted of pedophilia has had numerous
12 victims. Not just that person's children or cousins
13 or sisters, but many more than that.

14 REPRESENTATIVE HENNESSEY: Well, I guess
15 the problem I'm having is trying to reconcile the
16 statistics that we just heard because a person who has
17 had some sort of abusive relationship hoisted upon him
18 or her as a child and then acts out affirmatively to
19 victimize other people within the family and then
20 casts a rather broad net, you know, to hundreds of
21 other children; victimizing hundreds of other children
22 who are more or less his or her peers.

23 It would seem to me the statistic would
24 say that 80 percent of the people of the child victims
25 are victimized by strangers and not 20 percent. You

1 know, the way you painted the scenario the statistic
2 should be reversed, and that's not what we're hearing
3 from the national media, I guess the national
4 reporting service here.

5 And I think we've got to get, you know, a
6 real grip on that to determine whether or not
7 neighbors have to be notified of incestuous
8 relationships or abusive relationships within the
9 family or if we can safely exempt those kind of
10 situations from the notice requirements.

11 MS. MILOHOV: Well, I think it's an
12 addiction question that you have to address. Also it
13 is an addiction. And we have to understand the level
14 of recidivism, repeat offenses and ways of dealing
15 with it rather than just thinking that one law will
16 solve and protect all of our communities.

17 REPRESENTATIVE HENNESSEY: Thank you.

18 REPRESENTATIVE MASLAND: Just picking up
19 on that as some of you may recall at the first public
20 hearing there were some victims that did testify, and
21 it's my recollection that there was one victim who
22 testified that she and her sisters were abused by her
23 father who subsequently moved to Florida and started
24 doing some of the same things down there.

25 So I think, you know, it's tough to say

1 from a statistic, but if somebody is a pedophile,
2 eventually his children and his close circle of
3 family, those kids are going to grow up. So that
4 person is going to have to seek elsewhere for victims.

5 And as Ms. Roberson said certainly some
6 will become even more subversive and difficult to
7 treat. That's a possibility, but I think no matter
8 what we do with this law -- whether we say people
9 within a two-block radius, people within a ten-mile
10 radius -- you're always going to have the problem or
11 the possibility of that person going eleven miles away
12 to find a victim. You're going to have that.

13 And I think that maybe we have to do some
14 education in that respect, but I have to disagree that
15 there's going to be some false sense of security. As
16 a parent with three children certainly I'm not going
17 to be any more at ease with these type of offenses or
18 the possibility of this affecting my seven- or nine-
19 or eleven-year-old simply because we have a law in
20 place. And I think most people are going to
21 understand that, but we can I think address that
22 through education.

23 Just a couple brief comments. You talked
24 about the need to exclude the victims, and I think
25 that's something we should do. In the notification

1 under the Jacob Wetterling Act it specifically says
2 except that the identity of a victim of an offense
3 that requires registration under this section shall
4 not be released.

5 So what we have to look at then sometimes
6 is maybe we don't say that this person was
7 specifically convicted of incest because when you say
8 incest and the neighbors are notified, then the
9 neighbors know, okay, who the victim was. The victim
10 was probably right over there across the street too.

11 And if we want to protect the victims, I
12 think we might need to just use a broader label. This
13 person is a sexual offender. You know, that gives the
14 full range, and, you know, maybe that can raise more
15 questions in the people notified as to how bad this
16 person really is.

17 But I think anybody who receives a
18 notification that this person is a sexual offender,
19 whether it's incest or anything, they're going to be
20 worried no matter what you tell them. So I think
21 maybe a general label could address that.

22 But you said again you think it should be
23 specific. The Jacob Wetterling language is pretty
24 broad in terms of the discretion it gives to the local
25 agencies. And I'm not sure what the Attorney General

1 may come up with, but as it stands it's pretty broad
2 discretion.

3 They may release information, and that's
4 the -- I mean your quote from that on -- I forget what
5 page of your testimony. I guess page four of your
6 testimony. Release relevant information that is
7 necessary. They may release information that is
8 necessary. That's pretty broad.

9 So I'll ask you pretty much the same
10 question I asked Senator Greenleaf in terms of, if we
11 are going to put in some specific categories in
12 addition to broad discretion, what is your position on
13 things like notifying schools, notifying children and
14 youth services, organizations like that?

15 MS. ROBERSON: We haven't done enough
16 research on that area to make a recommendation. One
17 of the ideas we've seen proposed, New Jersey
18 established an advisory counsel made up of various
19 professionals and victim advocates who advise the
20 Attorney General in that state on establishing
21 guidelines and procedures. And we'd like to see that
22 kind of thing done in Pennsylvania.

23 REPRESENTATIVE MASLAND: Okay. Thank you.

24 MS. ROBERSON: One of the problems in
25 Washington state I read in their study was that even

1 that law -- their law which is pretty stringent, the
2 local law enforcement agencies still had a problem
3 because it was a little bit vague and gave them
4 discretionary powers.

5 They had difficulty with that and wanted
6 that to be tightened even further. And I think that
7 the law has been challenged, and it is going to be
8 tightened even further. The police officers
9 themselves felt that that needed to be made more
10 substantive as to procedures that they were allowed to
11 take. It left too much of the decision and power up
12 to them.

13 REPRESENTATIVE MASLAND: I just don't see
14 any way around that to be honest. To have an
15 effective law I think you have to have discretion
16 within the local officials. I don't see how you can
17 possibly just say you'll notify A, B, C, D, E and F
18 and that's it or you'll notify people in this
19 apartment building or on this block.

20 I live on a relatively small lot in the
21 borough of Carlisle. Now, do I just notify the person
22 behind? In front? I mean depending on how this works
23 you could leave a lot of people unnotified who should
24 be notified. And that's why I think you're going to
25 have to have some discretion here.

1 MS. ROBERSON: Some states have even
2 allowed publication in newspapers; local newspapers,
3 for example, flashes on television on their cable
4 station and that kind of thing. But it's not limited
5 to just neighbors.

6 REPRESENTATIVE MASLAND: Just one other
7 thing in terms of the possibilities you say that some
8 offender will become ever more subversive. Hopefully
9 they'll be able to catch some of these offenders, and
10 I think one of the important things in Senator
11 Greenleaf's legislation is the habitual offender
12 provision.

13 So that if you do catch these people doing
14 this a second time and they are determined to be a
15 habitual offender, they can receive a life sentence
16 because as we've heard at the first hearing somebody
17 like this cannot be cured forever. They may be
18 controlled, but they're not going to be cured. So
19 that problem is always going to be with them and
20 everybody around them.

21 MS. ROBERSON: Yes. One of the
22 alternatives that we like is when we've seen stricter
23 parole provisions so that the offender is trapped for
24 life but neighbors are not notified.

25 And we feel that that would probably be

1 more effective at least for a specified number of
2 years; 20 years or whatever it would be. Most of the
3 other states, by the way, have made their registration
4 capped at ten years.

5 REPRESENTATIVE MASLAND: That's what the
6 federal act says. It has to be ten years, but that
7 doesn't mean we couldn't go beyond that.

8 MS. ROBERSON: Are there any other
9 questions? We'll be glad to provide any more
10 statistics, if we can, or help in your research.

11 CHAIRMAN CALTAGIRONE: Representative
12 Hennessey?

13 REPRESENTATIVE HENNESSEY: No.

14 CHAIRMAN CALTAGIRONE: Oh. Okay.
15 Representative Cohen has a question.

16 REPRESENTATIVE COHEN: You would not
17 support this kind of legislation for convicted rapists
18 who are released from prison, would you?

19 MS. ROBERSON: Convicted rapists what?

20 REPRESENTATIVE COHEN: Who are released
21 from prison. If somebody sees that this is a great
22 idea and I think -- and I think we ought to extend it
23 to convicted rapists --

24 MS. ROBERSON: That had already been
25 proposed. Representative Rudy's wasn't limited to

1 child sexual offenders.

2 REPRESENTATIVE COHEN: That's already been
3 proposed?

4 MS. ROBERSON: Yes.

5 REPRESENTATIVE COHEN: Okay. I'm behind
6 that.

7 MS. ROBERSON: And there are other bills
8 as well.

9 REPRESENTATIVE COHEN: There are other
10 bills?

11 MS. ROBERSON: We liked the idea that
12 Senator Greenleaf's was restricting it to child sexual
13 offenders.

14 REPRESENTATIVE COHEN: You do agree with
15 Senator Greenleaf that child sexual offenders are
16 unique?

17 MS. ROBERSON: Yes. Yes.

18 REPRESENTATIVE COHEN: Thank you.

19 MS. ROBERSON: Are there any other
20 questions?

21 CHAIRMAN CALTAGIRONE: Are there any
22 others?

23 (No response.)

24 CHAIRMAN CALTAGIRONE: No other questions?

25 (No response.)

1 CHAIRMAN CALTAGIRONE: Okay. We'll
2 adjourn the hearing.

3 (The hearing concluded at 11:38 a.m.)
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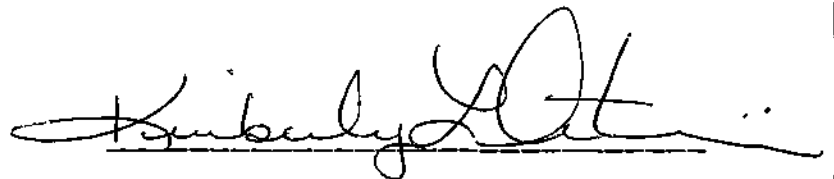
Senator Stewart J. Greenleaf, Prime Sponsor
of Senate Bill 1843

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Brenda Todd Roberson, Pennsylvania Coalition
Against Rape

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1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the
3 notes taken by me in the within proceedings, and that
4 this copy is a correct transcript of the same.

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9 Kimberly L. Intrieri
10 Reporter-Notary Public

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