

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

\* \* \* \* \*

"Megan's Law"  
Special Session House Bills 29, 75 and 85

\* \* \* \* \*

House Judiciary Committee

Main Capitol Building  
Room 140, Majority Caucus Room  
Harrisburg, Pennsylvania

Tuesday, February 21, 1995 - 9:20 a.m.

--oOo--

BEFORE:

- Honorable Jeffrey Piccola, Majority Chairman
- Honorable Jerry Birmelin
- Honorable Scot J. Chadwick
- Honorable Daniel Clark
- Honorable Brett Feese
- Honorable Timothy Hennessey
- Honorable Stephen Maitland
- Honorable Al Masland
- Honorable Robert Reber
- Honorable Thomas Caltagirone, Minority Chairman
- Honorable Peter Daley
- Honorable Harold James
- Honorable Kathy Manderino

ORIGINAL

KEY REPORTERS  
1300 Garrison Drive, York, PA 17404  
(717) 764-7801 Fax (717) 764-6367

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**ALSO PRESENT:**

**Karen Dalton, Esquire  
Counsel for Judiciary Committee**

**Galina Milohov  
Minority Research Analyst**

**Daniel DeLash  
Minority Secretary to Judiciary Committee**

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1                   CHAIRMAN PICCOLA: Good morning. The  
2 public hearing scheduled for 9 o'clock on the  
3 issue of Megan's Law will come to order. I'd  
4 like to recognize the members of the House  
5 Judiciary Committee who are here today. Behind  
6 me Representative Scot Chadwick, Representative  
7 Brett Feese and Representative Robert Reber.  
8 Sitting to my immediate left is counsel to the  
9 committee Karen Dalton.

10                   We have a long agenda today. I think  
11 that it would be wise if we begin. I apologize  
12 to the members and to the witnesses for my  
13 tardiness.

14                   This is an issue that will be taken up  
15 during the special session on crime. The Senate  
16 of Pennsylvania is all ready wrestling with this  
17 subject and there are a number of bills that  
18 have been introduced in the House, specifically  
19 House Bill 29, House Bill 75 and House Bill 85  
20 in the special session of crime.

21                   The purpose of the hearing today is to  
22 glean information and viewpoints from various  
23 interested groups and parties on this very  
24 controversial issue so that the House of  
25 Representatives is prepared to deal with this

1 subject both in the Judiciary Committee and on  
2 the floor during our special session on crime in  
3 a timely fashion.

4 Without any further introduction,  
5 we'll call our first panel of witnesses. I  
6 guess there's 2 witnesses, Paul J. Mathison,  
7 Acting Director, and Brenda Robeson, Public  
8 Policy Analyst Pennsylvania Colaition Against  
9 Rape.

10 MR. MATHISON: Good morning. My name  
11 is Paul Mathison and I'm the current director  
12 and consultant to the Pennsylvania Coalition  
13 Against Rape. Today with me is a friend of Todd  
14 Robeson who is the Public Policy Analyst for  
15 PCAR and we'll both be happy to answer questions  
16 after our remarks.

17 Thank you for the opportunity to  
18 provide testimony related to legislation dealing  
19 with the issues of sex offender registration,  
20 community notification and provision of  
21 Pennsylvania sexual assault statutes. As  
22 background, for more than 20 years PCAR has been  
23 the strong voice for victims/survivors of sexual  
24 violence in the Commonwealth. PCAR represents a  
25 network of 47 rape crisis centers and thousands

1 of victim/survivors of sexual violence and their  
2 allies. The center's staff and volunteer corps  
3 provide direct services and advocacy on behalf  
4 of victim/survivors in all 67 counties of the  
5 Commonwealth.

6 During Fiscal Year 93-94 our centers  
7 served more than 32,000 victims, men, women,  
8 children and family members impacted by sexual  
9 violence. Eighty-three hundred of these victims  
10 were children. The fastest growing segment of  
11 the client population served by PCAR is adult  
12 survivors of child sexual abuse, incest, in  
13 particular. Because of this PCAR is acutely  
14 aware of the long term and devastating effect  
15 child sexual assault has on the lives of  
16 individuals and to society as a whole.

17 PCAR centers train professionals in  
18 the community including social workers, mental  
19 health counselors, medical personnel, law  
20 enforcement officials and educators on issues  
21 related to sexual assault. In FY 93-94, 16,380  
22 professionals were trained. PCAR's prevention  
23 education programs in schools and community  
24 groups are an ongoing and vitally important  
25 component of our services. PCAR's 11,000

1 school-based programs reached 293,000 students  
2 in FY 93-94.

3 There are several issues that PCAR  
4 would like state lawmakers to consider regarding  
5 sex offender registration and notification.  
6 Specifically, PCAR supports the following:

7 Registration of all sex offenders,  
8 including parental offenders in a central  
9 registry; protection of the identity of the  
10 victim; notification of victims of the released  
11 offender's location; limitation of any type of  
12 community notification to offenders determined  
13 to be high-risk, dangerous or sexually violent  
14 predators; detailed guidelines concerning types  
15 of information to be released and to whom;  
16 detailed guidelines as to how the information  
17 can then be utilized by those receiving  
18 notification (including schools and other  
19 community groups); evaluation of alternative  
20 methods to deter repeat offenses such as  
21 stricter parole, probation and post-release  
22 supervision to closely monitor released  
23 offenders.

24 PCAR recognizes that there has been a  
25 tremendous amount of public support in

1 Pennsylvania to develop a so-called Megan's Law  
2 as a result of a highly publicized murder case  
3 in New Jersey. Although PCAR supports  
4 registration of offenders, we do not support  
5 mandatory notification of a released offender's  
6 neighbors. This position may appear at first  
7 glance to be contradictory to the goals of  
8 Pennsylvania's strongest advocate for victims of  
9 sexual assault. Indeed, there is not even  
10 unanimous agreement among PCAR's members.  
11 Following are key concerns that PCAR has about  
12 mandatory notification of neighbors:

13 First, attention placed on the known  
14 sex offender, through neighbor notification, for  
15 example, should not eclipse the attention that  
16 needs to be placed on a far greater number of  
17 unknown offenders.

18 Second, after many years of experience  
19 in this field, PCAR believes that child sexual  
20 assault can best be deterred by prevention  
21 education activities whereby children are taught  
22 ways to make themselves safer.

23 Third, pedophiles operate in a  
24 clandestine manner and an integral part of the  
25 trial of abuse is its secretive nature. Based



1 on feedback from sex offenders, PCAR believes  
2 neighbor notification will drive perpetrators to  
3 become more subversive.

4 The fact is that most child sexual  
5 abuse is committed by persons known to the  
6 child, either by family members or persons known  
7 to the family. Many offenders live in the same  
8 household as their victims and only a fraction  
9 of offenders are ever convicted. For every  
10 convicted sex offender released into a  
11 community, there are many unidentified offenders  
12 actively, but secretively perpetrating abuse  
13 nearby.

14 As the issue of registration and  
15 notification is further studied, PCAR hopes that  
16 consideration will be given to other means of  
17 monitoring and controlling sex offenders to  
18 prevent repeat offenders. The State of Arizona,  
19 for example, has adopted one of the most  
20 aggressive post-release supervision systems of  
21 any state.

22 PCAR has a duty to raise public  
23 awareness about sexual assault. This includes  
24 educating the public about the real impact of  
25 this legislation. There are numerous documented

1 acts of violence directed at labeled offenders.  
2 Our sympathy is not with these individuals, but  
3 with the potential victims of sexual violence  
4 and with those whose lives are further  
5 victimized through their relationship to an  
6 offender.

7 I will now address comments on sexual  
8 assault statute reform legislation, which is  
9 embodied in Senate Bill 2 of the special  
10 session, which was recently passed by the Senate  
11 and amended in the House Judiciary Committee on  
12 February 14. PCAR supports the bill as amended.  
13 PCAR has for several years been a leader among  
14 the coalition of organizations advocating to  
15 update the sexual assault statutes to make the  
16 language gender-neutral, to remove antiquated  
17 statutes which the Supreme Court ruled  
18 unconstitutional and to streamline the statute  
19 as much as possible.

20 PCAR is hopeful that this bill will be  
21 enacted shortly. Specifically, PCAR supports  
22 the following:

23 First, repealing spousal sexual  
24 assault and Involuntary Deviate Sexual  
25 Intercourse; repealing Voluntary Deviate Sexual

1 Intercourse, which has been ruled  
2 unconstitutional; combining deviate sexual  
3 intercourse with aggravated sexual assault;  
4 setting the minimum age of consent to 13 years  
5 old; consistency in ages across the different  
6 offenses to clarify what behaviors are criminal  
7 and at what age; minimizing situations in which  
8 consensual sex among teenagers will be  
9 prosecuted as a criminal offense.

10 PCAR wants to have statutes which are  
11 clear, streamlined to the extent possible and  
12 which will enable prosecutors to obtain more  
13 convictions. Reaching consensus with  
14 prosecutors, legislators and members of the  
15 Governor's Task Force on Crime has necessitated  
16 compromise by all parties. However, PCAR is  
17 optimistic that the outcome of these ongoing  
18 negotiations will be a law that benefits victims  
19 of sexual violence much more than the current  
20 law and increases punishment of sex offenders.

21 For example, finding a definitive  
22 solution is especially difficult for the problem  
23 in the existing statute that prevents achieving  
24 a rape conviction in some rape cases, or in some  
25 cases rather, such as the infamous Berkowitz

1 case. PCAR agrees that the nomenclature of  
2 aggravated sexual assault, which is felony 1,  
3 and sexual assault which would be felony 2,  
4 would be an improvement from the standpoint of  
5 judges and juries no longer being forced to  
6 determine whether or not a rape occurred.

7 However, there is a division of  
8 opinions among sexual assault field personnel  
9 and among prosecutors as to the efficacy of  
10 replacing the term rape, a strong emotionally-  
11 charged term with a new term of aggravated  
12 sexual assault. PCAR believes there are  
13 compelling reasons for either approach. PCAR is  
14 on record for supporting the rape and sexual  
15 assault approach.

16 Regarding consistency of ages, PCAR  
17 believes that there are trade-offs associated  
18 with obtaining this goal. One trade-off is that  
19 under Senate Bill 2 as currently amended, the  
20 potential exists for teenagers between the ages  
21 of 13 and 19 years of age to be guilty of a  
22 criminal offense for engaging in any kind of  
23 consensual sexual activity. PCAR is not  
24 advocating for teenagers to be criminally  
25 prosecuted for having consensual sex. This is

1 unrealistic.

2 Senate Bill 2 has set the age for  
3 strict liability, otherwise known as age of  
4 consent, at 13 years, and Senate Bill 2  
5 designates that an offense is also committed  
6 when the Complainant is under the age of 16  
7 years and if the defendant is 4 or more years  
8 older. PCAR is on record for supporting this  
9 approach.

10 Yet, if this issue must be revisited,  
11 PCAR would advocate for lowering the age of 16  
12 years and increasing the age difference between  
13 the individuals to 5 or more years.

14 It remains to be seen if the desired  
15 result of more convictions for sex crimes will  
16 be realized through Senate Bill 2. Only time  
17 will tell, and PCAR will be watching.

18 In conclusion, PCAR again states that  
19 we support Senate Bill 2 as recently amended by  
20 the House Judiciary Committee and would like to  
21 see it on Governor Ridge's desk for signature as  
22 soon as possible.

23 Thank you for this opportunity to  
24 speak. PCAR looks forward to working with you  
25 during special session and regular session of

1 the legislature. We would now be pleased to  
2 respond to any questions.

3 CHAIRMAN PICCOLA: Thank you, Mr.  
4 Mathison. Ms. Robeson, do you have any  
5 statement you'd like to provide before we get  
6 into the question and answer session?

7 MS. ROBESON: No. That's been  
8 included in here.

9 CHAIRMAN PICCOLA: Before we begin I'd  
10 like to recognize 2 additional members who have  
11 arrived, Representative Peter Daley to my right,  
12 and to my left Representative Kathy Manderino  
13 and Representative Harold James from  
14 Philadelphia also.

15 Mr. Mathison, on the second page of  
16 your testimony you provide a list of items that  
17 PCAR would support in a prospective Megan's Law  
18 statute. The fourth item down indicates that  
19 you would support a limitation of any type of  
20 community notification about the offenders which  
21 would be determined to be high-risk or dangerous  
22 offenders, or sexually violent predators. How  
23 would you propose or who would you propose --  
24 not or. Who would you propose may set that  
25 determination?

1 MS. ROBESON: One of the methods we  
2 have seen used is for a panel of experts to  
3 identify them. We would hope that that would  
4 include people from the sexual assault field.

5 CHAIRMAN PICCOLA: So this would not  
6 be -- You are not proposing that this be done  
7 either at the time of the trial or at the time  
8 of sentencing? It would be done during  
9 incarceration?

10 MS. ROBESON: Pre-sentencing and then  
11 prior to release as well, after incarceration,  
12 and taking into account any treatment that the  
13 offender has undergone.

14 CHAIRMAN PICCOLA: Who would be  
15 charged with the responsibility of determining  
16 who this panel is? Would it be Department of  
17 Corrections, the sentencing judge?

18 MS. ROBESON: One of the states, I  
19 believe it's New Jersey, has a panel set up  
20 under the Attorney General. We like that.

21 CHAIRMAN PICCOLA: You said --

22 MS. ROBESON: Including psychologists,  
23 psychiatrist, criminal justice experts and  
24 sexual assault field personnel?

25 CHAIRMAN PICCOLA: This is in the New

1 Jersey statute?

2 MS. ROBESON: I believe it's New  
3 Jersey.

4 CHAIRMAN PICCOLA: The next item on  
5 your list is detailed guidelines concerning the  
6 types of information to be released and to whom.  
7 Could you give us some idea as to what kind of  
8 guidelines we're talking about? In other words,  
9 what types of information would you propose be  
10 released; what types would you propose not be  
11 released; whom would you propose that they be  
12 released, and what limitations would you impose  
13 on the identity of the people being released?

14 MR. MATHISON: Again, I'll defer to  
15 Brenda on that.

16 MS. ROBESON: Primarily, as mentioned,  
17 we're concerned that the identity of the victim  
18 be protected to the extent possible. You'll  
19 notice that we had asked for registration,  
20 including parental offenders because we are  
21 afraid that would send a mixed message if we  
22 excluded them in registration, but we would not  
23 like community notification to occur and  
24 identify parental offenders and identify the  
25 victim. So, we want to protect the victim in



1 all cases, and that includes the specifics about  
2 how the information can be used.

3 For example, one of proposals we have  
4 seen would open it up to schools. There was no  
5 specification then as to how they could use the  
6 information; how it would be distributed to  
7 parents, or whether they put up posters in  
8 hallways or other public areas.

9 Here again, we would like to be  
10 included in the panels that make these  
11 determinations and write the guidelines.

12 MR. MATHISON: Again, PCAR has been  
13 internally evaluating what the best set of  
14 guidelines should be. At this point up till  
15 now, we have been trying to make sure that there  
16 is that component, some inclusion of that in  
17 proposed bills. We would be happy to provide  
18 some different approaches that we have seen  
19 elsewhere and also have been developing  
20 ourselves in addition, but we didn't want to put  
21 that detail in here. We'll provide that in  
22 follow-up.

23 CHAIRMAN PICCOLA: Yeah, I think we  
24 would be interested in receiving that, because  
25 in my view one member of the General Assembly

1 that we should be as specific as we can in  
2 writing legislation and not leave this very  
3 important issue up to rulemakers down the road.

4 MR. MATHISON: We are concerned about  
5 that too.

6 CHAIRMAN PICCOLA: In several points  
7 in your testimony you made references to the  
8 need for stricter parole, probation, post-  
9 release supervision of sex offenders. I  
10 certainly concur with that.

11 I was wondering if you might have, and  
12 this might be helpful in determining our  
13 approach to this subject, do you have a position  
14 or a viewpoint on the effectiveness of our  
15 current post-release supervision in Pennsylvania  
16 of sex offenders? How would you rate it on a  
17 scale of 1 to 10? What are some of the problems  
18 with it? I get the sense that it could be a lot  
19 better than it is, but I'd like to hear what  
20 your point of view is.

21 MR. MATHISON: I'll let Brenda comment  
22 as well. I'm not aware of us doing any detailed  
23 survey among our experts and our members. I  
24 think the feeling is, general at best, 5 on a  
25 scale of 1 to 10. But there's also a feeling

1 that it would be wise to initially use an  
2 existing system, an existing infrastructure that  
3 is available to serve this purpose rather than  
4 to invent another system that we here might have  
5 and create a new series of inefficiencies.

6 What we have been hearing and what I  
7 have been hearing is that, some of the law  
8 enforcement community and some of the criminal  
9 justice system folks are concerned about  
10 inventing a new system that would be overlaid on  
11 top of this. I feel that it's consistent with  
12 what our allies in the system would want as  
13 well, but that's not to say that the existing  
14 system is working well enough now.

15 MS. ROBESON: No. We sometimes get  
16 complaints from outlying counties about released  
17 offenders suddenly appearing in the community  
18 and their victim sees them in a store, for  
19 example, or on a street corner and it's very  
20 traumatic for them. They are trying to heal and  
21 it's suddenly facing the perpetrator again, it's  
22 very damaging to them. Besides that, there are  
23 often threats.

24 For example, if the perp has offended  
25 a teenager in the family, they threaten to

1 repeat the offense when they are out. We are  
2 very pleased that one of the bills being  
3 considered is to also notify the victim on  
4 release, and at the community level which was a  
5 loophole in the victim's Bill of Rights. So, we  
6 hope that that passes as well.

7 CHAIRMAN PICCOLA: We are dealing with  
8 victim notification in other legislation. I  
9 don't think that's really seriously questioned.  
10 I guess what I'm getting at is the effectiveness  
11 of our current parole system. I'm not  
12 suggesting that we create another different  
13 parole system for sex offenders. I don't think  
14 it would be productive. I get the sense, and I  
15 think you confirmed it, that our current parole  
16 system is not working as well as it could in  
17 this area and we should evaluate that, and that  
18 it may, if it was working better, have an impact  
19 on the need for this public notification.

20 If we had the confidence that these  
21 folks were being supervised properly after they  
22 had been released from custody, there might be  
23 less pressure on the General Assembly and others  
24 to enact a wide scale notification system. I  
25 guess that's what I've been trying to get at.

1 MR. MATHISON: That accurately  
2 reflects our viewpoint, yes.

3 CHAIRMAN PICCOLA: I do thank you for  
4 your testimony on Senate Bill 2. It's nice to  
5 know the Judiciary Committee did the right thing  
6 than found out later we didn't do the right  
7 thing. So, we are very pleased about that.

8 Are there any other members of the  
9 Committee have any questions?

10 ( No audible response )

11 CHAIRMAN PICCOLA: No members of the  
12 Committee have questions, but our counsel, Karen  
13 Dalton, has a few questions.

14 MS. DALTON: You had mentioned before  
15 that Arizona has a post-released supervision  
16 program that you like. Can you give us some  
17 details?

18 MS. ROBESON: I'm sorry I can't. I  
19 have read it, but I don't remember the details  
20 offhand. I know that they are very closely  
21 monitored and they have to check in very  
22 frequently. I can provide copies of what I  
23 have. I will be glad to send it over.

24 MS. DALTON: The other question is,  
25 I'm interested in your opinion of Lita Cohen's

1 Bill which has, I believe, a strong provision  
2 for post-release supervision; one of those being  
3 lifetime parole even for someone who has served  
4 their sentences if that person has committed a  
5 sex offense against a child. Do you have a  
6 position?

7 MS. ROBESON: I'm sorry. We did not  
8 have time to review that, but the lifetime  
9 parole provision in one of the other sex  
10 offender bills we did like. I assume this is  
11 similar to that--lifetime parole for a child  
12 sexual assault owner.

13 MS. DALTON: Representative Cohen's  
14 bill provides that if you commit a sexual  
15 offense against a child--a child is being  
16 defined as a person under 18--you are going to  
17 be supervised for the remainder of your life.

18 I know that at least 2 counties have  
19 sex offender supervision units in their  
20 probation department and parole department now.  
21 I don't know if other counties do also, but she  
22 envisioned that that kind of supervision would  
23 be based on the units that are in Philadelphia,  
24 the type of unit that is in Philadelphia and is  
25 also in Chester County.

1           Later today we will be hearing from  
2 one of the people who works in that Chester  
3 County unit and whose job is to supervise sex  
4 offenders. We are hearing from them. That's  
5 what she was thinking about, based upon that  
6 model.

7           MS. ROBESON: That sounded good to us  
8 also. I understand that they have a very  
9 limited number of cases then for which they are  
10 responsible. It seems to work well. If we're  
11 able to do that, it would be an improvement.

12           CHAIRMAN PICCOLA: Thank you very much  
13 for your testimony. We will now call our next  
14 witness, Larry Frankel, Esquire, Legislative  
15 Director of the ACLU of Pennsylvania. Mr.  
16 Frankel.

17           MR. FRANKEL: Good morning, Chairman  
18 Piccola, and other members of the House  
19 Judiciary Committee. Thank you for providing me  
20 with this opportunity to testify on the issue of  
21 sex offenders.

22           Last year's federal omnibus crime bill  
23 included a mandate regarding convicted sex  
24 offenders. States have 3 years to establish a  
25 registration procedure for such offenders and

1 that law sets forth specific duties for state  
2 prison officials and courts. A state that fails  
3 to comply with those requirements will lose some  
4 federal funds that the state would otherwise  
5 receive under Section 506 of the Omnibus Crime  
6 Control and Safe Streets Act. I am unaware of  
7 any proposed changes by the new Congress to that  
8 mandate, so the state is under a mandate to do  
9 something. I recognize that there's plenty of  
10 political pressure to do something without that  
11 mandate. A bill will be forthcoming.

12 I want to make it clear that ACLU does  
13 recognize that this Commonwealth has the  
14 responsibility for protecting all its residents  
15 from dangerous individuals and that the citizens  
16 of this Commonwealth do have legitimate  
17 expectations that they would be protected from  
18 known dangerous criminals. It's important to  
19 remember, however, that there are significant  
20 differences of opinion even among experts as to  
21 the best way to actually provide such  
22 protection. I don't think anybody who is  
23 talking about Megan's Law or possible version is  
24 against protecting potential victims or people  
25 who have been victimized. It's a difference of



1 opinion as to the best approach for doing that.

2 We also acknowledge the right of a  
3 defendant who has served his sentence to move on  
4 with his life. To my knowledge no court in this  
5 country has determined that the constitutional  
6 guarantee against cruelty and unusual punishment  
7 does not apply to people who have committed sex  
8 offenses.

9 As Chairman Piccola and the previous  
10 witnesses noted, there are a number of bills  
11 pending in the Pennsylvania House of  
12 Representatives and the Senate that relates to  
13 the issues of sentencing for those who committed  
14 sex offenses, registration of sex offenders and  
15 disclosure of information contained in a  
16 registry.

17 One feature that had come to all of  
18 the bills that are under consideration is  
19 mandatory sentencing provision. The ACLU has  
20 been and is still opposed to mandatory sentences  
21 because we believe that the constitution  
22 requires an individualized determination as to  
23 what sentence is appropriate for an individual  
24 defendant, in light of that defendant's  
25 background and facts and circumstances of a

1 particular crime for which the defendant is  
2 being sentenced.

3 We have come to understand how  
4 mandatory sentences take discretion away from  
5 our judges and vest it, instead, with  
6 prosecutors. Because most mandatory sentencing  
7 statutes require actual notice of an intent to  
8 seek a mandatory sentence and proof of the  
9 elements at sentencing, a prosecutor exercises  
10 considerable control over whether a mandatory  
11 sentence is imposed. The prosecutor's power is  
12 enhanced by his or her authority over what  
13 charges to bring and the nature of the plea  
14 negotiations. All these factors have resulted  
15 in placing a lot of power over the sentencing  
16 function with the prosecutor rather than with  
17 the judge.

18 I'm not inferring that there's any bad  
19 motive or ill intent on the prosecutors. It's  
20 just a lot less visible exercises at discretion  
21 than you see with a judge in open court deciding  
22 what the appropriate sentence is.

23 Furthermore, there is little evidence  
24 that mandatory sentences have improved our  
25 criminal justice system. They have been roundly

1 criticized by many judges and legal scholars  
2 because they often result in disproportionate  
3 sentences. They have aggravated the  
4 overcrowding problems in our prisons and  
5 contributed to the growth in the cost of  
6 corrections.

7 The ACLU is particularly opposed to  
8 the use of mandatory sentences and mandatory  
9 neighborhood notification in the context of sex  
10 offenders involving children. In many of those  
11 cases the perpetrator is related to the victim.  
12 The use of mandatory sentences can be too blunt  
13 a tool that prevent judges from fashioning an  
14 appropriate sentence.

15 In September of 1993, 2 trial judges  
16 testified at a hearing of this Committee on what  
17 was then House Bill 160, which is now more like  
18 Senate Bill 2, the legislation that revises  
19 Pennsylvania's laws regarding rape and other  
20 sexual crimes. Both of those judges noted that  
21 mandatory sentencing provisions create practical  
22 problems in cases involving incest fathers,  
23 particularly since many wives tell the judges  
24 they do not want the fathers to go to jail or to  
25 go to jail for a long time. More mandatory

1           sentencing statutes as well as mandatory  
2           notification laws will further compound the  
3           problem of developing satisfactory sentences in  
4           those cases.

5                       The ACLU thinks that mandatory  
6           sentencing and Mandatory neighborhood  
7           notification will pose significant obstacles  
8           that will diminish our ability to address the  
9           problems of sex offenses committed against  
10          children. Mandatory sentences and mandatory  
11          notification schemes will only make it more  
12          difficult for a reluctant reporter to call up  
13          the police or social agencies and inform them  
14          about an alleged criminal incident. I think  
15          it's responsible to expect that any parent who  
16          is already having qualms about exposing her  
17          spouse to the traumas of the criminal justice  
18          system will only be more reluctant to do so if  
19          we do not craft careful laws in this area.

20                      Therefore, the ACLU opposes any of the  
21          provisions contained in these bills that would  
22          result in more mandatory sentences for sex  
23          offenses or the mandatory notification of  
24          neighbors when an offender is released from  
25          prison. We think that such provisions are

1 unconstitutional, ineffective and impractical.

2 I would like to devote the balance of  
3 my testimony to discussing the portion of  
4 Special Session House Bill 85 regarding the  
5 proposed State Board to assess sexually violent  
6 predators. That board would consist of 3  
7 members: A psychiatrist and psychologist both  
8 of whom would be appointed by the Governor, and  
9 a criminal justice expert appointed by the  
10 Attorney General. That board would conduct an  
11 assessment to determine if an offender is  
12 sexually violent predator, and there's a  
13 definition for sexual violent predator contained  
14 in that bill.

15 The board's determination must be made  
16 within 30 days from the date of conviction and a  
17 report must be furnished to the Court that shall  
18 then determine if the offender is a sexual  
19 violent predator.

20 Several significant consequences flow  
21 from that determination. A person who has been  
22 designated a sexually violent predator is  
23 required to register until further order of the  
24 Court. He will also be subject to quarterly  
25 verifications of his residence and must document

1 any treatment he is receiving for mental  
2 abnormality or personally disorder. I would  
3 note that Senate Bill 7 also contains a  
4 provision regarding a designation of an offender  
5 as a sexually violent predator. In that bill  
6 there are even more consequences as a result of  
7 that designation, including lifetime parole,  
8 required monthly counseling sessions and a  
9 greater likelihood of neighborhood notification.

10 I'd like to point out some significant  
11 legal and practical problems with the proposed  
12 board, at least as it is written in the present  
13 legislation.

14 The board will certainly be subject to  
15 a challenge on state and federal grounds because  
16 of the lack of impartiality. Since the future  
17 life and liberty of a convicted offender will  
18 rest upon the decision of the 3 persons on the  
19 board, the fairness and the composition of the  
20 board would be a major issue. That board is  
21 responsible for making an adjudication that will  
22 have a fundamental impact on the life of each  
23 offender.

24 One of the members of that board will  
25 be chosen by the prosecutorial representative of

1 the Commonwealth, the Attorney General. There  
2 is no safeguard against that designee being a  
3 person who, if not beholden to the Attorney  
4 General, is at least answerable to him.

5 Pennsylvania courts have long held  
6 that one of the fundamental due process  
7 principles that applies to adjudicative hearings  
8 is that they not commingle the judicial and  
9 prosecutorial functions. This board may run  
10 afoul of that constitutional principle because  
11 of the Attorney General having a representative  
12 on that board. And I cited a couple of cases  
13 where this issue has arisen and created some  
14 constitutional problems for other boards in the  
15 state.

16 We also think that the board will be  
17 subject to challenge on state and federal  
18 constitutional grounds should an offender be  
19 denied the right to a complete hearing on a  
20 factual matter that will have such fundamental  
21 consequences on his life and liberty. The  
22 proposed legislation makes no provision for the  
23 due process rights of the offender. It does not  
24 describe whether a hearing is required, what  
25 kind of hearing would occur, whether a lawyer

1 will be provided for an indigent defendant, what  
2 the rules of evidence will be, what standard  
3 that board will apply.

4 Since this factual decision will have  
5 such significance for an offender, it's likely  
6 that a court will determine that every offender  
7 is entitled to a full and fair hearing, which  
8 obviously will take time, impose a lot of other  
9 costs and may lead to other consequences not  
10 immediately contemplated in the legislation. I  
11 think it would particularly cause problems in  
12 completing a report within 30 days and making  
13 recommendations. The consequences that may have  
14 for the counties or the state where prisoners  
15 are held in the interim is something that must  
16 be analyzed.

17 Finally, we think that the board and  
18 the board's staff will be subject to subpoena  
19 and cross-examination at the subsequent hearings  
20 on their findings. As I indicated, there's  
21 judicial review of the board's findings.  
22 Offenders will most likely exercise their due  
23 process rights to confront the members of the  
24 board and those who conducted any psychiatric  
25 and psychological examination. Given the



1           potentially magnified sentence that may be  
2           imposed on any offender, it is virtually certain  
3           that a federal and/or a state court will issue  
4           the appropriate remedy to protect the offender's  
5           due process rights.

6                     It does not appear that this statutory  
7           scheme, at least as it is currently written,  
8           provides for adequate compensation and/or staff  
9           to handle these kinds of duties. I believe it's  
10          either \$125 or \$150 per day for each of the  
11          board members. I would submit if you are trying  
12          to get the kind of experts you want, you are  
13          going to have difficulty getting them for that  
14          kind of pay if it's going to be involved being  
15          out of work and the responsibility that is  
16          contemplated.

17                    In closing, I want to thank you for  
18          asking me to testify today, and I will be happy  
19          to try and answer any questions you may have.

20                    CHAIRMAN PICCOLA: Thank you, Mr.  
21          Frankel. One of the questions that I had and  
22          you partially answered it, I believe, is the  
23          proposed board as contained in, I think House  
24          Bill 85, the question that occurred to me is,  
25          how does that differ from the Pennsylvania

1 Parole Board which has the same kind of impact  
2 on an offender? And I think you answered it  
3 partially by indicating the fact that there are  
4 certain hearing requirements and due process  
5 requirements before the probation/parole for an  
6 offender who comes before you. Also, I think  
7 you indicated that the composition of the board  
8 raises a question given the membership of the  
9 Attorney General or his designee on the board.

10 If we were to address those 2 issues  
11 by removing the Attorney General or changing the  
12 composition in such a way that eliminated that  
13 concern and were to create certain due process  
14 rights for the offender before the board, what,  
15 if any, other state or federal constitutional  
16 challenges would you see to such a board?

17 MR. FRANKEL: I do not contemplate any  
18 further challenges. In fact, the concept of a  
19 board that would make an initial determination  
20 provided it is subject to judicial review which  
21 this bill contemplates would seem to be an  
22 appropriate way to deal with this difficult  
23 issue.

24 You've got people who, either through  
25 experience, I hope by experience, has some

1 expertise on the difficult question of  
2 predicting future behavior will be able to make  
3 recommendations, be subject to cross-  
4 examination. The board should hear from experts  
5 that the defendant may want to present, but as  
6 long as the hearings are provided and there is  
7 judicial review and you've got an impartial  
8 panel, I think you have addressed the  
9 constitutional issues that I perceive.

10           However, to the extent that the board  
11 may make recommendations and a judge may approve  
12 recommendations that result in penalties that  
13 could be challenged as being cruel and unusual,  
14 that does not settle that potential  
15 constitutional challenge. It really wasn't what  
16 the question addressed. That remains a vital  
17 core issue that I know is being litigated in New  
18 Jersey and other states right now as to whether  
19 some of the penalties that are contemplating, no  
20 matter whether they are merely placed on mere  
21 offenders or only on sexually violent predators  
22 conflict with the 8th Amendment to the United  
23 States Constitution.

24           CHAIRMAN PICCOLA: Those penalties, I  
25 presume, would be the potential for a lifetime

1 parole supervision or possibly notifications, or  
2 notification requirements. Would you  
3 contemplate those being the additional  
4 penalties?

5 MR. FRANKEL: I would say a lifetime  
6 parole supervision, unless there is a provision  
7 that allows an offender to apply to a court to  
8 be relieved of parole, that at some point, you  
9 know, whether you can't do it before so many  
10 years or you leave it open, that everybody looks  
11 at this person says this no longer is needed or  
12 practical that there is some way out. That  
13 would diminish the likelihood of a lifetime  
14 parole being considered cruel and unusual  
15 punishment.

16 Neighborhood notification, certainly  
17 if it's mandatory, I think creates a cruel and  
18 unusual punishment issue. If it's discretionary  
19 it would probably be -- possibly be subject even  
20 then to a broad-base challenge, but I think it  
21 would be more likely to come with regards to a  
22 specific case, that under the circumstances,  
23 with regard to this particular defendant,  
24 neighborhood notification would be cruel and  
25 unusual.

1           CHAIRMAN PICCOLA:  What if we left the  
2 whole matter of that, as you characterize it,  
3 future punishment, a discretionary function of  
4 the trial judge?  In other words, the board's  
5 recommendation would be simply that, a  
6 recommendation, to the original sentencing  
7 court.  In effect, we would have left  
8 sentencing, or the potential for sentencing open  
9 for the Court to make a final determination on  
10 at the end of incarceration, or toward the end  
11 of incarceration.  Would that -- So long as it's  
12 a judicial determination, you don't have a  
13 problem with it, as I understand it, would be  
14 less of a problem.

15           MR. FRANKEL:  Less of a problem.  The  
16 only reason I'm hesitating, and I'm not going to  
17 be able to give a complete answer and I will  
18 supply one in writing.  I know that there are  
19 certain issues raised by having a hearing much  
20 later down toward the end of sentencing,  
21 particularly, what if that sentencing judge is  
22 no longer serving and who is then making that  
23 determination.

24           However, whether it's a judicial  
25 determination as to the scope of the sentence,

1 the kind of notification, although again --  
2 again is the wrong word -- although I think many  
3 of the details about notification may need to be  
4 left up to local law enforcement. Authorities  
5 given their resources, their knowledge of the  
6 neighborhood, you know. Who is a neighbor in  
7 Philadelphia in an apartment complex is  
8 different than a who's a neighbor in  
9 Representative Feese's county, I would probably  
10 suggest, having heard him state how big his  
11 district was the other day. An adjacent  
12 neighbor there is not the same as a high-rise in  
13 Philadelphia.

14 But, the Court should determine a lot  
15 of the details, I think is less likely to run  
16 into the kind of constitutional challenges that  
17 have been brought in other states.

18 CHAIRMAN PICCOLA: My only other  
19 inquiry, you made reference to the federal  
20 mandate that's on Pennsylvania to adopt a  
21 statute in this area. You spend a great deal of  
22 time talking about mandatory sentencing. Is  
23 there any mandate in the federal statute that  
24 requires us to impose any kind of a minimum  
25 mandatory sentencing in our statute when we

1 choose to adopt one? If there is one, what is  
2 it?

3 MR. FRANKEL: I don't believe there is  
4 one. I will review the legislation to make  
5 sure. The only mandatory provision I recall  
6 other than passing a law is a mandatory  
7 registration provision. There's not a mandatory  
8 notification provision. In fact, the language  
9 that I saw in House Bill 85 with regard to the  
10 release of information, my recollection is, that  
11 tracks the language in the federal bill.

12 CHAIRMAN PICCOLA: Thank you. Members  
13 of the Committee have questions? Representative  
14 Daley.

15 REPRESENTATIVE DALEY: Thank you, Mr.  
16 Chairman. Mr. Frankel, I find your logic on  
17 page 3 rather bizarre. You have gone for the  
18 first 2 and a half pages talking about mandatory  
19 sentencing. Then all of a sudden modernization  
20 of mandatory sentencing and mandatory  
21 neighborhood notification. You made some  
22 comments I think you need to explain to us, or  
23 at least explain so I can have a better concept  
24 of what you're trying to say here?

25 You said at the end of the second full

1 paragraph on page 3 that more mandatory  
2 sentencing statutes as well as mandatory  
3 notification laws will further compound the  
4 problem of developing satisfactory sentencing in  
5 these cases. Would you explain to me what  
6 you're saying?

7 MR. FRANKEL: I will be happy to. I'm  
8 sorry. I maybe tried to squeeze a lot into what  
9 was 15 minutes to a half hour testimony.

10 The reason we believe that both the  
11 mandatory sentencing statute and the mandatory  
12 notification laws would create further problems  
13 involved -- relates mostly to the cases of  
14 incest fathers or incest mothers. I really  
15 shouldn't be sexist about it. That in most  
16 cases, oftentimes, the nonabusive parent is in  
17 court or is in some way communicating that they  
18 don't want their loved one, their spouse to go  
19 to jail at all, or for a long period of time, or  
20 under any circumstances they expect to be  
21 reunited with that spouse. Judges struggle in  
22 those cases in fashioning an appropriate  
23 sentence that imposes society's sense of  
24 punishment but is responding to the request of  
25 the victim's nonabusive parent. In those cases



1 the mandatory sentencing and mandatory  
2 notification laws affect the judge's ability to  
3 fashion something appropriate.

4 For example, if a judge knows that if  
5 they find this person guilty of X crime, there's  
6 going to be mandatory notification. They're  
7 hearing from the mother that when dad gets out  
8 of prison he's going to come home and live  
9 again. A judge is going to think twice about  
10 what the consequences of that finding of guilty  
11 and that mandatory notification will be.  
12 Because, even if the victim's name is not  
13 revealed, the notification occurs.

14 Because we've seen incidents of, some  
15 of it's vigilantes and some of it is mere  
16 harassment, the victim, merely because the  
17 victim and an nonabusive parent have chosen to  
18 live with that offender after he is released are  
19 subject to that same level of harassment and  
20 vigilantism to the extent directed at the home;  
21 or, I heard a radio show where the kids on the  
22 bus teased the victim of an incest case because  
23 they knew about it because of a notification  
24 provision.

25 So the mandatory sentencing statute as

1 well as the mandatory notification, because they  
2 do not allow flexibility in saying, in this case  
3 there will not be a mandatory sentence or in  
4 this case there will not be neighborhood  
5 notification, makes the fashioning of  
6 appropriate remedies in those particular cases  
7 more different.

8 REPRESENTATIVE DALEY: I think your  
9 rhetoric is all well and good, but I still don't  
10 understand -- seems like you're placing the  
11 victimizer above the victim. I'm sure any court  
12 in its right mind is not going to place a child  
13 back in a situation where the victimizer is one  
14 of the parents and that child may be removed  
15 from that situation at some point. I understand  
16 the logic of what you are trying to do even  
17 though it doesn't quite make sense to me.

18 MR. FRANKEL: I will provide you  
19 copies of the testimony the 2 judges gave which  
20 is where I based my logic from. It's not  
21 something that I thought up in the confines of  
22 my office or talking to members of my  
23 organization. I heard 2 judges testify on this  
24 subject. I will be happy to supply you and any  
25 other members of the Committee with copies of

1 that testimony. They were only testifying with  
2 regard to mandatory sentences.

3 REPRESENTATIVE DALEY: Second  
4 question, Mr. Chairman, on the next paragraph it  
5 says that mandatory neighborhood notification  
6 would impose significant obstacles that diminish  
7 our ability to address the problems of sex  
8 offenders against child or children. Could you  
9 explain to me what those significant obstacles  
10 would be?

11 MR. FRANKEL: As I indicated later in  
12 that paragraph, you have parents who are  
13 reluctant to report already, reluctant to report  
14 because they don't want to be involved in the  
15 criminal justice system; they don't want to  
16 subject their child to the trauma of going  
17 through a trial.

18 The adding on of further mandatory  
19 sentences and mandatory notification to the  
20 extent that that is known to the reluctant  
21 reporting parent is certainly going to give them  
22 further cause to say, now, if I report my  
23 spouse, we not only end up with putting my child  
24 through a trial, going through all the trauma of  
25 what occurs to people in the criminal justice

1 system, we also face the possibility that my  
2 spouse will be affected for the remainder of his  
3 or her life because of what I do.

4 Well, if there were not these mandates  
5 on courts to impose a sentence for notification  
6 to occur, then I think both the reporter and  
7 even the prosecutor has more flexibility in  
8 figuring out, yes, this is a crime we want to  
9 deal with the situation, but we don't -- you  
10 know, we've got a witness who is not going to  
11 want to impose the kind of consequences that the  
12 law will require. Therefore, allows more  
13 opportunity for the prosecutors to work with the  
14 parent who is not eager to get involved.

15 We've heard from the previous witness  
16 what they know in terms of perpetrators and how  
17 much occurs within the family and how much is  
18 already unreported. I fear that if we do not  
19 allow some discretion into the system, we're  
20 going to see a reduction in the amount of cases  
21 reported rather than an increase.

22 REPRESENTATIVE DALEY: To understand  
23 your logic in the next paragraph, basically what  
24 you're saying, that mandatory sentences and  
25 mandatory community notification really are one;

1 that once a victimizer is sentenced and part of  
2 that sentence will be at the end of his prison  
3 term, that there will be notification to the  
4 community he'll be released, that's further  
5 perpetuating the sentence, is that correct?

6 MR. FRANKEL: That's not what I'm  
7 saying. I'm pointing out that the fact that  
8 they are mandatory rather than discretionary is  
9 the problem; that there is something, although  
10 not entirely similar, there are consistent  
11 potential problems with mandatory sentences and  
12 mandatory notification because they do not  
13 permit the trier of fact, the Court that  
14 sentences and the police officials to exercise  
15 discretion in cases where they may think that a  
16 mandatory sentence or mandatory notification is  
17 inappropriate. The inflexibility of them that  
18 brings them together.

19 REPRESENTATIVE DALEY: You are basing  
20 that upon an 8th Amendment argument that's  
21 possibly unconstitutional or cruel and unusual?

22 MR. FRANKEL: We believe that there's  
23 an 8th Amendment argument, but aside from the  
24 Constitution we think that there's a real  
25 practical problem. It has nothing to do with

1 the Constitution. It's with what goes on out  
2 there on a day-to-day basis that it may create  
3 problems. But that even if a Court were to find  
4 it wasn't cruel and unusual, this Commonwealth  
5 still might not want to go down the route of  
6 mandatory notification.

7 REPRESENTATIVE DALEY: I'm sure you  
8 are aware that once these predators go back in  
9 the community some of these people will never be  
10 fixed no matter what kind of sentence, or  
11 therapy, or behavior modifications you try to  
12 perpetrate on these people, they aren't fixed.  
13 They can't be fixed. When they are back in the  
14 community then there are problems that the  
15 community is going to be facing if the community  
16 is not aware that these individuals are back on  
17 the street and living next door.

18 MR. FRANKEL: I do not know whether  
19 individuals can be fixed or not. I would agree  
20 with what I heard previously that a closer  
21 examination of how the parole process works and  
22 the kind of supervision that is offered, I think  
23 it's appropriate not just for sex offenders, but  
24 for all offenders. I think that it should be --

25 To the extent we really want to do

1 something for people who have been victimized  
2 and people who may be victimized, a more  
3 effective parole system that provides closer  
4 supervision with more resources that help  
5 offenders get back to work and readjust in their  
6 communities is probably the most useful thing  
7 the legislature can do.

8 Community notification even if it  
9 passes will only work to a certain degree to let  
10 a certain number of people know about an  
11 offender. That offender can go to the next  
12 neighborhood where they don't know about him or  
13 her at all and recommit the offense. We really  
14 want to try and protect communities. We believe  
15 more parole officers, more parole resources,  
16 better supervision will do far more.

17 REPRESENTATIVE DALEY: I submit to  
18 you, Mr. Frankel, that the best way to protect  
19 the community is community notification. Thank  
20 you, Mr. Chairman.

21 CHAIRMAN PICCOLA: Representative  
22 James.

23 REPRESENTATIVE JAMES: Mr. Frankel, in  
24 terms of the board and if, in fact, it just  
25 seems to me that on these mandatory sentences

1 and it seems that we are giving more leverage to  
2 the prosecutors as opposed to judges, is it  
3 possible or is it legal being that you are a  
4 lawyer, can the judges association appoint  
5 someone to this board or would that -- is that a  
6 possibility? Would that help in terms of the  
7 board?

8 MR. FRANKEL: I'm only one lawyer.  
9 I'm not the lawyer. It's one lawyer's opinion  
10 that creates a problem again of commingling of  
11 function, maybe less so because the judge isn't  
12 seen as a prosecutorial arm and I don't know the  
13 case law in that area. It is an idea possibly  
14 worth exploring, but I would want to make sure  
15 before I give any kind of stamp of approval to  
16 it that there isn't some case out there  
17 lingering that says even judges should not be  
18 appointing individuals to these kind of boards  
19 and making adjudicatory functions. That might  
20 also violate some constitutional principles, but  
21 I think that on its face sounds a lot less  
22 likely to run into constitutional problems than  
23 having the Attorney General appoint somebody.

24 REPRESENTATIVE JAMES: Also, would you  
25 support mandatory sentences in this area if, in



1 fact, the judges have more discretion case per  
2 case as opposed to, the laws say that the  
3 district attorney say that this has to be an  
4 automatic 5 years? If the judge could use some  
5 discretion based on something like we put in the  
6 legislation, would you support it then?

7 MR. FRANKEL: Then I think it's not a  
8 mandatory sentence. I probably would support  
9 it, but I don't think you end up with a  
10 mandatory sentence.

11 REPRESENTATIVE JAMES: I thought it  
12 would be a mandatory sentence if there's a  
13 possibility that the person can be sentenced to  
14 a mandatory term. But then if we say the judges  
15 choose not to use that mandatory sentence based  
16 on whatever facts and circumstances based on  
17 that case, I thought that may be a possibility.

18 MR. FRANKEL: If you're suggesting  
19 that there's a presumption of a mandatory  
20 minimum, but that if certain enumerated factors  
21 are present that the judge is authorized to  
22 deviate from that mandatory, that is possible.  
23 I don't think it would suggest that --

24 Again, last year's federal crime bill  
25 that was done with regard to nonviolent drug

1 offenders, their first offense, that a judge  
2 could deviate if they found that the offense was  
3 indeed nonviolent and the defendant had no prior  
4 records for.

5 It would allow the judge to deviate  
6 from what would be the mandate and would be one  
7 way to give some flexibility to the judge, that  
8 even when presented with proof of sentencing of  
9 why the mandate should apply, that the defense  
10 would have an opportunity to cite specific  
11 factors and the judge would have an opportunity  
12 to sentence according to guidelines rather than  
13 mandatory minimum.

14 Even if you say the judge has to  
15 sentence according to guidelines and the  
16 guidelines for these offenses are increased,  
17 it's my recollection that the law already  
18 provides the Commonwealth with the right to  
19 appeal the judge's sentence below the  
20 guidelines. I don't think anybody is suggesting  
21 that right of appeal being removed. I think  
22 there are ways to protect against arbitrary  
23 actions by judges under the existing law.

24 REPRESENTATIVE JAMES: Thank you.  
25 Thank you, Mr. Chairman.

1                   CHAIRMAN PICCOLA: Representative  
2 Manderino.

3                   REPRESENTATIVE MANDERINO: Thank you,  
4 Mr. Chairman. Mr. Frankel, maybe you can even  
5 help me. I recognize that you are not the  
6 author of the bill, but since we have talked  
7 about this board a number of times through your  
8 testimony, I guess I'm kind of confused how you  
9 perceive, based on the legislation, this board  
10 works in conjunction with the court system and  
11 how it differs from probation and parole?

12                   I guess what I'm looking at as I'm  
13 sitting here thinking, I can understand in the  
14 context of a drug offense, the difference  
15 between a nonviolent drug offender and a violent  
16 drug offender. A nonviolent drug offender is  
17 somebody who used and got convicted based on  
18 their use, but they didn't involve anybody else  
19 in the process.

20                   But when I think of a sexual offender,  
21 except for maybe somebody who indecently exposes  
22 themselves to someone, maybe, but anyone else  
23 just by the very nature of it seems to me that  
24 they are a violent offender because they  
25 perpetrated their act upon another person's

1 body, bodily harm or injury.

2 I guess my question is, I don't want  
3 to put words in your mouth, but is this kind of  
4 a redundant process and don't you think that any  
5 board we create would just say everybody was a  
6 violent sexual offender? So then, why have a  
7 board?

8 MR. FRANKEL: I think the legislation  
9 is rather sparse about how the board would  
10 actually work. I think we can only surmise at  
11 this point that some regulation would have to be  
12 developed. The bill does contain definitions  
13 for predatory and mental abnormality and sexual  
14 violent predator, language, some of which, I'm  
15 not sure I even understand. Maybe it means  
16 something to experts in the field. But, purpose  
17 of victimization is one of the terms of art in  
18 there.

19 I believe that the bill is trying to  
20 say that there is a distinction between someone  
21 who, while committing an offense it was somehow  
22 inconsistent with their behavior; that  
23 particularly, I think when you get to the lesser  
24 sexual offenses whether it's indecent exposure  
25 which I think is pretty much out now, but even

1 indecent assault which is my recollection from  
2 the discussion of Senate Bill 2 is what we  
3 consider fondling; no penetration of any kind;  
4 aggravated indecent assault which did show  
5 penetration as opposed to aggravated sexual  
6 assault. Or, sexual assault that there are some  
7 distinctions that could be made and that if the  
8 board were to consistently report everybody that  
9 came to them as a sexually violent predator,  
10 then that problem would become apparent very  
11 quickly that the board had no existence.

12 One of the previous hearings on  
13 Megan's Law there were a couple of doctors who  
14 treat offenders and they differentiated between,  
15 I don't know whether the word was compulsive or  
16 obsessive, but the repeat offender who probably  
17 they deem to be quite sick and in need of  
18 treatment and one who might regress to offend  
19 again. As long as their life is not full of  
20 stress and things are going fine they don't  
21 engage in these kinds of behaviors. Maybe  
22 that's a distinction this board would draw.

23 I would agree that the standards in  
24 the bill should probably be made more specific  
25 so that you do not have a board that basically

1 comes back and says everybody is a sexually  
2 violent predator. I think some more thought has  
3 to be given into clarifying the definitions and  
4 the duties of the board so that that does not  
5 happen. Did I answer your question?

6 REPRESENTATIVE MANDERINO: At least  
7 maybe I'm understanding the scope -- I was  
8 thinking of the scope of the bill purely with  
9 regard to children and saying, why do we need  
10 the board because I am going to report them all  
11 as violent predators and then deal with whatever  
12 we are going to deal with on the other end. So,  
13 I guess to the extent that this was all  
14 encompassing of all sex crimes, maybe I'll look  
15 at it again in that light. I don't know. Thank  
16 you, though.

17 CHAIRMAN PICCOLA: Do any other  
18 members have any questions of the witness?  
19 Staff?

20 ( No audible response )

21 CHAIRMAN PICCOLA: Thank you, Mr.  
22 Frankel. We appreciate your testimony.

23 Our next witness is Edward Borden,  
24 Esquire, County Prosecutor, Camden County, New  
25 Jersey. Is Mr. Borden here?

1 ( No audible response )

2 CHAIRMAN PICCOLA: He is not here?

3 Okay. We will then move to the next panel  
4 witnesses consisting of Detective Steve J. Mills  
5 of the District Attorney's Child Abuse Unit  
6 Chester County District Attorney's Office and  
7 Mr. Timothy M. Waltz, Caseworker Supervisor,  
8 Chester County Adult Probation and Parole  
9 Department.

10 Before the witnesses testify, we would  
11 like to acknowledge the presence of  
12 Representative Dan Clark, the Chairman and  
13 Subcommittee on Courts; Representative Jerry  
14 Birmelin, the Chairman of Subcommittee on Crime  
15 Corrections; Representative Steve Maitland to my  
16 immediate right. To my far right, the Minority  
17 Chairman at the present time Representative Tom  
18 Caltagirone. I believe Representative Hennessey  
19 is here. Yes.

20 Mr. Mills, you may begin.

21 MR. MILLS: Good morning. I would  
22 like to thank the House Judiciary Committee for  
23 the opportunity to testify today. My name is  
24 Steve Mills. I'm employed by the District  
25 Attorney's Office as a Chester County Detective.

1                   Currently, I'm assigned to the  
2                   District Attorney Child Abuse Unit. I have been  
3                   investigating child abuse since 1982. I have  
4                   been with the County Detective since 1979 and  
5                   have been a police officer since 1969.

6                   I believe the need for registration of  
7                   convicted sex offenders is most imperative. One  
8                   of the hardest jobs we have is identifying a  
9                   pedophile prior to a child being abused. Why  
10                  would we want to mainstream a pedophile back  
11                  into society without advising possible victims  
12                  around him?

13                  Some major problems that have to be  
14                  addressed for this type of legislation are as  
15                  follows: The Criminal History Information Act  
16                  does not allow disclosures of this type. The  
17                  act will have to be amended to allow police to  
18                  disclose if necessary. If the act were  
19                  modified, it should at least include that  
20                  police, probation, or parole departments report  
21                  to local police that the offender is currently  
22                  in their jurisdiction.

23                  Serious offenders must be required to  
24                  report to the local police and describe their  
25                  crime and place of residence. A question to be



1 considered is whether we should be concerned  
2 with the rehabilitation of the offender in  
3 society or should we worry about the offender's  
4 next victim.

5 I believe House Bill 85 addresses many  
6 of the aforementioned issues for the  
7 registration of sexual offenders. It's a known  
8 fact that a pedophile can be treated but not  
9 cured. Just like an alcoholic or drug abuser.  
10 Once they stop their treatment, the percentage  
11 for re-offending is great.

12 Child abuse is not a recent problem  
13 for legislators and law enforcement. It has  
14 just been on the back burner. Because we now  
15 educate our children about good touch and bad  
16 touch, we have an increased volume of child  
17 abuse cases just within our department. Our  
18 focus should not be merely on educating  
19 children, but rather focus on stopping the  
20 abuser before the abuse.

21 So why does it take the lawmakers so  
22 long to catch up? It was not until April 1990  
23 that our lawmakers enacted the charge of  
24 aggravated indecent assault which made  
25 penetration of a victim's genitals or anus with

1 a part of the defendant's body a felony of the  
2 2nd degree.

3 In 1991, the legislature amended the  
4 statute of limitations to extend the statute to  
5 include specific crimes against children. Some  
6 crimes were upgraded from misdemeanor 2 to  
7 misdemeanor 1. The State of Delaware completed  
8 similar changes years ago.

9 We allocate money for drug  
10 enforcement, why not child abuse related crimes?  
11 We in the child abuse field, especially in law  
12 enforcement, could make very good use of monies  
13 earmarked for child abuse investigations. Let's  
14 redirect funding to include child abuse.

15 At the completion of an investigation  
16 we did quite awhile ago and the perpetrator was  
17 arrested, one of his victims from 20 years ago  
18 called us. When she disclosed her abuse, her  
19 parents not only didn't believe her, but told  
20 her not to say anything. The stigma and  
21 embarrassment in the parents' minds was  
22 overwhelming.

23 It takes a special type person to  
24 investigate these cases. One has to become a  
25 social worker with a badge. Because of the

1 complexity of the investigations, it's a hard  
2 pill to swallow for a lot of police officers.  
3 Once you have found a police officer willing and  
4 able to conduct the investigation, you now have  
5 to train him or her.

6 In Chester County, we received a grant  
7 from the Pennsylvania Commission on Crime and  
8 Delinquency. By directing these funds toward  
9 child abuse, we have formed a Child Abuse Act  
10 which is made up of 2 staff attorneys and 2  
11 staff detectives who do nothing except involve  
12 themselves with these type cases. We have our  
13 own segregated office space allowing us complete  
14 privacy during these sensitive investigations  
15 and interviews. Also through grant funding we  
16 formed a county-wide task force made up of state  
17 and local police officers. Our task is to focus  
18 training in the area of child abuse. The task  
19 force meets once a month and has approximately  
20 33 members.

21 Ninety-five percent of our  
22 investigations are conducted after a child has  
23 disclosed the abuse. This abuse continues to  
24 occur because no one else is aware that it is  
25 occurring.

1                   One major investigation involved a  
2 man, age 67, who for a period of 40 years had  
3 been photographing young males; specifically,  
4 their genital area. During the photography  
5 sessions this man would perform oral sex on  
6 these young boys to cause an erection. Most of  
7 these young males fell victim to this man  
8 because they were runaways or neighbors with  
9 dysfunctional households.

10                   This man was married and lived in nice  
11 areas. During the time frame that he was  
12 committing these acts he moved several times to  
13 several different neighborhoods. We did not  
14 learn of this individual until late '70's or  
15 '80's and our arrest was not made until 1991.  
16 This only occurred due to information supplied  
17 by a concerned citizen living in the pedophile's  
18 home. Following the arrest, several males in  
19 their 20's and 30's came forward with details of  
20 abuse they had suffered from this man. One  
21 victim has become a thief, one has become an  
22 admitted child abuser. Drug abuse is also a  
23 prevalent aftermath of child abuse victims.

24                   In October of '94 when I testified  
25 before the House of Representatives in the City

1 of Coatesville, we had just arrested a 72-year  
2 old man for child sexual abuse. On January 13,  
3 1995, the man was sentenced 20 to 80 years in  
4 prison. I've enclosed a newspaper article  
5 covering this arrest and sentencing on the last  
6 page.

7 Another investigation led to the  
8 arrest of an ex-police officer. He had been  
9 arrested in the 1970's for abusing approximately  
10 4 boys. This individual was sentenced to 2 years  
11 probation. In the 1980's, we investigated this  
12 same individual and located at least 8 more  
13 victims. Now this person is in jail for a long  
14 time. But, why did these additional boys need  
15 to be abused? If the community knew, most of  
16 these children might have been spared the damage  
17 they will now live with for the rest of their  
18 lives.

19 I have dealt with people who have  
20 abused children who were priests, police  
21 officers, involved with Boy Scouts, teachers,  
22 and people from many walks of life. In the  
23 majority of cases when a person like this is  
24 arrested, the arrest is kept quiet so as not to  
25 embarrass the church, school or the affected

1 group. But the community needs to know these  
2 people exist, and more importantly, that sex  
3 offenders have the potential to abuse again.

4 Another consideration is funding for  
5 proactive investigations. With many of the  
6 perpetrators we deal with, if we had the time  
7 and manpower to target specific individuals, we  
8 may have stopped the abuse before it occurred,  
9 or at least could have lowered the number of  
10 victims.

11 Now, in addressing House Bills 29 and  
12 75, the age of consent bounces back and forth  
13 between 13 to 16 years of age, depending on the  
14 particular section and sub-section of certain  
15 crimes. But, isn't it odd that the legislature  
16 recognizes that you cannot photograph a child  
17 under the age of 18, but the age of consent  
18 remains between the ages of 13 to 16?

19 Also, the children I have personally  
20 interviewed between 13 and 17 years of age did  
21 not want to engage in any type of sexual  
22 activity. Some were only mentally coerced.

23 I believe that the age of consent  
24 differences should be eliminated. The standard  
25 should be 18 years of age. If you cannot

1 photograph a child under the age of 18, then a  
2 child under 18 years of age should not be able  
3 to consent to physical, sexual acts either. Ask  
4 yourself the question, is photographing less  
5 offensive than participating in sexual acts with  
6 a minor.

7 Additionally, please note that neither  
8 bill addresses foreign objects under Section  
9 3125, aggravated indecent assault.

10 We would like to suggest that you  
11 implement whatever legislation is necessary to  
12 mandate the registration of these offenders, but  
13 we also need to focus on the training of police  
14 officers and prosecutors. We must also spread  
15 accurate, positive public information; not just  
16 what the public sees on sensational TV and in  
17 the movie theaters.

18 We need funding for proactive  
19 investigations and also new legislation  
20 upgrading the degree of crime from a misdemeanor  
21 to a felony. This will also lead to stiffer  
22 sentences. Also, offenders should be mandated  
23 to complete specialized treatment programs while  
24 in prison and a follow-up treatment plan after  
25 their release.

1                   Lastly, I would like to thank  
2                   committee members Cohen, Piccola and Hennessey  
3                   for their insight to include new sentencing  
4                   guidelines in House Bill 75. Thank you.

5                   CHAIRMAN PICCOLA: Thank you, Mr.  
6                   Mills. Mr. Waltz.

7                   MR. WALTZ: Good morning, Chairman  
8                   Piccola, and members of the House Judiciary  
9                   Committee. My name is Timothy Waltz. I'm  
10                  currently supervisor in Chester County Adult  
11                  Probation and Parole Department. In 1986, I was  
12                  the officer who was charged with responsibility  
13                  of developing and initiating the intensive  
14                  supervision caseload for sex offenders.

15                  Before I begin I would like to mention  
16                  that any opinions that I present today do not  
17                  necessarily represent the opinions of the  
18                  judgeship of Chester County, nor the official  
19                  opinion or philosophy of the Department of Adult  
20                  Probation and Parole Department of Chester  
21                  County.

22                  The Adult Probation and Parole  
23                  Department of Chester County operates under the  
24                  control of Court of Common Pleas of Chester  
25                  County, and as such its officers are officers of



1 the court committed to provide the best service  
2 in areas of probation and parole supervision and  
3 investigations.

4 The Department's responsibility in its  
5 service to the Court is two-fold: Protecting of  
6 society and participating in the supervision and  
7 social reintegration of county adult  
8 probationers and parolees. The Department must  
9 not lose sight of the rights of the public to be  
10 safe and secure as well as the supervised  
11 client's right to freedom.

12 Specialized supervision for convicted  
13 sexual offenders under Chester County Probation  
14 and Parole Supervision. 1986, the Chester  
15 County Adult Probation and Parole Department  
16 initiated an intensive supervision caseload for  
17 county probated and paroled sex offenders. The  
18 philosophy of this specialized supervision  
19 focuses upon the following concepts:

20 1. Deviant sexual behavior is a  
21 chronic, compulsive, and addictive behavior. It  
22 begins early in life and the offender is  
23 progressive in behavior.

24 2. The sexual offenders are in need  
25 of strict supervision.

1           3. Supervision must include active,  
2 mandated, specialized sex offender treatment.  
3 Treatment should be highly structured and  
4 utilized controlled confrontation. The  
5 probation and parole office must take an active  
6 role in the treatment process, to ensure that  
7 the offender is in compliance with all treatment  
8 rules and regulations. The treatment agent must  
9 maintain open lines of communication with the  
10 Adult Probation and Parole Department. This  
11 open communication enhances the monitoring and  
12 progress of the offender.

13           The Chester County Adult Probation and  
14 Parole Department's Intensive Supervision Unit  
15 for convicted sex offenders currently has 131  
16 convicted sex offenders under active  
17 supervision. The criminal sexual behavior of  
18 these clients can be broken down in general  
19 terms as follows:

20           1. Sexual assaults, predominately  
21 adult victims, 26 clients;

22           2. Exhibitionists or indecent  
23 exposure, it would be 21 clients;

24           3. Other offenses such as loitering  
25 and prowling, peeping in windows, burglaries

1 that are related to the offender's attempts to  
2 gain access to undergarments, those types of  
3 things, we have 5 clients;

4 4. Child molestation. I have broken  
5 that down into 2 categories, regressed and  
6 incestuous offenders might also be known as  
7 situational offenders. We have 45 of those  
8 clients under supervision;

9 B: Fixated pedophiles, or also known  
10 as child predators. We have 34 clients under  
11 active supervision.

12 Two probation and parole officers  
13 strictly monitor these clients. Both officers  
14 actively participate in the treatment process,  
15 for all those clients mandated to specialized  
16 sex offender treatment.

17 Observations and Comments. The Adult  
18 Probation and Parole Department of Chester  
19 County will continue to supervise and enforce  
20 any and all rules, orders and conditions ordered  
21 by the judges of Chester County.

22 2. The Chester County Adult Probation  
23 and Parole Department's Intensive Supervision  
24 Unit for Sex Offenders will continue to provide  
25 close, aggressive supervision for all sex

1 offenders placed under this unit's supervision.

2 3. Sex offenders must be held  
3 accountable for their behaviors. Professionals  
4 charged with the responsibility of supervision  
5 and/or treatment of these clients must recognize  
6 this aspect when engaging in therapy with these  
7 clients.

8 4. Open communication and information  
9 networks amongst the professionals responsible  
10 for supervision, treatment and law enforcement,  
11 enhance the monitoring and accountability of sex  
12 offenders; and thus, these networks enhance the  
13 protection the community receives from these  
14 clients.

15 5. Biased information or information  
16 placed in the hands of non-professionals may  
17 become a detriment to the supervision and  
18 monitoring of sex offenders. This, in turn,  
19 could result in a diminished state of protection  
20 that the community receives from these  
21 offenders.

22 CHAIRMAN PICCOLA: Thank you, Mr.  
23 Waltz. Mr. Waltz, your program appears to be  
24 quite extensive. I guess what I'm missing in  
25 your testimony is, or maybe it's there and I am

1 not seeing it, but does it work? I mean, what  
2 is your history? Obviously, you don't have a  
3 history, I guess, under the 131 that you are  
4 presently supervising, but you have been doing  
5 this since 1986. What is your recidivism rate?  
6 How many have had parole revoked, those kind of  
7 numbers? Do you have those statistics?

8 MR. WALTZ: Mr. Chairman, basically  
9 the intensive supervision for the sex offenders  
10 caseload was the top most successful supervision  
11 caseload that we have within our department. We  
12 have been averaging somewhat over 70 percent  
13 success, I think, in closing cases success.  
14 What I mean by that is, the client has completed  
15 treatment without new convictions, no arrests.  
16 The client has completed his conditions of  
17 supervision and the defendant has paid his  
18 restitution, fines and costs.

19 CHAIRMAN PICCOLA: Did I hear you say  
20 that applied to 70 percent of those who go into  
21 the program?

22 MR. WALTZ: Yes, sir, that's correct.

23 CHAIRMAN PICCOLA: Are you aware of  
24 any comparable intensive supervision program of  
25 sex offenders at the state level? If you are,

1           could you give us anything that you might know  
2           about it?

3                         Also, do you ever receive any  
4           referrals, or do you ever supervise any state  
5           sentenced prisoners?

6                         MR. WALTZ:   Sir, we, at present, the  
7           state does not, as I know, have a specialized  
8           supervision unit.  However, they use the same  
9           treatment resource that our department uses.  
10          The treatment resource that we have was set up  
11          by our office with an agreement with that  
12          resource, and our officers actively participate  
13          in the treatment process.  We sit in on the  
14          group sessions.

15                        The state sends many of their clients  
16          to this program, but they are not quite as much  
17          involved in the treatment process as the county  
18          officers are.  They don't, as I would know, have  
19          a specialized unit but they do use specialized  
20          treatment for sex offenders.  Part of that  
21          treatment includes a waiver of confidentiality  
22          the client must sign.  Therefore, there are open  
23          lines of communication between the therapist and  
24          the program manager and the agents with the  
25          Pennsylvania Board of Probation and Parole.

1                   CHAIRMAN PICCOLA: Do any members of  
2 the Committee have questions of either witness?  
3 Representative Manderino.

4                   REPRESENTATIVE MANDERINO: Thank you,  
5 Mr. Chairman. Let me address my questions  
6 generally and actually ask either or both of you  
7 as you feel comfortable to comment on them  
8 because your testimony covered both of the  
9 issues that I wanted to ask about.

10                   Both Mr. Mills and Mr. Waltz, your  
11 testimonies touched on 2 ideas that are embodied  
12 in some of the legislation that is before us.  
13 I'm interested in your opinion.

14                   One of the issues in the legislation  
15 is a notion of lifetime parole for sex  
16 offenders. Based on the intensive probation and  
17 parole that you have going in Chester County, I  
18 don't know how long term it is. My question is,  
19 what would be your opinion of a lifetime parole  
20 provision? From your experience is it  
21 appropriate for everyone; is it only appropriate  
22 for certain people?

23                   Then the second part is, should it  
24 have a release provision based on whatever on  
25 the recommendation of folks that have worked

1 with this person, with this offender? I would  
2 be interested in your comments on that  
3 component.

4 MR. MILLS: I believe that a lifetime  
5 parole situation doesn't hurt. I know it would  
6 be kind of a nightmare for Tim and his people.  
7 However, I think that on a lifetime situation  
8 there could be degrees of it to where the  
9 supervision could decrease a little bit as the  
10 time would go on.

11 I think you would probably be looking  
12 at one of the more aggressive offenders rather  
13 than one of the ones that would, I don't want to  
14 minimize it, but an indecent assault versus an  
15 aggravated indecent assault or a involuntary  
16 deviate or rape. So, I think you could have a  
17 little flexibility within that particular  
18 section for the type of crime that you are  
19 addressing.

20 REPRESENTATIVE MANDERINO: If I can  
21 just follow-up quickly, Mr. Mills, based on  
22 where you sit in the range of various persons  
23 involved in the criminal justice system, where  
24 do you personally -- I realize this is probably  
25 a just personal opinion -- see the appropriate



1 discretion being exercised? Who would know the  
2 most about when is the right time to make those  
3 decisions about degree and length and all that  
4 kind of stuff?

5 MR. MILLS: I believe the parole or  
6 probation supervisor would have the best handle  
7 on that. When you were talking earlier about  
8 judiciary powers as far as the discretion, I  
9 think there's too much discretion within the  
10 judicial system itself.

11 That particular case that you have  
12 there was 20 to 80 years. Had there only been  
13 one victim, he would have only gotten 10 years.  
14 That's not good. I don't think it's good. The  
15 case that I had earlier, he was -- I forget his  
16 age, but he was a stepparent and he was having  
17 oral relations with his stepdaughter age 7 for  
18 approximately 2 years. He was only sentenced to  
19 9 years. The mother wanted him back in the  
20 house. But, I'm sorry. You have to draw the  
21 line here somewhere. We are out there  
22 protecting victims; not these perpetrators.

23 REPRESENTATIVE MANDERINO: Mr. Waltz,  
24 during the lifetime parole issue do you have  
25 anything?

1                   MR. WALTZ: Yes. The fixated  
2 pedophile has a primary sexual orientation  
3 towards children. I don't believe that you can  
4 change someone's primary sexual orientation.  
5 Therefore, it might be something you may be able  
6 to control, but I don't think it's ever going to  
7 be changed. I think the lifetime supervision  
8 especially in the case of a fixated pedophile  
9 would be necessary.

10                   REPRESENTATIVE MANDERINO: My second  
11 question goes, again, both of your testimonies  
12 touched on the issue of registration and  
13 notification. If I can summarize, it appeared  
14 that both of you were saying that mandatory  
15 registration and notification to the police  
16 makes a lot of sense.

17                   What I wasn't clear on was, what you  
18 thought about a mandatory notification to the  
19 community or, if you don't think it should be  
20 mandatory but might make sense in certain cases,  
21 what guidance will you give to us about when it  
22 makes sense and who would again be the best  
23 person to call that shot?

24                   MR. MILLS: I think you can run into  
25 problems at certain points of notifying

1 neighbors because you could have a vigilante  
2 situation. If you are putting it in the hands  
3 of the police and they have the capabilities of  
4 doing some monitoring on this individual,  
5 especially people that are involved in a child  
6 abuse area, it would be more likely that they  
7 might be able to pick something up sooner than a  
8 neighbor unless you ended up with a situation  
9 like Megan Kanka where she just totally  
10 disappeared.

11 It's a real hard question. I think  
12 initially, and the other problem you've got is  
13 the constitutional problems of advising  
14 neighbors of the perpetrator living in there. I  
15 mean, I don't know what violation --

16 REPRESENTATIVE MANDERINO: Assuming we  
17 didn't have any of those constitutional  
18 problems, if I ask anything that goes beyond  
19 your experience just tell me. But based on the  
20 folks that you have seen through your unit that  
21 you supervised based on your experience with  
22 their predatory, or repetitive, or recidivism  
23 patterns, would the notification to the  
24 neighbors help or would it -- Maybe you were  
25 trying to say that when you were saying about

1 Megan. You think it might interfere except in  
2 cases that were kind of like Megan's.

3 MR. MILLS: Right. I think the  
4 police -- If you really stop and think about it,  
5 the police are better equipped to handle and  
6 disseminate that information than a neighbor.  
7 It's just like you don't want everybody on the  
8 street carrying a gun. Of course, not everybody  
9 is capable to handle a gun, but a police officer  
10 is trained from the very first day that he gets  
11 into training to handle that.

12 Unless you are in L.A. disseminating  
13 information to the public, the way you are doing  
14 this O.J. Simpson thing, if I do that on my job,  
15 I would be out of a job. I handle my job a lot  
16 differently and I believe more professionally,  
17 so it would be, I think police would be better  
18 equipped with that information than just  
19 disseminating it to the neighbors.

20 REPRESENTATIVE MANDERINO: Mr. Waltz,  
21 do you have another thought on that?

22 MR. WALTZ: I guess the only other  
23 aspect that I might present would be that, with  
24 a child predator, if their neighbors know about  
25 them, they are just going to go in someone

1 else's neighbor.

2 REPRESENTATIVE MANDERINO: In your  
3 experience, it doesn't stop the behavior? It  
4 just --

5 MR. WALTZ: It would not stop the  
6 child predator. It might have some effects  
7 maybe on an exhibitionist or an incestuous  
8 father, but I'm not so sure it would have a  
9 maximum benefit for the community due to the  
10 fact that he would move outside of the  
11 community.

12 One aspect of that I would want to  
13 add, and this is a little bit different, but a  
14 lot of the clients that have been sentenced on a  
15 sex offense get individual therapy. Quite often  
16 they are reluctant to release information  
17 regarding a client. It makes it very difficult  
18 for even the professionals in the field to  
19 supervise these clients. I would much prefer to  
20 see the clients sent to a court-related type of  
21 treatment program before --

22 REPRESENTATIVE MANDERINO: Where you  
23 can have access to their progress, is that what  
24 you're saying?

25 MR. WALTZ: Absolutely. And the fact

1 that many individual therapists are concerned  
2 about labeling a client. I would prefer to see  
3 it get into an area where treatment agents are  
4 not afraid to label clients. They are willing  
5 to tell you upfront what a client is.

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

8 CHAIRMAN PICCOLA: Another question?  
9 Representative Hennessey.

10 REPRESENTATIVE HENNESSEY: Thank you,  
11 Mr. Chairman. Let me begin by saying we in  
12 Chester County are pleased to have Detective  
13 Mills and also Mr. Waltz working with us in this  
14 struggle. It seems to be an ongoing struggle to  
15 us. I suspect you feel like you are swimming  
16 upstream.

17 In your comments, Detective Mills, it  
18 seems like you were saying that you are in favor  
19 of registration for local police authorities  
20 but, perhaps, stop short of the idea that  
21 community notification would be a good adjunct  
22 to that. Perhaps, what I'm hearing you say is,  
23 this is a problem better left to professionals  
24 in the field rather than stirring up the  
25 neighborhood.

1                   But, the thrust of the entire Megan's  
2 Law concept is to somehow provide advance  
3 warning to individuals in neighborhoods so they  
4 can actively protect themselves or protect their  
5 children as opposed to registration which might  
6 make it easier after an incident occurs for  
7 police to hone in on this particular suspect.

8                   Are you really saying that we ought to  
9 try to avoid or downplay a community notice  
10 aspect? If so, can you tell me what kind of a  
11 program you would recommend in terms of being  
12 the most effective in your view?

13                   MR. MILLS: Initially, I think if you  
14 put it in the legislation, but you leave it  
15 open-ended, in that, the actual enforcement of  
16 it isn't done until you see how different cases  
17 work because, if you were to get into notifying  
18 a neighbor and the neighborhood of a particular,  
19 say, a real violent sex offender and then he  
20 starts getting his windows smashed, the house is  
21 set a fire, you really haven't accomplished  
22 anything here. That's what I would be afraid of  
23 in that situation.

24                   I believe that in a proactive  
25 situation the police with the correct amount of

1 people and the funding can handle some of those  
2 particular cases to keep an eye on it. Because  
3 if we have the information, a lot of times we  
4 don't have the time to get involved in proactive  
5 investigations because I've got an actual victim  
6 right now, so I can't go out to identify other  
7 victims or potential victims of someone else.

8 I really think you have a hard  
9 decision here, but I just wouldn't want to be  
10 the one to be in the driver's seat that would  
11 cause, even though he's a real low part of  
12 society, in my opinion I still wouldn't want his  
13 house burned, or somebody slicing him up, or  
14 something like that. I wouldn't want that on my  
15 head.

16 REPRESENTATIVE HENNESSEY: Okay. I  
17 think there was an incident similar to that in  
18 Philadelphia recently where somebody was  
19 attacked and it turned out to be the wrong  
20 person. They intended apparently to attack the  
21 home of the sexual convict, or convicted sexual  
22 offender; in fact, attacked someone else that  
23 was staying at their house.

24 MR. MILLS: You have to understand  
25 what some of the people -- the parents that we



1 deal with of the victims. A lot of the parents  
2 in some of the cases that I have had, I have had  
3 to take time for an hour and 2 hours, especially  
4 with the husbands or the fathers, that they may  
5 have been abused outside of the house, where  
6 this husband or parent wants to kill this guy.  
7 I know one particular case, every time I see him  
8 in the Acme, that's the first thing he does. He  
9 starts talking to me and I'm still talking him  
10 down not to do something to this priest.

11 All he wants to do is kill him. I  
12 said, well, you really can't get involved in  
13 that because now I have to arrest you and you  
14 are going to get locked up for murder and what  
15 good have you done your daughter? But every  
16 time I go to the Acme I see him. You can't  
17 believe the amount of people that want to kill  
18 an offender that has offended a relative. That's  
19 what you could end up with in that situation.

20 REPRESENTATIVE HENNESSEY: If we were  
21 to come down on the side of simply having  
22 defendants register, or convicts register with  
23 the police rather than having the police  
24 actively involved in notifying the community,  
25 would you support the idea that people could

1 have public access to those registration  
2 records? If I felt someone in my neighborhood,  
3 that someone was moving into my neighborhood  
4 that I might have some concern about that I  
5 could go to local police department or state  
6 police and find out what kind of record he had?

7 MR. MILLS: I think you could. I  
8 don't know what kind of mandates you could put  
9 on that individual receiving the information;  
10 not to disseminate it to other people. I think  
11 where you --

12 See, if you give the police the right  
13 to disseminate the information because in a  
14 proactive situation where we had an idea  
15 something was going on, then I can go to a  
16 neighbor and I can say, we're conducting an  
17 investigation of a person across the street from  
18 you. Can I use your house for surveillance?

19 That gives me the right to tell that  
20 person that I'm conducting an official police  
21 investigation into sexual abuse. Because some  
22 places that we'll get into, I've got no room to  
23 set up camera equipment and I'll stick out like  
24 a sore thumb on a street corner. So, if I have  
25 somebody's house to hide in, I can get a lot

1 done. That would give me the right to say to  
2 these people, we are investigating this  
3 particular individual and he is a convicted sex  
4 offender.

5 REPRESENTATIVE HENNESSEY: One of  
6 things that strikes me about sexual offenses is  
7 that, normally if you are victimized, the normal  
8 reaction I would think to be not to want to make  
9 anyone else a victim and make them suffer what  
10 you have suffered. That doesn't seem to hold  
11 true in a sex offense appeal.

12 Neither of you, I guess, are a  
13 psychologist or psychiatrist, or something, but  
14 can you give us some flavor of that what seems  
15 to be an anomaly in the law, in human  
16 experience --

17 MR. MILLS: I know. When I  
18 initially --

19 REPRESENTATIVE HENNESSEY: --  
20 perpetrator.

21 MR. MILLS: Initially when I started  
22 investigating cases, a lot of the training  
23 psychologists, psychiatrists in the field would  
24 say that it does not necessarily mean because  
25 you're victimized you are going to be victimize

1 someone. A large percentage of the people that  
2 I have arrested have been victimized and they  
3 have mirrored their victimization; same age  
4 group, same everything.

5 REPRESENTATIVE HENNESSEY: In your  
6 experience then it actually follows through.  
7 It's not just a claim that somebody makes and  
8 says I'm an offender because I was offended,  
9 because I was victimized myself. But, in fact,  
10 it shows that the proof is there and they were  
11 actually victimized?

12 MR. MILLS: A lot of the cases that we  
13 have, yes.

14 REPRESENTATIVE HENNESSEY: Tim, what  
15 about age? In lots of types of crimes as people  
16 get older they get less likely to commit various  
17 types of crimes, but that doesn't necessarily  
18 seem to hold true in sexual offense. In fact,  
19 some of the examples that were used today were  
20 some 60 to 70-year old people that were still  
21 actively abusing.

22 Is this something that just doesn't  
23 die out with age? Is it something that to some  
24 extent starts to die out, but there are atypical  
25 people that continue the activity when they get

1 old?

2 MR. WALTZ: There are different type  
3 of offenses. One offense in particular that  
4 seems to diminish somewhat with age is indecent  
5 exposure. However, most of the other types of  
6 offenses do not. Incestuous father often  
7 becomes a sexual grandfather. In fact, I have  
8 had an incestuous great grandfather who has been  
9 doing it for several years.

10 So, for some reason, I don't know if I  
11 can provide you with the answer why, but those  
12 types of offenses don't seem to necessarily  
13 diminish with age.

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

16 CHAIRMAN PICCOLA: Any other members  
17 have questions? Counsel, Ms. Dalton.

18 MS. DALTON: Good morning, gentlemen.  
19 I just have a couple of questions for you.  
20 Specifically directing your attention to House  
21 Bill 75 that's Representative Cohen's bill that  
22 increases the penalties for first-time offenses  
23 provides for minimum mandatory sentences, and  
24 for lifetime supervision, like parole officers.  
25 I'd like you to speak to those provisions if you



1           then, rather than getting into specifics, do you  
2           think it's a good idea, for example, to increase  
3           the penalties for the first-time sex offender  
4           just as an example, some of them are  
5           misdemeanors second, bump them up to second  
6           degree felonies to keep them in jail longer for  
7           the first time?

8                       MR. MILLS: I think they all ought to  
9           be bumped up. I don't think that they are  
10          severe enough for some of the cases that occur  
11          because -- I guess the hardest problem is when  
12          you're trying to figure out what to do in the  
13          legislation and the law, and then sentencing and  
14          time frames and everything where I believe we  
15          need more mandatory sentencing and take it out  
16          of the judicial discretion of a judge.

17                       Because, to sit and think of a  
18          legislation versus what I do, to sit and  
19          interview a victim of 7 years old, I'm sitting  
20          across from somebody that I could end up leaving  
21          the room and then break down. That's what I  
22          have to face in my job to deal with on a daily  
23          basis. So, the more I have in my hands to cope  
24          with a perpetrator of a case in order to protect  
25          that victim, I think enact whatever you can

1 enact as far as upgrading mandatories, or  
2 whatever, in that field.

3 I don't think people -- and don't get  
4 me wrong because we are discretionary in the way  
5 we deal with cases because, if there are people  
6 that I believe need therapy more than jail, I  
7 will get them therapy and give them plea  
8 bargains for just probationary time, but we give  
9 them long tails, 10 or 15 years probation. That  
10 way if something goes awry within that time  
11 frame they can be locked up, and I still don't  
12 have to involve my victim in that situation.

13 We just arrested an 19-year old in  
14 Honeybrook who was exposing himself to 7 and  
15 8-year old children and believed that this one  
16 7-year old female was his girlfriend and he  
17 wanted to have intercourse with her. We  
18 snatched him up kind of fast. I got him a plea  
19 bargain, got him a lawyer, and we have the  
20 paperwork through. I think that kid really  
21 needs help. That was a discretionary thing that  
22 I have available to me and the way my office  
23 operates and because of the years of experience  
24 that I deal with.

25 MR. WALTZ: Although my experience is



1 based in enforcing sentences rather than making  
2 sentences, I believe it's necessary based on my  
3 experience that all convicted sex offenders be  
4 held accountable for their behavior. Some of  
5 the sentences that we have today doesn't seem to  
6 do that. It makes the client feel as if their  
7 activity isn't as criminal as maybe yourself or  
8 myself would see it. Although I observed and  
9 reviewed the conditions that this has in it and  
10 I think it's excellent, I think the mandatory  
11 treatment and those types of things are  
12 excellent and are very necessary.

13 MS. DALTON: Could you speak,  
14 Detective Mills, to your frustration with  
15 judicial discretion? Why did you form that  
16 opinion?

17 MR. MILLS: If I take the same  
18 perpetrator to one particular judge and he gets  
19 9 years; if I take him to another judge and he  
20 gets 5 years; if I take him to another judge and  
21 he gets 30 years, you tell me, why should there  
22 be such disparity between one bench to another  
23 bench? If they are all locked into the same  
24 thing, I don't have to worry about which judge  
25 or what the public defenders do?

1           So what you do is, when you get a case  
2 you have to call into the clerk's office and  
3 they have assigned judges. So, you try to get a  
4 particular judge assigned to your case because  
5 you know how they are going to sentence. So, if  
6 I offer them a plea bargain, they say I don't  
7 want it because they know who they are going to  
8 go to and he can plead open and probably get  
9 less than what I'm offering. They should not  
10 have that kind of discretion in there.

11           MS. DALTON: I have one last question  
12 and this is for Mr. Waltz. Can you tell the  
13 committee please, what kind of treatment,  
14 specifically what kind of therapeutic mechanisms  
15 you have for the sex offenders that are in your  
16 unit?

17           MR. WALTZ: We have group treatment  
18 therapy where the offenders is forced as a  
19 condition of his treatment to be accountable for  
20 his behavior, to admit and discuss the fantasies  
21 and behaviors that he perpetrated. The  
22 treatment also requires him to sign a release of  
23 confidentiality so that anyone that we feel, or  
24 the treatment agent feels needs to know about  
25 what he's saying in group, that they have the

1 ability to release that information.

2 Getting in the specifics on that area,  
3 if a client comes in and discusses fantasies  
4 about the child next door, the treatment agent  
5 and the probation officer then has the ability  
6 to notify that kid next door or the child's  
7 parents in order to prevent a possible  
8 victimization. I think the confrontational  
9 therapy, structured therapy and therapy which  
10 forces offenders to take responsibility for  
11 their behavior is necessary.

12 MS. DALTON: Thank you, Mr. Chairman.

13 CHAIRMAN PICCOLA: Representative  
14 Hennessey.

15 REPRESENTATIVE HENNESSEY: Detective  
16 Mills, I want to follow-up on just what you were  
17 talking about in terms of disparity in  
18 sentencing. When judges are all over the block  
19 in terms of 5 years, from 1 to 9, from another  
20 to another; first of all, it seems to me the  
21 sentencing guidelines won't tolerate that. If  
22 the judges are deviating so far from the  
23 guidelines or the standard, that it's  
24 appropriate that appeals be taken.

25 MR. MILLS: Your minimum mandatory 5

1 years on involuntary and rape, whatever; see,  
2 they don't have to sentence consecutively. So,  
3 in the last case that I had, he pled open on the  
4 16 counts of involuntary on one victim, 11  
5 accounts of involuntary on another victim. All  
6 they do is run 5 to 10, 16 times and they run  
7 them together. Then they run 5 to 10 on the  
8 other 11, and they'll run them concurrent to the  
9 first ones, but consecutive to the very first  
10 one sentence. Now he ends up with 10 to 20  
11 actual time. If they run concurrent/consecutive  
12 is how it affects the sentence. It's just  
13 mandatory that they be sentenced not less than 5  
14 years. If he sentences 5 years on every case  
15 but he runs them concurrently, he only has to do  
16 5 years on 27 counts.

17 REPRESENTATIVE HENNESSEY: Are most of  
18 the cases that you deal with, these cases of  
19 multiple counts or do we ever intervene early  
20 enough that it's only 1 or 2 or 3 times?

21 MR. MILLS: Sometimes. What happens  
22 is, if you get into a time frame of 2 years in  
23 order for me to get a sentence that I need, I'll  
24 add them up because some of the -- the problem  
25 that you have is that the victim can't tell you

1 date certain on every day because they all run  
2 together if she's been done twice a day or 5  
3 times a week. So, what I'll do is, I'll ask  
4 them, because under the law you don't have to be  
5 specific on dates certain. So, I'll ask them,  
6 how many times do you think it happened within  
7 that week or on a weekly basis? If they tell me  
8 5, I multiply that out by 365, and then I'll  
9 arrest him on those counts. Hopefully, it gives  
10 me dealing power further on down the line when  
11 we get into the court system.

12 REPRESENTATIVE HENNESSEY: You've  
13 indicated that on some occasions you think it's  
14 appropriate to deviate from the mandatories.  
15 Somehow you work out some pleas with the  
16 defendant or defense attorney.

17 MR. MILLS: We do it before we arrest  
18 them.

19 REPRESENTATIVE HENNESSEY: Basically,  
20 that's done by just bargaining down what the  
21 charges will be. Instead of bargaining with a  
22 sentence, you are bargaining on what charges are  
23 going to be filed, right?

24 MR. MILLS: We can do the same thing  
25 at the time when it goes in court. I mean, we

1 can drop a rape down to a criminal attempt rape.  
2 If we charge rape or criminal attempt rape which  
3 we usually do, then if we want to bargain it, we  
4 can drop or withdraw the rape and go criminal  
5 attempt rape and then there's no mandatory.

6 REPRESENTATIVE HENNESSEY: Point in  
7 fact, that's happens frequently with this kind  
8 of bargaining when we are looking at mandatory  
9 sentences on one charge, we find a way in the  
10 court system to reduce the charge so that we  
11 escape the mandatory.

12 MR. MILLS: Right.

13 REPRESENTATIVE HENNESSEY: Effective  
14 mandatory.

15 MR. MILLS: That's correct.

16 REPRESENTATIVE HENNESSEY: One final  
17 question. I don't mean to put you on the spot  
18 here, but I think I heard you say judges  
19 shouldn't have discretion. Yet, you don't seem  
20 to mind the fact that you have discretion or  
21 that people in your position across the  
22 Commonwealth have discretion to reduce the  
23 charges or to somehow bargain away the  
24 mandatories. The discretion is there in the  
25 system, right? It's just that's it's placed

1           either on the bench or in the prosecutor's  
2           hands?

3                       MR. MILLS:  Except that the bench is  
4           the last step of the system.  If the bench  
5           doesn't do it, it's not going to get done.  I  
6           can't sentence anybody.  I don't deal with real  
7           severe cases that way.  I only deal like maybe  
8           indecent assaults or something of that nature.

9                       We don't usually deal with  
10          involuntaries.  If I'm doing -- I think the  
11          largest I've ever charged was 4,025 counts of  
12          involuntary sexual deviate intercourse.  I don't  
13          deal with those cases.  I mean, he's going to  
14          jail.

15                      The other thing you have to think  
16          about is that, the people that are in prison  
17          themselves right now have their own code of  
18          ethics.  You can be a rapist and a murderer, or  
19          whatever you want, but if you come into jail as  
20          a child abuser, you've got real trouble.  So, if  
21          their own murderers and rapists have a problem  
22          with them, I don't think we should have any less  
23          of a problem with them.

24                      REPRESENTATIVE HENNESSEY:  The point I  
25          was making is that, no matter what system we

1           devise, somebody is going to find a safety  
2           valve. It will either be in the judges or it  
3           will be in the prosecutor's office. There is  
4           going to be a safety valve no matter how we  
5           attach mandatory.

6                   MR. MILLS: Right. I just think the  
7           mandatory should be -- I think we should have  
8           stiffer mandatories, that's all, for some of  
9           these sentences, some of these people that we  
10          get involved in. The fact that the juries --

11                   The one case that we had, the guy that  
12          was photographing, the amount of years that it  
13          took us to actually get ahold of him because one  
14          of the first kids that I ever interviewed was  
15          back in 1982, and this fellow was out of  
16          Honeybrook that was taking all these  
17          photographs. That kid I see, he calls me from  
18          jail all the time. He's in and out. He's in  
19          and out of jail.

20                   The jury chose not to believe one of  
21          our victims and they let the guy off of the  
22          involuntaries and they found him guilty of the  
23          taking of photographs. He's up for parole now.  
24          I have written a letter to the parole board to  
25          try to prevent -- to keep him in for the maximum



1 time.

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

4 CHAIRMAN PICCOLA: Representative  
5 Manderino.

6 REPRESENTATIVE MANDERINO: Thank you,  
7 Mr. Chairman. I just wanted to ask this one  
8 question because I don't know our exact  
9 legislative calendar. I suspect Senate Bill  
10 Number 2 might run as early as next week or  
11 right after that.

12 Mr. Mills, on your last page of your  
13 testimony you pointed out to us that aggravated  
14 indecent assault, 3125 doesn't address the issue  
15 of foreign objects. How and when you have a  
16 case like that where you have sexual abuse where  
17 there was penetration that was by a foreign  
18 object, how is that charged now? I was  
19 wondering maybe we could amend what we have  
20 coming up if it's not currently addressed in the  
21 law?

22 MR. MILLS: It is not addressed in the  
23 law. The only thing you can arrest the person  
24 for because it's not a part of their body,  
25 aggravated indecent assault is a part of the

1 person's body used for something other than  
2 medical reasons. If you use a bottle or any  
3 type of foreign object, the only thing I can  
4 charge is indecent assault, which is a  
5 misdemeanor. That should not be.

6 Years and years and years ago we had a  
7 case where a girl was raped and they used  
8 bottles and sticks and everything else. You can  
9 charge aggravated assault which would be a  
10 felony of the first degree.

11 REPRESENTATIVE MANDERINO: How can  
12 you?

13 MR. MILLS: I say you may be able to  
14 get it if you created damage. You have to be  
15 damaged internally in order to charge aggravated  
16 assault. As it is now it's a normal sexual  
17 abuse situation with children because sometimes  
18 they don't know whether they have been  
19 penetrated by a finger, or a bottle, or  
20 whatever, I can only charge him with indecent  
21 even though she has been penetrated.

22 REPRESENTATIVE MANDERINO: If we went  
23 as your suggestion which makes sense to me, but  
24 then I'm trying to think what's on the other  
25 end. Are there some instances where that would

1           then be kind of going too far? Are there fact  
2           patterns there are such that it wouldn't always  
3           be appropriate for it to be an aggravated  
4           indecent assault or from what you see it is?

5                   MR. MILLS: No. It would fit the  
6           aggravated. Actually aggravated indecent when it  
7           was enacted was very good law, except for that  
8           part that was an added-in for foreign object.  
9           But I believe foreign object is defined in the  
10          new crimes code, and I think it has something to  
11          do in the spousal assault section, if I remember  
12          correctly. But, any definition that is under  
13          that section, foreign object is defined if you  
14          look in there.

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

17                   CHAIRMAN PICCOLA: Thank you,  
18          gentlemen, for your testimony. It's very  
19          helpful. Our next witness is Joseph Michaels,  
20          Director of Offender Treatment Network of Victim  
21          Assistance.

22                   MR. MICHAELS: Good morning. I would  
23          like to thank the Committee for inviting me  
24          here. I'd like to begin my comments by giving a  
25          brief description of the Bucks County Sex

1 Offender Treatment Project, or as it is more  
2 commonly known, the Specialized Treatment of  
3 Offenders Program, or STOP.

4 The Network of Victims Assistance in  
5 the Bucks County Department of Adult Probation  
6 and Parole early in 1993, long before any media  
7 attention was given to the problem, each without  
8 discussion with the other, came to the  
9 realization that community protection from sex  
10 offenders was a problem that was not being  
11 addressed in any adequate fashion.

12 Following a series of formal and  
13 informal meetings, during which the two  
14 organizations became aware they shared this  
15 mutual concern, they joined together in an  
16 effort to develop for Bucks County a program  
17 that would attempt to reduce criminal sexual  
18 offending. The effort resulted in a 3-year  
19 grant from the Pennsylvania Commission on Crime  
20 and Delinquency which allowed the program's  
21 development.

22 Stated goals of the program were: The  
23 identification of all convicted sex offenders  
24 residing in the county; an increase in the level  
25 of supervision of those offenders by the

1 Department of Probation and Parole; refinement  
2 in the quality of supervision of sex offenders  
3 by:

4 First, increasing the skills of  
5 probation and parole officers to allow them to  
6 identify those behaviors peculiar to sex  
7 offenders and which are indicative of an  
8 increase in a particular offender's likelihood  
9 to re-offend; and, secondly, it provides the  
10 probation/parole officers with the ability to  
11 immediately access criminal justice procedures  
12 for the initiation of parole/probation  
13 revocation proceedings and immediate  
14 reincarceration;

15 Finally, to gain the ability to  
16 adequately assess the individual offender to  
17 determine his actual risk for ongoing offending,  
18 to identify the offender's cognitive and  
19 behavioral patterns and institute a method for  
20 providing individual offenders with the skills  
21 to recognize their own increasing risk of  
22 reoffending, and providing them with the skills  
23 to regain behavioral control prior to engaging  
24 in the offending behavior.

25 These individual goals were

1 operationalized through the implementation of  
2 the following steps:

3 First, identification of all sex  
4 offenders in the county currently under  
5 supervision was accomplished through the  
6 cooperation of several departments.

7 The Bucks County Department of  
8 Corrections adjusted its classification and  
9 screening procedures to allow for the  
10 identification and referral of all convicted and  
11 sentenced sex offenders to the treatment program  
12 within one week following an offender's  
13 sentencing.

14 The Department of Probation and Parole  
15 divided the county into 4 geographical areas and  
16 assigned to each of those areas one newly  
17 designated sex offender specialist. The  
18 department identified all probationers and  
19 parolees convicted and sentenced for sex  
20 offenses and reassigned those identified  
21 probationers and parolees to one of the 4  
22 specialists.

23 The county office of the State Board  
24 of Probation and Parole was advised of the new  
25 program, its goals and procedures, and was

1 requested to refer its county sex offenders to  
2 the same treatment program in the manner  
3 developed by the county probation and parole  
4 office. The Allentown office of the State Board  
5 is cooperating in this effort.

6 The level of monitoring and  
7 supervision of the identified sex offenders  
8 living in the community has been dramatically  
9 increased in the following methods:

10 Probation/parole officers have  
11 increased face-to-face contacts with the  
12 offenders to 3 times a month. Visits take place  
13 variously in either the probation/parole office  
14 or the offender's home. Home visits can take  
15 place at any time. In addition, at least one  
16 additional contact per month is made with each  
17 offender by telephone.

18 A new specially-designed case  
19 monitoring plan has been developed by the  
20 probation/parole sex offender specialists  
21 indicating a wide range of behaviors that relate  
22 to reoffending that are not allowed while the  
23 offender is under supervision. Part of this  
24 case plan gives the sex offender specialist  
25 permission to search the property of the

1 offender for items that would indicate increased  
2 risk for reoffending.

3 As an example of the benefit of this  
4 type of case plan, in one instance, an  
5 individual convicted of showing pornography to a  
6 minor was placed on probation and referred to  
7 the sex offender specialist in the county. He  
8 was discovered during the first home visit to  
9 have a number of child's toys, photographs of  
10 children and children's drawings in his  
11 possession. The offender was essentially  
12 isolated and could offer no rational explanation  
13 for his possession of these items. The  
14 information was used by the treatment staff to  
15 take a different position with this client and  
16 eventually was able to identify him as a  
17 pedophile. Prior to this sequence of events  
18 this individual was unknown as a pedophile or  
19 potential pedophile.

20 Offenders are referred to one of the  
21 sex offender treatment groups available. These  
22 groups, conducted by the treatment personnel who  
23 have specialized training in the treatment of  
24 sex offenders, are held twice a week for a  
25 period of 2 hours per session. Attendance at



1 each group is mandatory, and unexcused absences  
2 will result in immediate notification of the  
3 probation/parole department and possible  
4 violation action and incarceration.

5 Just to clarify that a little, when we  
6 first began running these groups, I contacted  
7 the probation and parolees who were suppose to  
8 attend, there was about 40 percent participation  
9 for the groups in the first week. After the  
10 Probation and Parole Department was notified,  
11 notices were sent out to these missing parolees  
12 alerting them that Gagnon hearings would be  
13 scheduled. Since that time we've had about 100  
14 percent participation every week for both  
15 groups.

16 This combination of treatment and  
17 monitoring by probation and parole in effect  
18 allows for these sex offender to be monitored  
19 and supervised for a total of 5 hours per week,  
20 minimum, as opposed to, perhaps, one contact per  
21 month prior to the establishment of the program.

22 On-street supervision and monitoring  
23 of offenders has also been enhanced through the  
24 level of cooperation between the treatment  
25 personnel and the sex offender probation/parole

1 specialists. Each geographical team meets  
2 formally once per month to review on a case-by-  
3 case basis each offender as to his ongoing  
4 behavior, the offender's efforts to meet  
5 established goals/expectatioons, and for the  
6 team to strategize and coordinate efforts with  
7 any individuals identified as possibly at  
8 increased risk of reoffense.

9 In those cases identified by the  
10 Department of Corrections, and in which the  
11 offender is still in the custody of the  
12 department, the Bucks County Sex Offender  
13 Treatment program is providing a 10-week  
14 psycho-educational program that confronts, in a  
15 structured and educational manner, the problem  
16 of offender denial and addresses the need for  
17 change and treatment while the identified  
18 offender is still incarcerated. This piece of  
19 the program is designed to ready the individual  
20 offender for post-incarceration involvement in  
21 the community-based program.

22 The transition from custody to street  
23 is handled with a good deal of communication  
24 between corrections, treatment and probation/  
25 parole personnel which has been the earmark of

1 the program to date.

2 I have attached to the copies of this  
3 testimony some figures describing the population  
4 of the offenders dealt with by this program  
5 during the period extending from April 1994,  
6 when we first began seeing offenders, through  
7 the end of the calendar year.

8 I would at this time like to turn my  
9 attention to the package of legislation  
10 regarding sex offenders currently under  
11 consideration by the Committee. I would like to  
12 address this legislation from 2 viewpoints;  
13 first, as the director of the sex offender  
14 program just described, and secondly, as a  
15 representative of NOVA, a local nonprofit  
16 organization whose mission is the advocacy and  
17 provision of services to the victims of  
18 offenders' crimes.

19 In the first instance, I would like to  
20 express my pleasure in finding the clear  
21 requirement in House Bill 75 that convicted sex  
22 offenders be required to participate in  
23 treatment while incarcerated and while under the  
24 supervision of probation and parole. If it was  
25 not clear earlier, it is the belief of those

1 engaged in the Bucks County Sex Offender  
2 Treatment program that offender involvement in a  
3 coordinated program of treatment and probation/  
4 parole is the most effective way we have of  
5 monitoring and supervising these offenders and  
6 offering the community the most effective means  
7 of protection from future offenses.

8 Having said that, there are areas of  
9 concern I would like to address. The areas of  
10 concern are for the most part with regard to  
11 House Bill 85. First among them is the manner  
12 proposed to identify those offenders perceived  
13 to be the most dangerous offenders; those being  
14 being labeled sexually violent predators.

15 A major concern is with the  
16 classification itself and this concern exists on  
17 several levels: First, the legislation, as I  
18 understand it, identifies 2 parameters that must  
19 be met for an offender to be categorized as a  
20 sex violent predator. Conviction on at least  
21 one of a number of specific identified offenses;  
22 and 2, that he is identified as suffering from a  
23 mental abnormality or personality disorder that  
24 makes a person likely to engage in predatory,  
25 sexually violent offenses.

1                   With regard to the broad range of  
2 crimes that can trigger the assessment, there is  
3 a real concern that the broad approach will  
4 result in a developing standard defense attorney  
5 strategy to charge-plead clients early in the  
6 process to non-sex specific crimes that will  
7 allow these offenders to remain hidden in the  
8 system.

9                   Clearly, the concern of the  
10 legislature under this procedure is to identify  
11 those offenders who will place the community,  
12 especially children, at risk for sexual  
13 violence. Again, clearly, the intent of the  
14 legislation is to identify some means of  
15 triggering an evaluation to identify those  
16 offenders who pose the highest risk.

17                   But, by using such a broad brush, we  
18 risk losing in the system a number of  
19 individuals who have no chance of being labeled  
20 sexually violent predators, at this time, but  
21 whose offenses need identification and treatment  
22 to interdict the possibility they will escalate  
23 their sexual misconduct to unacceptable levels  
24 of violence and dangerousness in the future.

25                   In the short time the STOP program has

1           been in existence, the offender who has caused  
2           all professionals who have worked with him the  
3           most concern about future dangerous behavior  
4           would not be considered for evaluation under  
5           your triggering mechanism. He was convicted of  
6           terroristic threats, 167 terroristic threats,  
7           each of them of a sexual nature; each of them  
8           against female victims who were strangers to  
9           him.

10                        Secondly, for an offender to be  
11           designated as a sexually violate predator, the  
12           legislation states he must be found to suffer  
13           from a mental abnormality that, quote,  
14           predisposed that person to the commission of  
15           criminal sexual acts to a degree that makes the  
16           person a menace to the health and safety of  
17           other persons, unquote.

18                        Unless the legislature is creating a  
19           new form of mental abnormality, I fear its board  
20           evaluators will find it difficult to qualify any  
21           offender under this standard. No such  
22           abnormality has been identified in current  
23           literature.

24                        What is, perhaps, more disturbing,  
25           however, is that much current literature, and I

1           might recommend in particular the work of Mr.  
2           Roy Hazelwood and Doctor Jennifer Warren of the  
3           University of Virginia, there is strong evidence  
4           to indicate otherwise. Those sexual offenders  
5           who we fear most, the sadistic sexual murderer,  
6           is far from suffering from a mental health  
7           problem. He is just classified as evil,  
8           untreatable and, perhaps, the best reason for  
9           sentence based on the philosophy of selective  
10          incapacitation.

11                         Finally, at least with regard to this  
12          section of House Bill 85, it is curious that  
13          after all this effort at identification of the  
14          sexually violent predator, the legislation  
15          provides no further sanction to monitor or  
16          supervise the predator's behavior once he is  
17          released to the streets other than that he must  
18          continue to fill out quarterly and annual  
19          address verifications for a period of time  
20          longer than the 10 years required on  
21          non-sexually violent sex offenders. Such a  
22          difference in sanctioning only begs the  
23          question, why bother with the new label?

24                         With regard to a purely practical  
25          concern about this legislation, House Bill 85

1           directs that one 3-member State Board to assess  
2           sexually violent predators be established. This  
3           board will then be responsible to respond with a  
4           completed assessment, within 30 days, on all  
5           convictions, apparently either state or county,  
6           of any offender convicted under any of the  
7           triggering statutes.

8                       I am without any helpful statistics,  
9           but I question whether given the size of this  
10          state's population and the number of statutes  
11          that can trigger the assessment, that one Board  
12          can manage all that would be expected of it.

13                      An additional matter that needs to be  
14          considered here is the manner in which the  
15          assessment is to be done by the board. I am  
16          assuming this assessment will be a paper  
17          assessment based on the offender's prior records  
18          and the records of the instant offense. It  
19          might be prudent to review what difficulties  
20          this board will have obtaining these records, as  
21          those records naming children as victims will be  
22          sealed and access may not be available under  
23          current statutes.

24                      I would like to turn to the question  
25          of notification, a problem with possible



1 consequences that, with the exception of  
2 vigilantism, are somewhat subtle and difficult  
3 to deal with.

4 From the point of view of those  
5 involved with the monitoring, supervision and  
6 treatment of these offenders there is only one  
7 real point to be made.

8 Notification, if nothing else, will  
9 raise a great deal of anxiety and panic on the  
10 part of the offender.

11 This may have some benefits. There  
12 will be those who may rightly claim that this  
13 level of anxiety about people watching him will  
14 keep the offender in line. Their justification  
15 is that he will not re-offend because he knows  
16 people will be watching.

17 However, such offender will also be  
18 compelled to seek relief from his own anxiety.  
19 Unfortunately, his history will, in all  
20 likelihood, lead him to seek this relief in the  
21 very behaviors the notification clause seeks to  
22 prevent.

23 This dilemma may best be solved in the  
24 approach taken by the professionals whose work  
25 it is to deal with victims and potential

1 victims.

2 NOVA has taken the position that  
3 notification will not help people protect  
4 themselves from the offenders for a number of  
5 reasons:

6 One, there's a problem of victim  
7 rights. Most offenders offend against their own  
8 family members. Notification would or could  
9 transgress the confidentiality that victim  
10 rights' programs and federal legislation have  
11 fought so hard to maintain. Such efforts at  
12 protection have worked to calm the fears of  
13 victims and allowed them to seeking help and  
14 assistance. Notification will intrude on this  
15 process. In all likelihood, it will change the  
16 concerns of the victim from seeking assistance  
17 to repair her own damage to the active  
18 protection of the offender from possible  
19 neighborhood harm.

20 There is the question of creating new  
21 victims; the new victims being those notified of  
22 the dangerous offender in their midst. They  
23 will be told by authorities charged with their  
24 protection that there is reason to fear a  
25 neighbor, but there is nothing the authority can

1 do to protect them. Fear and danger, anxiety  
2 and frustration is created, and what is provided  
3 as a means of relief?

4 There is a concern about what a lack  
5 of notification will mean in a community. Will  
6 that signal families that there is nothing to  
7 fear? There is no danger?

8 In closing allow me to make some final  
9 comments:

10 I would urge the legislature that in  
11 ordering that sex offenders seek and obtain  
12 treatment, that they be clear about what  
13 treatment they should obtain. The Association  
14 for the Treatment of Sex Abusers is currently  
15 seeking to establish such standards and their  
16 lead should be followed.

17 In the meantime, it would be our  
18 recommendation that such treatment be provided  
19 by providers trained in the orientation and  
20 techniques advocated by ATSA. Treatment of this  
21 population should not be considered fulfilled by  
22 visits with a general practicing psychiatrist,  
23 psychologist, therapist, or counselor of any  
24 other sort.

25 Sex offender treatment is a

1 specialized behavioral, cognitive-behavioral  
2 approach and those ordered to receive such  
3 treatment should be provided with the  
4 appropriate treatment.

5 Part of that treatment includes a  
6 close working relationship between practitioners  
7 and the Department of Probation and Parole. A  
8 participating department should have officers  
9 specialized in the techniques of monitoring and  
10 supervision of this population and be supported  
11 in its efforts with procedures that will allow  
12 the officer to act quickly and efficiently when  
13 the risk of a reoffense becomes evident.

14 There is the issue of money. Several  
15 items for your consideration.

16 We believe that offenders should pay  
17 for their own treatment and that this becomes a  
18 matter of compliance with the established  
19 probation/parole case plan. However, in many  
20 cases this will not foot the bill for the  
21 treatment provided. Some action needs to be  
22 taken on the part of the legislature to ensure  
23 that providers of this mandated treatment are  
24 adequately reimbursed.

25 We have a concern that in considering

1 the funding of treatment that the legislature  
2 may consider having this treatment reimbursed by  
3 some form of medical insurance. We, in the  
4 strongest terms possible, would recommend  
5 against this approach. Current treatments  
6 provided under health care organization and  
7 managed care companies seek to limit the number  
8 of session and designate who will provide those  
9 treatments.

10 To place offender treatment under  
11 these kinds of restrictions will be to surrender  
12 authorities over the behavior of these offenders  
13 to companies whose agenda is not community  
14 protection nor offender supervision but  
15 maintenance of their own bottom line.

16 Also, in considering payment or  
17 reimbursement, please do not forget the burden  
18 this approach to supervision and monitoring  
19 places on the resources available to the  
20 probation/parole departments. In the case of  
21 the Bucks County department, the sex offender  
22 specialists have taken on these caseloads in  
23 addition to the general supervision caseloads  
24 they already carry. They get no extra  
25 consideration. The department gets no extra

1 money. They just stretch what they have to meet  
2 the need.

3 In the case of Pennsylvania Board's  
4 Allentown office it is just as stretched. Two  
5 officers who deal with us are carrying caseloads  
6 in excess of 250 clients. The extra  
7 requirements of adequate supervision of this  
8 population are overwhelming.

9 Finally, if notification is to be  
10 implemented, efforts in educating notified  
11 neighborhoods, individuals, and police  
12 departments on how to deal with these offenders  
13 in a rational manner needs to be developed,  
14 implemented and paid for.

15 I would at this time like to thank the  
16 Committee for this opportunity and welcome any  
17 questions.

18 CHAIRMAN PICCOLA: Thank you, Mr.  
19 Michaels. Is there any members of the Committee  
20 have questions. Representative Hennessey.

21 REPRESENTATIVE HENNESSEY: Mr.  
22 Michaels, following up on a question Chairman  
23 Piccola asked one of the preceding witnesses,  
24 what's your rate of success in terms of the  
25 intensive probation that you are offering in

1 Bucks County?

2 MR. MICHAELS: It would be difficult  
3 to answer that question. All that I'm saying is  
4 that it seems to equal. During that time we  
5 haven't had any one that we had been working  
6 with on any kind of ongoing basis recidivate sex  
7 offenders -- or sex offenses.

8 What we have done is to have been able  
9 to identify a number of individuals who have,  
10 for whatever reason, been either irresponsible  
11 in their approach to treatment or who have in  
12 their private lives begun to become disorganized  
13 once again which has given us concern about the  
14 possibility of reoffending. The probation  
15 officers have picked up on that. If you can't  
16 get them reengaged and reorganized, the  
17 probation officers have to put them back in jail  
18 to get their attention again. Then we put them  
19 back out for treatment and start over. That  
20 seems to have a pretty good effect on these  
21 guys.

22 REPRESENTATIVE HENNESSEY: You are  
23 here wearing 2 hats today. I gathered that you  
24 work with the STOP program which I think, as I  
25 understand it, to be part of the Bucks County

1 Probation and Parole Department.

2 MR. MICHAELS: Well, not exactly. The  
3 STOP program is actually part of the NOVA. But  
4 we work in the development of this whole sex  
5 offenders' treatment program has been done on an  
6 equal basis with the Department of Probation and  
7 Parole. I don't represent the Department of  
8 Probation and Parole, but I do work very closely  
9 with them in dealing with all of these clients.

10 REPRESENTATIVE HENNESSEY: Okay.  
11 Thank you for that. Now, is it your feeling  
12 that the victim notification -- or neighborhood  
13 notification is going to leave more problems  
14 than it solves?

15 MR. MICHAELS: Yes.

16 REPRESENTATIVE HENNESSEY: That seems  
17 a little strange coming from a victim advocate.

18 MR. MICHAELS: It's because of some of  
19 the stresses that it puts on people. It puts  
20 people either in a situation telling them that  
21 somebody in their neighborhood is some kind of a  
22 sexual offender. You basically are leaving them  
23 with an unstated message that we, as the  
24 authorities, because they will probably be  
25 notified by the police, don't have any authority



1 to control them. We don't have any way of  
2 protecting you from them, so it's your  
3 responsibility.

4 You are telling a neighbor or an  
5 individual in a neighborhood who doesn't have  
6 any particular skills to protect themselves or  
7 to take care of themselves to handle this  
8 problem. If something does happen, then they  
9 call the police. It puts them in a very  
10 difficult situation.

11 On the other side of that coin is, if  
12 you are in a neighborhood where no one has been  
13 notified, does that allow you to say, okay,  
14 well, we're safe? Everything is okay. We don't  
15 really have to do anything to protect our kids  
16 because there's no one here to be afraid of.

17 REPRESENTATIVE HENNESSEY: Would you  
18 have as much an objection to registering with  
19 the local police departments or counties'  
20 district attorney's office or probation and  
21 parole department? Many of them will already  
22 will be automatically by virtue of sentences.

23 MR. MICHAELS: That's right. That's  
24 one of the issues that -- I came here this  
25 morning with Shane Ryan who is Deputy Director

1 Probation/Parole for Bucks County. We were  
2 talking about the issue of registration. Our  
3 feeling is that, if sex offender treatment  
4 proceeds the way our model has in development,  
5 it almost seems that registration becomes really  
6 redundant at some point. Our people are aware  
7 of who the offenders are. We communicate  
8 regularly with probation and parole who are well  
9 aware. They communicate regularly with the  
10 local police department. The only thing that is  
11 not being done is notification.

12 REPRESENTATIVE HENNESSEY: I guess  
13 when I asked about registration I should couple  
14 that with registration connected with public  
15 access; that if I wanted to go to local police  
16 department or county probation and parole  
17 department to find out if somebody in my  
18 neighborhood has a prior sexual offense, I could  
19 do that. Would you support that kind of public  
20 assess to those records, at least the record of  
21 a conviction?

22 MR. MICHAELS: I guess I don't see any  
23 real harm in it. Again, I would just wonder how  
24 that person is going to deal with that  
25 information. If that person takes the

1 information back to the community and spreads it  
2 around, you would be in the same position we  
3 were before with a lot of people with  
4 information about what they should fear, but no  
5 skills on how to deal with that fear. That  
6 would be my problem.

7 REPRESENTATIVE HENNESSEY: Thank you  
8 very much. Thank you, Mr. Chairman.

9 CHAIRMAN PICCOLA: Representative  
10 Masland.

11 REPRESENTATIVE MASLAND: Thank you,  
12 Mr. Chairman. I just wanted to make a brief  
13 comment with respect to your comment, sir, about  
14 some of the definitions in House Bill 85 and  
15 some of the concerns that you have with them. I  
16 don't by this comment mean to belittle your  
17 concerns. I'm sure there are some valid ones  
18 there.

19 Problem ultimately is this: We have a  
20 federal act, crime bill which contains the Jacob  
21 Wetterling Crimes Against Children and Sexually  
22 Violent Offender Registration Act which is a  
23 mouthful. In the midst of that mouthful there  
24 are several paragraphs that say, shall require,  
25 shall contain, must do this.

1                   I guess with all due respect to  
2                   Congressman Gekas, that's really the crux of the  
3                   problem from what you're saying, because House  
4                   Bill 85, as I read it, mirrors the definitions  
5                   in the Jacob Wetterling Act. Much of the  
6                   provisions in there mirror everything that  
7                   Congress is saying these programs should  
8                   contain. That's not to say that we can't  
9                   improve upon it. It's not to say we can't take  
10                  what is in the federal crime bill and make it  
11                  better as long as it contains some of these  
12                  aspects.

13                  The fact of matter is that, we have a  
14                  requirement to have some type of registration  
15                  program and we have to do, at least at a  
16                  minimum, some of these things. We have these  
17                  definitions which may tie us down a little bit.

18                  One other thing, with respect to  
19                  notification and with respect to the Jacob  
20                  Wetterling Act; and that is, that it basically  
21                  leaves the notification portion to be  
22                  discretionary with the police. It does not have  
23                  requirements as some of the bills that have been  
24                  introduced here in the House and Senate to go  
25                  out to a specific geographical area and notify

1 everybody in that area, or in the neighborhood,  
2 or next-door neighbors, or people across the  
3 alley.

4 Basically it leaves the discretionary  
5 aspect of it up to the police, state agency, or  
6 for that matter the local law enforcement  
7 agency. I think we can be cognizant of that, at  
8 least in this section of the federal government  
9 gave us some leeways on how to do it. With  
10 respect to some of those definitions, we are  
11 stuck with them unless we can improve upon them.

12 MR. MICHAELS: I understand that. I  
13 have the same problem with the federal  
14 legislation, but I'm not under the same  
15 requirements that you are.

16 CHAIRMAN PICCOLA: Representative  
17 Chadwick.

18 REPRESENTATIVE CHADWICK: Thank you,  
19 Mr. Chairman. I just have a brief comment as  
20 well. I think it ties in pretty close to with  
21 what Mr. Masland was addressing.

22 Specifically with regard to House Bill  
23 85, when I read the bill I was concerned about  
24 the definitions of sexually violent predators.  
25 Then in reading Mr. Michaels' testimony, I think

1           you really hit the nail on the head.

2                       I'm very concerned that for someone to  
3           be labeled as a sexually violent predator, we  
4           would almost be creating a new form of mental  
5           illness or abnormality; that there's no such  
6           abnormality identified in the current  
7           literature. I really feel that if we don't do  
8           something to address that section, we are headed  
9           for trouble down the road. That's all I wanted  
10          to say. Thank you, Mr. Chairman.

11                      CHAIRMAN PICCOLA: Thank you very  
12          much, Mr. Michaels. We appreciate your  
13          testimony. We certainly will keep in mind as  
14          this issue proceeds. Thank you.

15                      Our last witness before the lunch  
16          break is the Honorable George W. Gekas,  
17          Congressman. It is a real thrill, pleasure and  
18          personal privilege to welcome Congressman Gekas  
19          here. Congressman Gekas is presently the  
20          Chairman of the Subcommittee on Commercial and  
21          Administrative Law of the United States House of  
22          Representatives, Judiciary Committee. George is  
23          also a former member of the Pennsylvania House  
24          of Representatives, and I believe a former  
25          member of this Committee, a former member of the



1 I wanted to offer has been made a little bit  
2 moot already by the commentary by the  
3 Representative from Cumberland County, Mr.  
4 Masland, who indeed outlined the general purpose  
5 for which I agreed to testify here today, to  
6 correlate the federal legislation as contained  
7 in the crime bill with your efforts in the House  
8 of Representatives here in Pennsylvania.

9 In reviewing House Bill 85, your 85, I  
10 find that it does track very handsomely the  
11 requirements of that portion of the crime bill  
12 which relates to that specific subject matter.

13 Key points that I want to just outline  
14 to show that, indeed, your consideration of your  
15 own bill is in keeping with the outlines and the  
16 guidelines in the crime bill are, for instance,  
17 in determining in the Wetterling sections having  
18 to do with the penalty, just to give you an  
19 idea, the penalty for a person who knowingly  
20 fails to register, et cetera, under the  
21 provisions of whatever law you enact; The  
22 Wetterling provisions say, a person required to  
23 register under the state program established  
24 pursuant to this section who knowingly fails to  
25 register and keep that registration current



1 shall be subject to criminal penalties in any  
2 state in which the person has so failed.

3 In your bill, as I recall, on page 86  
4 where it says penalty, any offender who fails to  
5 verify his residence as required in this section  
6 commits a felony of the third degree. That's a  
7 prime example, and I can cite several other  
8 provisions, in which as I say, this bill or its  
9 successor or this bill as amended, in my  
10 judgment does pursue the guidelines and the  
11 language of the crime bill as it pertained to  
12 the Wetterling sections. That's a good thing.  
13 I find very little wrong with -- I find nothing  
14 wrong with House Bill 85 with respect to how it  
15 tracks the federal legislation.

16 If there are differences in the  
17 penalties and in the modes of notification or  
18 which law enforcement agency should be primarily  
19 responsible for one or the other portions of the  
20 mandates, that's left up to you of course. But,  
21 I should report to you that I'm very  
22 commendatory of the efforts of your Committee  
23 and of the Pennsylvania House in this regard.

24 To give you another example, just the  
25 creation by your bill, or 85 of that special

1 board to make determinations of who shall be  
2 subject to the mandates and the directives and  
3 the penalties, that also tracks the federal  
4 legislation. My problem there is, that gave me  
5 a little lump in the throat because, when we  
6 determined what costs might be attended to the  
7 federal government of enacting the Jacob  
8 Wetterling Law, the report came back that it was  
9 negligible, if any, because all we were doing  
10 was mandating to the states or doing the same  
11 old thing over, referring things back to your  
12 Committee and to your bodies to determine.

13 Then I asked a further question, what  
14 effect would it have on the purses of the state?  
15 They didn't have definitive -- Because they had  
16 50 states to deal with they didn't analyze the  
17 potential cost of every state. But, they came  
18 back with a kind of an overall oversight of  
19 things and said it would cost the state to  
20 implement some of these things, including the  
21 board, and what expenses would have to be paid  
22 for the board members, and all of that sort of  
23 thing. So, there is an expense right away. In  
24 that sense it's an unfunded mandate. So, if you  
25 want me to leave now I will.

1                   The thing that we can add to that,  
2                   though, real quickly is, that the federal  
3                   legislation here uses the same old tricky device  
4                   of saying that the state should not comply or  
5                   enact such legislation laws, then we pull away  
6                   from you through the umbilical cord that exists,  
7                   we pull away from you "x" percentage of funds  
8                   that normally come to you under the Safe Streets  
9                   Act or the Burn Bill, or whatever you want to  
10                  call it. Thus, you are on the right track.

11                  If I had not appeared here today or  
12                  the federal legislation had not occurred, I  
13                  believe that the leadership of the Governor, of  
14                  Tom Ridge, and of this Committee would have  
15                  inexorably lead to something like House Bill 85  
16                  in any event. But the point is, you are in sync  
17                  with the general attitude across the United  
18                  States. Some 20 to 25 states already have  
19                  enacted some form of this registration mandate,  
20                  and Pennsylvania is on the right track.

21                  The only other matter that I wanted to  
22                  comment on was that, I'm not sure about this.  
23                  Maybe I'll ask you the question. I'm not sure  
24                  how it works at the instance of a conviction of  
25                  the sex offender as to what the Court must do to

1 determine whether future registration is to be  
2 required. In reading your bill, it seems to be  
3 concurrent with the sentencing. Is that a  
4 correct reading? That the Court would then at  
5 the time of the sentencing would determine, I  
6 suppose, that this individual convict, now  
7 convict, must register when he is about to be  
8 released because, presumably, he'll be in jail  
9 or even if he goes on parole immediately he  
10 would have to register.

11 Now, if he goes to jail, does he have  
12 to register right away? If he's placed on  
13 parole, is that a distinction? It is. I'm not  
14 sure about that. Perhaps I didn't read it very  
15 closely. What I'm saying also as I say that is,  
16 there's nothing in your bill that is a  
17 nonconformity with any portion of the federal  
18 legislation.

19 One other thing I want to point out to  
20 you, my people and my staff in Washington have  
21 determined that there's a glitch in the citation  
22 under the Jacob Wetterling penalty clause if you  
23 should fail to comply; namely, the withdrawal of  
24 funds, but it's a very technical small citation  
25 there that can be overcome. If you came to a

1 point where you refused to honor these  
2 guidelines or comply in any way with it, you  
3 probably would have an out at this moment with  
4 that little technical citation glitch. But  
5 don't try it because it will be corrected at  
6 some point anyway.

7 My last statement is this, that the  
8 crime bill which passed the House and the  
9 Congress and signed into law by the President,  
10 of which Jacob Wetterling is a part, found  
11 tremendous division of philosophy, acrimonious  
12 debate, contentious issues on every corner of  
13 the bill. I myself railed incessantly on the  
14 death penalty guidelines and the bifurcated  
15 hearing requirements of the jury, court  
16 instructions, a whole host of things.

17 As a result of that, many of us were  
18 constrained to vote against the crime bill; but  
19 none of us, opponents, or proponents, or heavy  
20 supporters, or light supporters, or moderate  
21 supporters, none of us had any critical word to  
22 say about the Jacob Wetterling area of the crime  
23 bill. That portion of the crime bill and a few  
24 others did gain unanimous support from the  
25 members of Congress.

1           Had they been proposed separately and  
2 voted on the same would have occurred separately  
3 you could have seen, I believe, unanimous one  
4 hundred percent support for those items. Crimes  
5 against women comes quickly to mind as another  
6 one of the crime bill sections that had uniform  
7 support.

8           Beyond that, I'm just here to shake  
9 your hands and tell you that, gee whiz, you and  
10 I are working together for a change; not for a  
11 change, but maybe for a harbinger of the future  
12 on a number of things.

13           I'm wondering if Brett remembers -- if  
14 Representative Feese remembers a spate of cases  
15 in Lycoming County having to do with some of  
16 these problems. We never dreamed about the day  
17 that would come when we would be in a  
18 legislative liaison together determining the  
19 same kinds of problems.

20           I thank you. This has been very good  
21 for me. Actually, I regret ever having left the  
22 Senate in Pennsylvania and the House. I  
23 remember that my mother used to calling me  
24 Senator Gekas, when I was elected to Congress  
25 thought I was demoted. Thank you very much.

1                   CHAIRMAN PICCOLA:  Would the member of  
2 Congress agree to submit to some questions from  
3 us?

4                   CONGRESSMAN GEKAS:  Absolutely.  I can  
5 refuse to answer.  The previous witness gave me  
6 opportunity to answer a question ahead of your  
7 questions.  That is to the effect that the die  
8 is cast, there's going to be registration in one  
9 form or another.  There are too many anecdotes,  
10 too many case histories of situations which have  
11 worked contrary to his belief that other  
12 victimization might occur.

13                   I wanted to ask him, does he believe  
14 in crime watch, or neighborhood watch, or other  
15 types of group, or neighborhood groupings that  
16 look out for other forms of crime?  Does that  
17 raise the awarness of that neighborhood and make  
18 them all potential victims of fear and so forth?  
19 Does it help?  In my judgment we can't gamble  
20 anymore to think those things through in action,  
21 but rather move ahead what the general consensus  
22 seems to be.

23                   CHAIRMAN PICCOLA:  You answered the  
24 question that I was going to pose because -- you  
25 implicitly answered it, that Congress is not

1 going to revisit this issue?

2 CONGRESSMAN GEKAS: That's correct.

3 CHAIRMAN PICCOLA: This is a done  
4 deal?

5 CONGRESSMAN GEKAS: Although the  
6 regulations have not yet been published under  
7 the Justice Department role in this. But I  
8 don't see how the regulations can do anymore  
9 than flesh out the guidelines and the statutes  
10 already placed.

11 CHAIRMAN PICCOLA: Members of the  
12 Committee have questions? Representative  
13 Manderino.

14 REPRESENTATIVE MANDERINO: Thank you,  
15 Mr. Chairman. Congressman, it's a pleasure to  
16 meet you, or at least across the table. One of  
17 the questions that I had early on, and has now  
18 been answered in part, was about the State Board  
19 to assess the sexual violent predators.

20 Now I do understand the -- that is a  
21 summary of the Jacob Wetterling and understand  
22 that that notion of a board to assess is part of  
23 the federal legislation.

24 During your development of that  
25 concept and notion, was there any thought given



1 to how that board would be comprised, how it  
2 might work on the state level that would then  
3 give us some guidance as to how we would fashion  
4 our State Board here in Pennsylvania?

5 CONGRESSMAN GEKAS: No. That seemed  
6 to have been already set in stone that there  
7 would be a board, but also left, as we are  
8 wanting to do from time to time, left to the  
9 discretion of the state as to how it would be  
10 structured and what expense levels or paid  
11 levels, or whether they be paid at all, that  
12 would be left to the state.

13 What did come up was a model board  
14 structure from one of the states. I cannot  
15 remember, to tell you the truth, what state that  
16 was. I believe your counsel would be able to  
17 trace down other states and how they have worked  
18 the structuring of the board. That's the best  
19 suggestion I can give you, only because I'm not  
20 prepared to -- I can't recall the model one that  
21 we relied on, but the truth of the matter is, we  
22 left that up to the 50 different state  
23 legislatures to accomplish.

24 REPRESENTATIVE MANDERINO: My second  
25 question goes to the last exchange between

1           yourself and the Chairman and maybe my  
2           misunderstanding of the federal law and what  
3           they are requiring states to do. I thought  
4           there was definitely requirements in the federal  
5           law to notify, to have a registration  
6           provision --

7                        CONGRESSMAN GEKAS: Yes.

8                        REPRESENTATIVE MANDERINO: -- so all  
9           the law enforcement would know. I didn't think  
10          that there was a mandate or a requirement and  
11          that was something the different states were  
12          struggling with, whether to and if so how, to  
13          notify the general public at large. Am I  
14          mistaken in that?

15                       CONGRESSMAN GEKAS: There's no  
16          emphasis on that, but it's implicit. I don't  
17          mean that once a registration occurs the local  
18          paper will carry the fact that that registration  
19          occurred. It's implicit that the neighborhood,  
20          the region will generally understand that this  
21          has happened, or else there would be no value to  
22          it.

23                       REPRESENTATIVE MANDERINO: Thank you,  
24          Mr. Chairman. Thank you, Congressman.

25                       CHAIRMAN PICCOLA: Representative

1 Chadwick.

2 REPRESENTATIVE CHADWICK: Thank you,  
3 Mr. Chairman. Congressman, thank you for  
4 coming. I appreciate your being here. I noted  
5 that you were here a little earlier and were  
6 able to listen to testimony of our prior  
7 witness. So --

8 CONGRESSMAN GEKAS: The tail end of  
9 it, yes.

10 REPRESENTATIVE CHADWICK: So you had  
11 an opportunity to hear my comment which I will  
12 repeat at this point. I mentioned at that time  
13 in House Bill 85 I was concerned with the  
14 requirement that a sexually violent predator be  
15 required of someone who is identified as  
16 suffering from a mental abnormality or a  
17 personality disorder that makes a person likely  
18 to engage in predatory sexually violent  
19 offenses. After that I was shown by Mr. Masland  
20 language in the federal law which indicates what  
21 we have in our bill tracks precisely with the  
22 federal law.

23 Mr. Michaels indicated that he had a  
24 concern that we were creating a new form of  
25 mental abnormality, and that no such abnormality

1 has been identified in current literature. He  
2 goes on to say that what is especially  
3 disturbing is that current literature -- he  
4 refers to the work of Mr. Roy Hazelwood and  
5 Doctor Jennifer Warren of the University of  
6 Virginia who indicate there is strong evidence  
7 to indicate otherwise. That those sexual  
8 offenders that we most fear, sadistic sexual  
9 murderers are far from suffering a mental health  
10 problem. They are just evil.

11 My question is, I wonder if, given his  
12 concerns and my concerns with this definition of  
13 a sexual violent predator, I wonder if you can  
14 make available to the members of this Committee  
15 the research or information that the Congress  
16 used in coming up with that definition?

17 CONGRESSMAN GEKAS: I'll be glad to do  
18 so.

19 REPRESENTATIVE CHADWICK: I would be  
20 interested in knowing how you came up with that.

21 CONGRESSMAN GEKAS: I'll be glad to do  
22 so. You may be correct that at some point your  
23 Committee and your entire House have to consider  
24 how that would fit in if you needed a new  
25 definition, because predator is a foundation

1 word in this whole series of provisions. It  
2 goes so far as to say that when the sentencing  
3 occurs, I believe I'm correct in that, that the  
4 judge is going to have to determine whether this  
5 person is a predator or is no longer a predator.  
6 Both of those definitions have to be made, or  
7 considerations -- findings have to be made by  
8 the Court.

9 I will be glad to do so. I will do it  
10 directly to Jeff because we are trying to save  
11 money. I won't send it to everybody on the  
12 Committee. I'll make him spend the money to get  
13 you copies.

14 REPRESENTATIVE CHADWICK: I appreciate  
15 that. It just seems to me that we are setting  
16 up a defense attorney's bonanza here in saying  
17 that there is no such abnormality under the  
18 current literature, so how could you find this  
19 defendant has such an abnormality? So, if you  
20 could provide that information, I would  
21 appreciate it.

22 That's all I have. Thank you,  
23 Congressman, and thank you, Mr. Chairman.

24 CHAIRMAN PICCOLA: I would point out  
25 that federal statute does define mental

1 abnormality.

2 CONGRESSMAN GEKAS: Yes. It doesn't  
3 key it with predator, however.

4 CHAIRMAN PICCOLA: No, there's a  
5 difference. There is a different definition for  
6 predator.

7 CONGRESSMAN GEKAS: Yes, I see what  
8 you mean. Go ahead.

9 CHAIRMAN PICCOLA: I'm not as  
10 concerned about the problem that the previous  
11 witness raised. I think Congress has given us  
12 some -- We'll talk about it in committee.  
13 Representative Reber.

14 REPRESENTATIVE REBER: Congressman,  
15 thank you very much for appearing before the  
16 Committee. Just some questions as a follow-up  
17 to Representative Manderino's inquiries  
18 vis-a-vis the open-endedness of the notification  
19 that might take place following the registration  
20 pursuant to the proposed legislation.

21 I know that there may be some  
22 amendatory concerns by members of the Committee  
23 or on the floor. Was there any consideration  
24 given at the federal level to specifically  
25 delineating to what extent a notification should

1 go to? Was there any dialogue or was there any  
2 guidance that we could glean from the debate on  
3 that issue? Or, is it really simply left to us  
4 as to what happens following compliance with  
5 just a simple registration?

6 CONGRESSMAN GEKAS: By and large it is  
7 left to the states. That's a conclusion that we  
8 can all draw from this.

9 I must tell you that the Jacob  
10 Wetterling issue began before the crime bill  
11 even came into consideration in previous  
12 sessions. Standing alone, this was subject to  
13 subcommittee and full committee consideration.  
14 I did not participate in those. I can't tell  
15 you exactly all the details.

16 The final outcome, that is keying it  
17 into the crime bill, left some of these things  
18 to be filled in by the states, as is all federal  
19 legislation of this sort. So, the parameters of  
20 notification are not strictly constrained or  
21 opened in these guidelines in the federal  
22 legislation, but left to the imagination and to  
23 the needs of the state.

24 REPRESENTATIVE REBER: Assuming then  
25 that we would go no further than the current

1           legislation as it is structured and currently  
2           before us today, you do feel, though, that  
3           there's no problem with the way it is?

4                    CONGRESSMAN GEKAS: I do.

5                    REPRESENTATIVE REBER: I personally  
6           share that same feeling. My next question then  
7           goes to the kind of scenario that might develop  
8           if, in fact, there was a more broad-based  
9           notification or, for that matter, when the  
10          notification does take place in the public  
11          sector.

12                   Was there any discussion at the  
13          federal level about, for lack of a better way of  
14          putting it, any type of anti-vigilante type  
15          sanctions to be put into place? For instance,  
16          where you do have that released individual who  
17          has registered and notification has been made,  
18          the person goes about a law-abiding life ad  
19          infinitum, if you will; but yet, because of the  
20          so-called stigma that attached to the original  
21          conviction, there is some form of retribution in  
22          the form of a, and I use the word vigilante type  
23          reactionary attitude from the community. Was  
24          there any debate at the federal level about  
25          providing a sanction for that particular type of



1           conduct?

2                   CONGRESSMAN GEKAS: Not in conjunction  
3 with the final development of the legislation.  
4 But I must tell you that that same type of  
5 anecdotal evidence to which you refer was one of  
6 the reasons that the wave of causing  
7 registration to be a part of the legislative  
8 debate across the country began, because there  
9 were vigilante groups springing up not to find a  
10 registrant, but the non-registering returning  
11 sexual predator.

12                   We had abundant testimony as to that  
13 kind of action and reaction, but not to the  
14 extent that I recall in previous Congresses nor  
15 in this crime bill was there language embedded  
16 to deal with the anti-predator, vigilante  
17 movement.

18                   I must say, as I try to do all the  
19 time, aren't the laws adequate today even if we  
20 never had this legislation, or even if we adopt  
21 it, to deal with that kind of thing? For people  
22 taking law into their own hands, there are  
23 sanctions already in the law in various degrees.  
24 I would rely on that. If you felt that that was  
25 inadequate, then you could fit into this



1 the blame on me.

2 CHAIRMAN PICCOLA: Thank you very  
3 much.

4 CONGRESSMAN GEKAS: Thank you very  
5 much. It was a joy for me to appear here today.

6 CHAIRMAN PICCOLA: Committee stands in  
7 recess until 1:15.

8 ( At or about 12:35 a recess was taken  
9 for lunch )

10 ( At or about 1:30 p.m., the hearing  
11 reconvened )

12 \* \* \* \*

13 CHAIRMAN PICCOLA: The Committee will  
14 reconvene. Our first witness this afternoon  
15 will be Judith D. Schretter, Esquire, Director  
16 of Legal and Legislative Affairs, National  
17 Center for Missing and Exploited Children. You  
18 are already in position.

19 MS. SCHRETTER: Mr. Chairman, thank  
20 you very much for inviting me to present  
21 testimony today, especially on House Bill 85 to  
22 create a sex offender and community notification  
23 program in the Commonwealth of Pennsylvania. I  
24 want to thank the various Senators and  
25 Representatives of this legislature who have

1 sponsored the various bills that are pending on  
2 this vital issue.

3 Let me begin by describing the  
4 organization I represent, the National Center  
5 for Missing and Exploited Children. Established  
6 in 1984, the national center is a private,  
7 nonprofit organization working with the  
8 Department of Justice to help find missing  
9 children and to prevent child victimization.

10 Serving as the national resource  
11 center on missing and exploited children as  
12 required under the Missing Children's Assistance  
13 Act passed by the U.S. Congress, the national  
14 center provides assistance to parents, law  
15 enforcement, public and private agencies,  
16 legislators, and other professionals handling  
17 cases of missing children and child sexual  
18 exploitation.

19 As part of our technical assistance  
20 mission, we monitor state laws on a variety of  
21 child protection topics, including sex offender  
22 registration. Currently 40 states have passed  
23 legislation on this topic beginning with  
24 California in 1947, and most recently New Jersey  
25 in October of 1994. During this current

1 legislative year, a number of states besides  
2 Pennsylvania are considering similar legislation  
3 and several are considering amendments to their  
4 existing laws. Last fall Congress passed the  
5 Jacob Wetterling Crimes Against Children and  
6 Sexually Violent Offender Registration Act which  
7 was intended to provide guidance to the states  
8 to pass laws addressing sex offender  
9 registration.

10 I have been in touch with the  
11 Department of Justice which is currently working  
12 on guidelines for the state for implementation  
13 of the Jacob Wetterling Act.

14 The registration of convicted sex  
15 offenders reentering the community is a control  
16 that helps protect children from victimization.  
17 Since sexual attraction of these offenders to  
18 children may not be curable, and there is  
19 abundant evidence of the high propensity of such  
20 offenders to re-offend, states have good reason  
21 to monitor the whereabouts of convicted sex  
22 offenders. Protecting the public, especially  
23 children, from sex offenders is a primary  
24 governmental interest. The privacy interests of  
25 persons convicted of sex offenses do not



1 found that more than 60,000 persons registered  
2 as sex offenders in his state were convicted of  
3 offenses against victims who were less than 18  
4 years of age, and another 18 percent victimized  
5 both children and adults.

6 The courts have consistently upheld  
7 the constitutionality of sex offender  
8 registration programs. I have attached to my  
9 testimony a copy of a memorandum of case law to  
10 date which I have prepared.

11 The programs have generally been  
12 viewed as a way to protect children and to aid  
13 law enforcement. Nothing in the legislation  
14 changes in any way the requirement that law  
15 enforcement follow existing due process  
16 requirements in investigating an offense,  
17 questioning a defendant, and obtaining a search  
18 warrant.

19 Creation of a sex offender registry  
20 will assist law enforcement in investigating  
21 cases involving sexual offenses against children  
22 by providing immediate access to computerized  
23 information on convicted felony sexual offenders  
24 living in the community. In light of the fact  
25 that these cases are extremely difficult for law

1 enforcement to investigate and victims of sexual  
2 offenses frequently suffer long-term effects as  
3 a result of crime, a sex offender registry can  
4 provide law enforcement with a valuable  
5 investigative tool.

6 An additional component of community  
7 notification has been considered. The National  
8 Center believes that programs such as the one  
9 used in Washington State, which was the model  
10 for the Jacob Wetterling Act language, permits  
11 law enforcement to release relevant and  
12 necessary information to the public when  
13 necessary for public protection, which we  
14 believe is the most appropriate way to share  
15 information about sex offenders with the  
16 community.

17 Notification guidelines that are  
18 proposed to be developed under this bill should  
19 be developed to implement whatever program that  
20 is ultimately passed to provide also for  
21 educating the community on the appropriate ways  
22 to use and react to the information they may be  
23 provided about individuals returning to the  
24 community.

25 A sex offender registry is not a



9

1 panacea, but it is a simple common sense  
2 approach to this problem. It's a tough,  
3 aggressive, balanced, sensitive to victims,  
4 practical and most importantly effective. I  
5 urge this Committee to give careful attention to  
6 the issues of sex offender registration and  
7 community notification which you are considering  
8 today to help protect the children of this  
9 Commonwealth. I will be happy to answer any  
10 questions you may have.

11 CHAIRMAN PICCOLA: Thank you. One of  
12 the issues that I think we will be wrestling  
13 with is the extent of the release of the  
14 information contained in the registration. I  
15 don't think there's any question that we are  
16 going to have a registration provision. Have  
17 you had the opportunity to review the various  
18 House bills that we have before us?

19 MS. SCHRETTER: I just briefly  
20 reviewed House Bill 85. I have looked at Senate  
21 Bill 7. I like the language better in the House  
22 version which more closely tracks the Wetterling  
23 language.

24 CHAIRMAN PICCOLA: That's really my  
25 question because, as I read House Bill 85, it

1 authorizes the dissemination of the information  
2 collected under the registration portion of the  
3 bill to 3 general areas. First of all, the law  
4 enforcement for law enforcement purposes; 2, for  
5 the conduct of confidential background checks by  
6 government agencies; the third one, I guess, is  
7 the broader one, the one where the Pennsylvania  
8 State Police and any local law enforcement  
9 agency authorized by the state police may  
10 release relevant information that is necessary  
11 to protect the public concerning a specific  
12 offender required to register.

13 MS. SCHRETTER: That was the language  
14 of the Wetterling Bill. It closely tracked what  
15 Washington State had done. I had previously  
16 provided your staff with a report that came from  
17 the Washington State Institute for Public  
18 Policy. They released a report about a year ago  
19 where they had surveyed law enforcement.

20 They have a 3-tier system that they  
21 use, and it reports that the majority of the  
22 offenders that have been required to register  
23 are in the Tier 1. There aren't very many  
24 offenders that they have gone to the third tier  
25 where they felt it necessary to release the

1 information generally to the public.

2 I think with that kind of careful  
3 consideration, the offender, the offenses, the  
4 treatment and all the overall factors, I think  
5 you can control some of the public hysteria and  
6 it can be managed in a very meaningful way so  
7 that it's not misused by the community.

8 CHAIRMAN PICCOLA: In the Washington  
9 State model, I think, or the statute I guess,  
10 it's not a model, it's in actual practice out  
11 there.

12 MS. SCHRETTER: Right.

13 CHAIRMAN PICCOLA: Does their state  
14 police, do they promulgate the regulations?

15 MS. SCHRETTER: Yes, they do. I  
16 believe, though, that it goes to the county law  
17 enforcement to make that final determination and  
18 the report explains how it operates. I have a  
19 copy here and Miss Dalton has a copy also that I  
20 had given to her that explains the process. The  
21 more local law enforcement makes that  
22 determination. The state police is involved.  
23 They are the contact and they manage the  
24 registry out there.

25 CHAIRMAN PICCOLA: I guess my

1 difficulty is, and maybe it's because we have a  
2 different kind of system here. The state police  
3 are going to testify later this afternoon, and  
4 perhaps, this is more directly appropriate for  
5 them. But, the language of the bill provides  
6 that they would promulgate regulations that  
7 would authorize them or any local law  
8 enforcement agency authorized by them. As you  
9 indicate, I think, and I don't know Washington  
10 that well, that's primarily the county level in  
11 the State of Washington?

12 MS. SCHRETTER: I believe it's more of  
13 a county level.

14 CHAIRMAN PICCOLA: In Pennsylvania we  
15 have hundreds, if not thousands, of local police  
16 departments that may consist of 1 or 2 officers  
17 or part-time individuals. Some areas are not  
18 covered by any police agency at all other than  
19 the state police.

20 I guess the question is, how would you  
21 envision that working? And you have anywhere  
22 from the City of Philadelphia Police Department  
23 down to the smallest borough that have a chief  
24 of police. How do you envision that working in  
25 Pennsylvania? Would you allow us to delegate

1 that to the state police?

2 MS. SCHRETTER: Obviously, you would  
3 have to find a system that is the least  
4 burdensome on the local police. Obviously, the  
5 state police in some areas would have to be the  
6 agency that would be reviewing the offenders  
7 coming back into their community. I think you  
8 could probably work a compromise.

9 I have been following what all of the  
10 states are doing and looking at bills from all  
11 over. Most of them look at state or county  
12 jurisdiction. Obviously, state police would  
13 have to pick up the slack where your local  
14 jurisdictions don't have an adequate police  
15 force to take on this extra burden.

16 CHAIRMAN PICCOLA: Thank you. Any  
17 other members have questions? Representative  
18 Feese.

19 REPRESENTATIVE FEESE: Thank you, Mr.  
20 Chairman. I would like to thank the witness for  
21 the memorandum of law which you provided us. It  
22 saved me a lot of time and effort researching  
23 it. I perused it very quickly.

24 Have there been any decisions, to your  
25 knowledge, regarding the constitutionality of

1 the disclosing to the public?

2 MS. SCHRETTER: There are some cases  
3 pending as you well know. There's some  
4 litigation in New Jersey. To the best of my  
5 knowledge, I have been talking with the Attorney  
6 General's office in New Jersey, the state has  
7 appealed the preliminary injunction to the Third  
8 Circuit of Appeals. The Department of Justice,  
9 U.S. Department of Justice filed a brief last  
10 week. The case that's pending in Burlington  
11 County is supposed to come up for a hearing I  
12 believe on the 22nd of this week, on a motion  
13 for summary judgment and a couple of other  
14 issues.

15 There's also a case out in Alaska  
16 where some previously convicted offenders in a  
17 similar suit to Mr. Diaz in New Jersey filed for  
18 an injunction which was granted. However, they  
19 did not give their name in the suit. They filed  
20 as John Doe and John Roe. The judge in that  
21 case indicated that they would not let the suit  
22 go forward unless they identified themselves.  
23 That issue of whether or not they can proceed  
24 under their pseudonyms is on appeal to the 9th  
25 Circuit Court of Appeals. Given the 9th

1 Circuit's habit of not moving very quickly, I  
2 don't think we will have a decision in that for  
3 awhile. That's the only 2 litigations.

4 There has been some local cases I  
5 believe in Louisiana, but so far they have not  
6 knocked out their notification procedures.

7 REPRESENTATIVE FEESE: So, all of the  
8 cases have dealt with the constitutionality of  
9 registration and not notification?

10 MS. SCHRETTER: Registration programs.  
11 Because many of current programs out there just  
12 do not have, at least the ones that existed up  
13 to until last year, did not have a community  
14 notification aspect to it.

15 REPRESENTATIVE FEESE: Just one  
16 follow-up question to what Chairman Piccola  
17 asked. The 3-tier system in the State of  
18 Washington, is that 3-tier system set forth in a  
19 statute or is that a regulation?

20 MS. SCHRETTER: There is a statute  
21 also. I will be happy to fax it up tomorrow to  
22 Ms. Dalton for your review if you would like  
23 that.

24 REPRESENTATIVE FEESE: That's all  
25 right. I can get it from the library. But the

1 3-tiered system is in a statute itself?

2 MS. SCHRETTER: It's not in the  
3 registration statute. It's in a separate  
4 statute. It is explained in that report also if  
5 you just want to cut through all of the  
6 statutory language. It is neatly explained in  
7 that report that I gave her.

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

10 CHAIRMAN PICCOLA: Representative  
11 Masland.

12 REPRESENTATIVE MASLAND: Thank you,  
13 Mr. Chairman. Just picking up on that and some  
14 of my questions have already been answered, but  
15 who really -- before we get out the statute and  
16 look at it, who really determines the 3-tiers in  
17 Washington? Is that determined by a board or  
18 by law enforcement?

19 MS. SCHRETTER: Law enforcement is  
20 involved in it.

21 REPRESENTATIVE MASLAND: That's based  
22 on the severity and the risk involved in.

23 MS. SCHRETTER: Right.

24 REPRESENTATIVE MASLAND: Do they have  
25 a state board out in Washington to determine who



1 is a sexually violent predator like they have  
2 the requirement for in Jacob Wetterling Act?

3 MS. SCHRETTER: They have a separate  
4 statute in Washington State dealing with  
5 sexually violent predators which was upheld by  
6 their State Supreme Court about 2 years ago.

7 REPRESENTATIVE MASLAND: They had a  
8 state board that determines it? Is that how  
9 they --

10 MS. SCHRETTER: I believe so.

11 REPRESENTATIVE MASLAND: Is the  
12 information you have given to Ms. Dalton does it  
13 contain details on the composition of that  
14 board?

15 MS. SCHRETTER: No, it doesn't, but I  
16 do have a statute. I'll be happy to fax it  
17 tomorrow for review, along with the citation of  
18 the case that upheld the constitutionality of  
19 that particular statute.

20 REPRESENTATIVE MASLAND: I appreciate  
21 the memo on the registration as Representative  
22 Feese, but I'd also join with Representative  
23 Piccola in saying the notification is really the  
24 issue. That's what it all comes down to. We  
25 can cut through everything else we've talked

1 about today to say, who we notify and who don't  
2 we notify.

3 New Jersey statute, if you could  
4 refresh my recollection as to whether that is  
5 more specific than the Wetterling Act.

6 MS. SCHRETTER: I believe they tracked  
7 pretty much the Wetterling Act. It was drafted  
8 after the Wetterling Act had passed by Congress.  
9 They intended to use it as a model. Now how  
10 they implemented it was a little different.

11 One of the problems they are having in  
12 New Jersey, I believe is, one, the burden has  
13 been put on the prosecutor to make the  
14 determination on the notification; and 2 is, how  
15 far back in time are they going to reach in  
16 terms of who will be covered by the statute.

17 REPRESENTATIVE MASLAND: Do you have  
18 any opinions as to who should have the burden of  
19 determining whom should be notified?

20 MS. SCHRETTER: We'd like the  
21 Washington State model in that law enforcement I  
22 think is in a better position to help make that  
23 decision. Certainly, it could be a committee,  
24 prosecutor, law enforcement, parole, corrections  
25 or whoever is involved, but putting the burden

1 all on one office I think makes it more  
2 difficult for them to make the decision as to  
3 how much information needs to be given out?

4 REPRESENTATIVE MASLAND: My  
5 recollection is that, the New Jersey case, I  
6 think the Diaz case was the one, he just didn't  
7 want to register period, isn't that correct?  
8 That's a registration issue as opposed to the  
9 notification issue?

10 MS. SCHRETTER: No. I believe it was  
11 more than notification on his challenge. Some  
12 of other cases, about 3 cases that I'm aware of  
13 that are pending, the state case down in  
14 Burlington County I think they challenged the  
15 registration program as well as the notification  
16 issues.

17 REPRESENTATIVE MASLAND: Thank you.

18 CHAIRMAN PICCOLA: Other questions  
19 from members of the Committee? Counsel Dalton.

20 MS. DALTON: Hi. I just have one  
21 simple question. We are talking about  
22 registration and notification here, sort of what  
23 we do after the crime has been committed. Does  
24 the center have a position as to what the  
25 legislature can do to help prevent crimes from

1 being committed in the first place?

2 MS. SCHRETTER: Certainly, we need to  
3 take this as part of an overall program that the  
4 state needs to look at how they deal with sex  
5 offenders; pre-trial, how they handle them, the  
6 issue of plea bargains. Obviously, you don't  
7 want to plea bargain down a lot of charges and  
8 put these people back in the community where  
9 they may not come under the offender  
10 registration because they ultimately plead  
11 guilty to some lesser crime that may not cause  
12 them to be -- come under the registration  
13 program.

14 It needs to be an overall look; the  
15 treatment, sentencing, everything needs to be  
16 considered as an overall package; not just  
17 piecemeal, to make it a more effective way to  
18 deal with the issue.

19 MS. DALTON: One of the bills that's  
20 being considered by the Committee is House Bill  
21 75 by Representative Cohen. In her bill she  
22 calls for increased sentences for first time  
23 offenses and for minimum mandatory sentences for  
24 offenses committed against children, as well as  
25 treatment for incarcerated sex offenders and

1 lifetime parole. Do those sound like effective  
2 measures to you?

3 MS. SCHRETTTER: Certainly, those are  
4 are some of the issues you need to consider as  
5 part of the overall program, but also how the  
6 prosecutors deal with the cases from the start  
7 also needs to be looked at.

8 MS. DALTON: Thank you.

9 CHAIRMAN PICCOLA: Any other questions  
10 from members of the Committee?

11 ( No audible response )

12 CHAIRMAN PICCOLA: Thank you very much  
13 for your testimony. Representative Feese's  
14 direction to the contrary notwithstanding,  
15 please fax that to us. It will save us a trip  
16 to the library.

17 MS. SCHRETTTER: The sexual violent  
18 predators statute and --

19 CHAIRMAN PICCOLA: From Washington,  
20 right.

21 MS. SCHRETTTER: Right. -- and the  
22 citation for the case that upheld  
23 constitutionality?

24 CHAIRMAN PICCOLA: Fax it all to  
25 Karen.

1 MS. SCHRETTER: Tomorrow morning she  
2 will have it.

3 REPRESENTATIVE MASLAND: Mr. Chairman.

4 CHAIRMAN PICCOLA: Representative  
5 Masland.

6 REPRESENTATIVE MASLAND: Along those  
7 lines, I don't mean to put this burden on the  
8 witness, but it would probably be helpful if we  
9 could get copies of any of the briefs from the  
10 New Jersey case. I don't know whether our staff  
11 can do that. It would be nice to know what  
12 those issues are with respect to registration,  
13 notification so we might be able to nip that  
14 before it arises.

15 MS. SCHRETTER: I, unfortunately,  
16 don't have copies of the briefs. I hope to get  
17 a copy of the Department of Justice brief  
18 tomorrow. If I can get that, I will certainly  
19 pass it on to you. I do have copies of the  
20 Pleadings of the individual cases, but I think  
21 Ms. Dalton would call the New Jersey Attorney's  
22 Office, I can give her the name of the specific  
23 person to call and maybe you will get briefs  
24 faster than I can.

25 CHAIRMAN PICCOLA: I believe the

1 Office of General Counsel is reviewing these  
2 cases and we may be able to get copies of briefs  
3 from them. We'll look into that. Thank you  
4 very much.

5 We appear to be over 2 when it comes  
6 to New Jersey prosecutors. Mr. Fahy is unable  
7 to join us this afternoon as was Mr. Borden this  
8 morning. We will give them the opportunity,  
9 however, to submit any written testimony that  
10 they might want to give us from their New Jersey  
11 experiences. We'll keep the record open for an  
12 appropriate period of time for either or both of  
13 those gentlemen to provide us with written  
14 statements.

15 Our next witnesses are Ms. Debbie  
16 Bowers, Director, and Ms. Lynne Kost, Sexual  
17 Assault Counselor of the Rape Crisis Services,  
18 YWCA of Greater Harrisburg.

19 Before you begin, I'm going to  
20 temporarily turn the gavel over to the Secretary  
21 of the Committee, Representative Feese. I have  
22 to stick my head into another meeting. So, Mr.  
23 Feese will preside.

24 REPRESENTATIVE FEESE: Would you  
25 please proceed?

1 MS. BOWERS: I'm Debbie Bowers and I'm  
2 here this afternoon on behalf of Rosalie  
3 Danchanko, Executive Director of Victim Services  
4 in Cambria, Somerset and Bedford Counties.  
5 Rosalie has been with this agency since 1983 as  
6 its first director. The agency provided  
7 services to over 3,000 victims of violent crime  
8 during last year. Sixty percent of the caseload  
9 are victims of sexual assault. Also, Victim  
10 Services provided over 320 educational programs  
11 on the effects of crime, crime prevention and  
12 resources to help victims of crime to over 8,000  
13 people.

14 Education is the best tool, we  
15 believe, to fighting crime. In working with the  
16 crime of sexual molestation, especially with a  
17 child, we find that this act disrupts the  
18 development of a child, emotionally,  
19 psychological and physically. We all have the  
20 potential to be victims, but we also have the  
21 capability to be an offender.

22 As parents, we have to ask ourselves,  
23 do you really know your neighbor? Are you sure  
24 you should trust your child with that nice  
25 person across the street? One of the first



1 things I hear people say after charges of child  
2 molestation are made public is, I can't believe  
3 he or she would do such a thing. He or she is  
4 such a nice guy or girl.

5 As a parent and a professional who has  
6 worked with victims of child sexual assault for  
7 11 years, I am very cautious before I let my  
8 children be with other people. I would not  
9 hesitate to call the police to find out if they  
10 have any concern or reports about an individual  
11 who has moved into the neighborhood.

12 Therefore, it is my belief sex  
13 offenders should not be allowed to return into  
14 the community unless they are registered with  
15 the police, managed and supervised by the courts  
16 and in a treatment program. The victim should  
17 be given notification of the offender's release.

18 Community notification of sex  
19 offenders provides the community with a false  
20 sense of security. When focus is placed on the  
21 convicted offender, my concern is that the false  
22 sense of security will cause us to forget that  
23 we also have to be aware of the offenders in our  
24 neighborhood who haven't been identified or  
25 caught. It is known that only a small

1 percentage of offenders are convicted.

2 Our children are vulnerable and they  
3 deserve to be protected and given every  
4 opportunity to grow up in a healthy and safe  
5 environment.

6 Victims of sexual assault suffer  
7 silently. It is the victim's life sentence.  
8 Their scars are not visible to the eye, but the  
9 emotional pain they endured by the molestation  
10 will be with them for a lifetime.

11 A child will have a more difficult  
12 time dealing with the trauma because the child  
13 may not be able to understand what has happened  
14 and why her or his life has suddenly been  
15 disrupted. Sexual assault is the abuse of power  
16 or thrust by an adult. This abuse of trust is  
17 the ultimate violation.

18 We have to protect our children from  
19 the unknown offender as well as the known  
20 offender. Prevention education is the most  
21 effective means for improving the safety of our  
22 children; not notifying neighbors of a released  
23 offender.

24 Children do remember the messages that  
25 they have learned from Victim Services and from

1 our school programs. We have heard from the  
2 14-year old child who remembers our puppet play  
3 on Good Touch/Bad Touch that they saw in second  
4 grade and they remembered our presence in the  
5 classroom when they reached seventh grade. We  
6 teach the children that they are the boss of  
7 their bodies and they can say no to touches that  
8 make them feel uncomfortable. Also, we tell  
9 them to tell someone and keep telling until you  
10 get help.

11 A child who is assertive and can say  
12 no is our best defense against a child molester.  
13 Child molesters have a difficult time relating  
14 to adults. They do not want to be rejected and  
15 they want power and control. Children are  
16 typically told not to say no to an adult, but we  
17 have found when a child does assert his or  
18 herself that a possible victimization can be  
19 averted.

20 Therefore, labeling a few offenders  
21 diverts attention from need for education of  
22 young children to protect them from sexual  
23 offenders.

24 This issue of registering sex  
25 offenders points to the classic conflict of

1 interests and rights. Sex offenders have their  
2 individual rights to liberty and privacy and to  
3 begin anew, versus the community's right to know  
4 and protect our children.

5 Offenders' rights are constitutionally  
6 guaranteed and most of them we can list them off  
7 the top of our heads: Innocent until proven  
8 guilty, right to due process, right to face your  
9 accuser, right against self-incrimination, right  
10 to a jury trial.

11 Victims deserve constitutional rights.  
12 Victims deserve the right to be informed, the  
13 right to be present, the right to be heard. The  
14 right to be informed includes the right to  
15 receive education on personal safety.

16 In summary, we do support this bill  
17 with the notification of the victim and  
18 notification to the police, but we do not  
19 support the part about community notification.  
20 We believe that education is a more effective  
21 means for improving the safety of our children  
22 than labeling the known sex offender. Thank  
23 you.

24 CHAIRMAN PICCOLA: I'd like to thank  
25 you, Mr. Feese, for presiding temporarily.

1           Ms. Bowers, may I -- and I apologize  
2           for not being here at the beginning of your  
3           testimony and I will take time to read it in its  
4           entirety, but may I conclude from your last  
5           paragraph that you are fairly much in agreement  
6           with the provisions of House Bill 85?

7           MS. BOWERS: I believe so. I'm here  
8           today just presenting it on behalf of Rosalie  
9           Danchanko who has done basically the research  
10          for this testimony.

11          CHAIRMAN PICCOLA: Do any members of  
12          the Committee have questions? Representative  
13          Manderino.

14          REPRESENTATIVE MANDERINO: Thank you,  
15          Mr. Chairman. I guess this is more by way of  
16          comment than question. Ms. Bowers, do you also  
17          work with the Victim Services organization?

18          MS. BOWERS: Not with the concern.  
19          I'm the Director of Rape Crisis Services at YWCA  
20          here in Harrisburg.

21          REPRESENTATIVE MANDERINO: Okay. Then  
22          I guess more generally, Mr. Chairman, I'm very  
23          involved in my local victim services  
24          organization. I serve on their Board so I know  
25          the good work that they do. I have a lot of

1 faith in their judgment on these issues. If you  
2 would deliver the message to Ms. Danchanko, I  
3 applaud her, what may even be characterized  
4 sometimes as bravery of putting the issues in  
5 the light that I think make a lot of sense.

6 I have heard also from my victim  
7 services' organizations and people that work  
8 with the false sense of security that a  
9 community notification provision seems to give;  
10 yet, if you say that as a public policy maker or  
11 otherwise, it's perceived as if you are soft on  
12 victims' rights or soft on crime. I don't  
13 perceive them as that at all.

14 I think that you have hit it on point  
15 that the victim should be notified; that we have  
16 to give law enforcement every tool that they  
17 have, and we have to do everything to teach the  
18 general public and to teach children in general  
19 to continue to be aware and to not foster any  
20 sense of false security. So, if you would  
21 deliver the message for me that I'm glad a  
22 message like this came from a victim's  
23 organization.

24 MS. BOWERS: I will be happy to.

25 CHAIRMAN PICCOLA: Representative

1 Feese.

2 REPRESENTATIVE FEESE: Thank you, Mr.  
3 Chairman. Ms. Bowers, is it my understanding  
4 that your agency would not see any benefit at  
5 all in public notification?

6 MS. BOWERS: I would believe that's  
7 correct. At this point, we are not supporting  
8 that in any phase because of the false sense of  
9 security. We don't know that the convicted  
10 offenders are the ones who would be registered  
11 or the community would be notified. But,  
12 oftentimes they are not caught or there isn't  
13 any way to really get out the message that  
14 individuals are offenders. In our estimation,  
15 it's better to not have that notification; just  
16 have registry with the state police and try to  
17 educate our children to be assertive.

18 REPRESENTATIVE FEESE: Would you think  
19 that it would be of a benefit if I -- I have 2  
20 daughters ages 7 and 5, for me to know that the  
21 man who moved in next door to me who is pulling  
22 my children down the sidewalk in a wagon is a  
23 convicted sexual offender who was just released  
24 from prison? Would that be a benefit for me as  
25 a parent to know?

1 MS. BOWERS: I'm also a parent. I  
2 don't think that that's necessarily a benefit.  
3 What about the person who is dragging your child  
4 down the sidewalk who is pedohpiled or child  
5 molester but has never been caught?

6 REPRESENTATIVE FEESE: That's true,  
7 and we would need, as you indicated earlier, be  
8 wary of those situations and be wary of who our  
9 children associate with. Am I correct in saying  
10 that these types of offenses, individuals who  
11 commit child sexual offenses are likely to  
12 repeat?

13 MS. BOWERS: They are likely to  
14 repeat.

15 REPRESENTATIVE FEESE: I guess I'm  
16 having trouble why, as a parent, that would not  
17 be important information for me to know that one  
18 person is an offender in evaluating whether to  
19 allow my child to associate with that person. I  
20 agree that my child might be associating with  
21 many people and I do not know whether they are  
22 offenders or potential offenders. But, I have  
23 to make a decision based on the facts that I  
24 have. I'm having trouble understanding why that  
25 fact, knowing that person is an offender, would



1 not be important for me to make a decision?

2 MS. BOWERS: But, again, I think you  
3 just have to go back to the false sense of  
4 security. Is it going to set up the fact that  
5 maybe you would keep your child away from that  
6 one? Again, I have to go back to education.

7 If you look at, for lack of a better  
8 word, scrutinizing any person that you would  
9 allow your child to associate with, would be the  
10 best situation. Again, across the board for  
11 most of the victim services or rape crisis  
12 centers, the biggest concern is false sense of  
13 security.

14 REPRESENTATIVE FEESE: I have to state  
15 that I don't buy the false sense of security  
16 because I don't believe that that -- just  
17 because someone knows that there's an offender  
18 living in town or a criminal living in town that  
19 we all of a sudden, therefore, conclude that  
20 everyone else will not commit a crime. The  
21 false sense of security I don't buy.

22 I'm having trouble with, I guess the  
23 position of your organization that there's no  
24 benefit at all from notification, because I  
25 think that that's a fact people are entitled to

1 know. I appreciate your thoughts on it. Thank  
2 you, Mr. Chairman.

3 CHAIRMAN PICCOLA: Questions from  
4 other members of the Committee?

5 ( No audible response )

6 CHAIRMAN PICCOLA: Thank you very much  
7 for your testimony. It was very helpful.

8 Our last witness today is Major R.  
9 Dane Merryman, Director of the Bureau of Records  
10 and Information Services, Pennsylvania State  
11 Police.

12 MAJOR MERRYMAN: Good afternoon. My  
13 name is Major Dane Merryman. I am the Director  
14 of the Pennsylvania State Police Bureau and  
15 Records and Information Services. I thank you  
16 for the opportunity to discuss our analysis of  
17 House Bill 85. My presentation includes our  
18 perspectives on the background, the content and  
19 recommended amendments concerning the proposed  
20 legislation.

21 The proposed legislation provides for  
22 persons convicted of sex offenses and certain  
23 other offenses having minor victims, to register  
24 their address with the Pennsylvania State Police  
25 for a period of 10 years following release from

1           incarceration or upon commencement of a sentence  
2           or intermediate punishment or probation. The  
3           court and institution from which the offender is  
4           released are required to notify the offender of  
5           his duty to register. The proposal also  
6           provides for designation of certain offenders as  
7           sexually violent predators, who would be  
8           required to register for life or until such  
9           requirement is removed by a court.

10                   The Pennsylvania State Police would be  
11           responsible for maintaining this registry,  
12           notifying the appropriate law enforcement  
13           agencies of an offender's address, verifying  
14           these addresses quarterly, and providing  
15           notification to the appropriate agency of an  
16           offender's failure to verify.

17                   Additionally, under this bill, the  
18           Pennsylvania State Police would be required to  
19           maintain fingerprints and photographs of all  
20           offenders required to be registered, and in the  
21           case of sexually violent predators, forward  
22           copies of the fingerprints and photographs to  
23           the Federal Bureau of Investigation. Certain  
24           information concerning sexually violent  
25           predators would be required to be entered into

1 the offender's criminal history record and  
2 provided to the appropriate police department.  
3 Failure of an offender to provide verification  
4 of address would constitute a felony of the  
5 third degree.

6 The proposal also provides for the  
7 establishment of a state board to assess  
8 sexually violent predators.

9 This proposal is similar to Senate  
10 Bill 7. This proposal differs, in that, the  
11 responsibility of the Pennsylvania State Police  
12 to notify victims, neighbors, schools and county  
13 children and youth agencies in a municipality  
14 served by a local police department has been  
15 been removed.

16 In this bill our responsibility would  
17 include notification of the local police  
18 department having jurisdiction, concerning  
19 change of address by a registered offender. We  
20 would also be required to notify the appropriate  
21 law enforcement agency of another state when an  
22 offender takes up residence in that state.  
23 Senate Bill 7 provides for lifetime parole and  
24 monthly counseling for sexually violent  
25 predators, as well as mandatory life sentence

1 for sexually violent predators convicted of a  
2 subsequent enumerated offense.

3 Similar legislation in New Jersey,  
4 known as Megan's Law, has been challenged in New  
5 Jersey State Courts on the basis that it is  
6 unconstitutional. Support for this legislation  
7 can be expected from victims' advocacy groups,  
8 although some such groups had opposed Senate  
9 Bill 7. Opposition can be expected from  
10 constitutional watchdog groups such as the  
11 American Civil Liberties Union.

12 While the Pennsylvania State Police  
13 agrees with the intent of the proposed  
14 legislation, we cannot support it as it is  
15 written. There are numerous shortcomings  
16 throughout the proposal.

17 There are several requirements in the  
18 proposed legislation for immediate action to be  
19 taken. For example, Section 9795 (c) requires  
20 that changes of address, quote, shall be  
21 immediately reported by the Pennsylvania State  
22 Police to the appropriate law enforcement  
23 agency, closed quote. The phrase as soon as  
24 practicable or a definite period of time should  
25 be substituted for immediately.

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Section 9792 (b)(1) refers to offenses in which the victim is a minor. One of those offenses is 18 Pennsylvania C.S., Section 5902, relating to prostitution and related offenses. Circumstances in which a minor involved in this offense would be considered a victim should be specified.

If a minor pays an adult prostitute to engage in sexual intercourse, it does not appear that the minor would be a victim of prostitution. The same would apply if a minor prostitute conducts business with an adult customer. Because the Commonwealth is generally considered the victim in prostitution offenses, the intent of the legislature should be clarified.

Section 9793 (e) states, the Court may enter an order terminating the designation as a sexually violent predator, in which cases the Court shall notify the Pennsylvania State Police. For the Department to maintain accurate and up-to-date information concerning the status of sexually violent predators, changes in status need to be reported in as timely a manner as possible. The legislation should specify a time limit, such as 10 days, within which the Court

1 shall notify the Department of such a change.

2 Section 9794 (a) states, a sexually  
3 violent predator shall be required to register a  
4 current address. This does not take into  
5 account that an offender may regularly reside at  
6 more than one address. If the apparent intent  
7 of the proposed legislation is to be fulfilled,  
8 offenders should be required to register all  
9 current addresses, or at a minimum, their  
10 primary current address.

11 Section 9794 (b)(4) requires that the  
12 fingerprints and photographs of a designated  
13 offender be forwarded to the Pennsylvania State  
14 Police. Section 9797 (5) requires that the  
15 fingerprints of sexually violent predators, and  
16 certain additional information pertaining to  
17 sexually violent predators, be forwarded by the  
18 Pennsylvania State Police to the FBI. These  
19 actions would be redundant with respect to the  
20 fingerprints.

21 Currently, the Pennsylvania State  
22 Police and the FBI receive the fingerprints of  
23 all persons arrested and fingerprinted. The  
24 need for the state police to retain photographs  
25 of such offenders is uncertain, as is the need

1 of the FBI to maintain duplicate information  
2 concerning sexually violent predators.

3 The proposal should be amended to  
4 eliminate the need for additional fingerprints  
5 to be forwarded, and to provide for notification  
6 of an offender's status by other means, such as  
7 by mail or electronically. An amendment should  
8 be made to eliminate the requirement that  
9 photographs be forwarded to the Pennsylvania  
10 State Police, as well as an amendment to  
11 eliminate the requirement that duplicate  
12 information be forwarded to the FBI. We do not  
13 believe that the relevant federal law requires  
14 submission of photos to the FBI.

15 Section 9795 (c) requires that the  
16 Pennsylvania State Police notify a local police  
17 department having jurisdiction of an offender's  
18 change of address. Effectively then, the  
19 Pennsylvania State Police is not required to  
20 notify a local police department when an  
21 offender is released and takes up residence in  
22 that jurisdiction, but must do so if the  
23 offender subsequently moves within that  
24 jurisdiction. While it appears the intent of  
25 this legislation is to require notification of



1 the appropriate law enforcement agency having  
2 jurisdiction of an offender's initial and  
3 subsequent addresses, the proposal must be  
4 amended to clarify that intent.

5 Section 9795 (e) establishes the  
6 penalty for failure of an offender to verify  
7 their address. No such provision is made for  
8 offenders who fail to register in the first  
9 place. As written, the legislation would allow  
10 for an offender to remain underground, as long  
11 as they did not register initially. The  
12 proposed legislation should be amended to  
13 establish a similar penalty for those offenders  
14 who fail to register.

15 Section 9796 (c) specifies that the  
16 release of information that is necessary to  
17 protect the public concerning a specific  
18 offender shall be done under guidelines provided  
19 by the Attorney General of the United States.  
20 These guidelines have not yet been provided to  
21 Pennsylvania State Police, nor is it known if  
22 they currently exist.

23 Persons required to register their  
24 address with the Department are notified in  
25 several ways of their duty to do so. No

1 provision is made for the Department to be  
2 notified of the identity of offenders who are  
3 required to register. As the proposed  
4 legislation is written, compliance will be  
5 impossible to monitor. The Department should be  
6 notified by the Board of Probation and Parole,  
7 the releasing institution, or the sentencing  
8 court of the identity of the offender required  
9 to register, and the offender's address or  
10 intended address at the time of release, or  
11 commencement of intermediate punishment or  
12 probation.

13 Section 9799 of Senate Bill 7 provides  
14 for lifetime parole for sexually violent  
15 predators, and provides for mandatory life  
16 sentence for sexually violent predators  
17 convicted of a subsequent enumerated offense.  
18 The Pennsylvania State Police supports these  
19 provisions and recommends this proposal be  
20 amended to include them.

21 The above recommendations  
22 notwithstanding House Bill 85 is grossly flawed,  
23 in that, it places enormous responsibilities on  
24 the Pennsylvania State Police, many of which are  
25 already being performed by the Board of

1 Probation and Parole. Probation and Parole  
2 currently tracks parolees and probationers at  
3 the state level, and is notified monthly of  
4 probationers at the county level. Additionally,  
5 Probation and Parole is notified when these  
6 offenders are released or sentenced to  
7 intermediate punishment or probation.

8 Probation and Parole currently  
9 notifies many, if not most, police departments  
10 of this information on a monthly basis. Since  
11 the great majority of sex offenders are  
12 sentenced through the state correctional system,  
13 and since less than one percent of offenders  
14 released from prison are not released as  
15 parolees, the tracking of offenders specified  
16 the proposed legislation will represent a  
17 relatively insignificant increase in Probation  
18 and Parole's work load. Establishment and  
19 maintenance of such a registry by any agency  
20 other than Probation and Parole would constitute  
21 a wasteful and unnecessary duplication of  
22 effort.

23 It is with my strongest recommendation  
24 that I urge you to consider assignment of  
25 responsibility for registering and verifying

1 addresses for these sexual offenders to the  
2 Board of Probation and Parole. If the Committee  
3 considers notifications, such as is required in  
4 Senate Bill 7, notification of victims,  
5 neighbors, schools, and others should be the  
6 responsibility of the police department having  
7 primary jurisdiction in the municipality where  
8 the offender resides, whether that be the state  
9 police or a local department.

10 Failure of offenders to register or  
11 verify their address should result in criminal  
12 charges being filed, in addition to being  
13 considered a violation of parole or probation.  
14 The legislation should be amended to authorize  
15 the Board of Probation and Parole to file  
16 criminal charges for violations of the act. The  
17 District Justice before whom the offender is  
18 preliminarily arraigned should be given the  
19 authority to deny bail for this offense.

20 Prior to the legislation being  
21 revised, it is strongly recommended that the  
22 Board of Probation and Parole and the  
23 Pennsylvania State Police be consulted to assist  
24 in drafting effective legislation which will  
25 most efficiently fulfill the intent of this

1           proposal.

2                         If the responsibilities described in  
3           this bill remain with the Pennsylvania State  
4           Police, we will incur significant costs for  
5           computer hardware, software, and support, as  
6           well as personnel and administrative costs  
7           associated with this proposal. This does not  
8           include the additional personnel needed to  
9           conduct notifications or conduct investigations.

10                        Further, the requirements of the Brady  
11           Act, the National Child Protection Act, Act 85  
12           of the Pennsylvania Legislature, House Bill 304  
13           and House Bill 367, and anticipated state  
14           firearm control legislation all place  
15           significant loading on our information storage  
16           and processing systems, which will be further  
17           taxed by this bill.

18                        Our mainframe electronic storage is at  
19           near 100 percent capacity right now, and cannot  
20           accept additional data as required by the  
21           proposed legislation. Even without the  
22           additional demands in growth, we need to replace  
23           our mainframe computer. Our costs for the first  
24           10 years of this program, including mainframe  
25           and peripherals are listed in the package that

1           you have received.

2                         We are estimating the mainframe  
3           computer at \$6 million. Operational costs  
4           associated with the software maintenance, we  
5           estimate at \$1.78 million. We have additional  
6           staffing requirements within the information  
7           systems division, which we estimate at \$912,000.  
8           And within the Recors and Identification, we  
9           estimate at \$1.56 million, for a total of  
10          \$9.85 million cost for 10 years, the first 10  
11          years of this program.

12                        I would like to clarify that these  
13          figures may be somewhat staggering and the  
14          mainframe that I reference here is a requirement  
15          for our department whether this bill passes or  
16          not, but we are at a saturation point now and we  
17          feel it's our responsibility to share that  
18          information with you.

19                        That concludes our analysis of House  
20          Bill 85. I thank you for the opportunity to  
21          discuss our concerns. I will try to answer any  
22          questions that you may have.

23                        CHAIRMAN PICCOLA: Thank you, Major.  
24          I guess my first question is, are you testifying  
25          on behalf of the Administration? Are these the

1 views of the administration? Are these the  
2 views of the acting commissioner? Whose views  
3 are you expressing here?

4 MAJOR MILLER: Mr. Chairman, we'll be  
5 expressing the views of the Department,  
6 Pennsylvania State Police. Major David Miller,  
7 Pennsylvania State Police.

8 As you are aware we had a new  
9 Commissioner named. He's reviewed this. He  
10 hasn't had a chance to do an in-depth  
11 evaluation, so we've come down with a bill  
12 analysis and provided the information to you  
13 with hopes that we could sit down in the future  
14 and discuss some more of it in a little more  
15 detail.

16 CHAIRMAN PICCOLA: The suggestion that  
17 we would want to avoid duplication with whatever  
18 the Board of Probation and Parole is doing right  
19 now, and I don't believe you gentlemen were here  
20 at the beginning of the hearing when I touched  
21 on that in some of my questioning.

22 Quite frankly, one of the reasons that  
23 I think this kind of legislation is needed, is  
24 that the Board of Probation and Parole, Number  
25 1, doesn't have this mandate. Number 2, is it

1 doing an adequate job in the supervising of sex  
2 offenders right now? That's one of the reasons  
3 you have an increased recidivism rate in that  
4 area. When we heard from a number of county  
5 probation/parole people who have set up specific  
6 programs to supervise these offenders, and  
7 according to their testimony they are rather  
8 successful at the county level.

9 But as you indicated many of these  
10 people are state sentenced offenders and,  
11 therefore, would be under the jurisdiction of  
12 the Board of Probation and Parole. It was their  
13 testimony that there is really no comparable  
14 kind of intensive parole supervision, supposedly  
15 supervision, of sex offenders.

16 Secondly, I would suggest that we are  
17 under a federal mandate to require a  
18 registration list for a period of 10 years, and  
19 that the purpose of this statutory mandate  
20 coming to us from Washington is a law  
21 enforcement purpose, crime prevention purpose,  
22 if you will. Since the Board of Probation and  
23 Parole only has jurisdiction over these  
24 offenders for the period of time, whatever it  
25 might be, of their post-release up to their



1 maximum sentence, there may be a need to go  
2 beyond that period of time to cover that 10-year  
3 mandate. The question then becomes, is that to  
4 be assigned to an agency that really isn't  
5 doing, in my view, an adequate job anyway?

6 Secondly, they are not really even a  
7 law enforcement business in the first instance.  
8 They are into supervising released offenders.  
9 So, from policy point of view, that's why I  
10 asked the question who you are speaking for,  
11 because I don't know that from a policy point of  
12 view we want to reverse direction and shift this  
13 registration responsibility to an agency that I  
14 don't believe it's primary focus as law  
15 enforcement; the apprehension of offenders,  
16 prevention of crime, and the prosecution of  
17 crime. Do you care to respond to that?

18 MAJOR MILLER: Given that insight you  
19 provided -- Unfortunately, we missed the earlier  
20 testimony, you're right. Given that insight you  
21 provided to us, I will share that with the  
22 Commissioner because we're not in a position to  
23 have an information part today.

24 CHAIRMAN PICCOLA: I do thank you  
25 though for some of the technical issues that you

16 1 address. They will be quite helpful. I'm going  
2 to ask counsel to review those for possible  
3 incorporation into any final bill that we do  
4 report out of Committee. Do any other members  
5 of the Committee have questions? Representative  
6 Manderino.

7 REPRESENTATIVE MANDERINO: Thank you,  
8 Mr. Chairman. Major, I don't succumb to a lot  
9 of your technical suggestions very helpful and I  
10 think a lot of them make sense. There were a  
11 few that I just wanted to touch on specifically.

12 One of the first points you made about  
13 Section 9795 (c) that requires you to  
14 immediately report to appropriate law  
15 enforcement agency, I guess that means the local  
16 ones, and you had suggested either a different  
17 language or a specific period of time. I guess  
18 my question is, later you had suggested a 10-day  
19 limit for information to be reported to you.  
20 That same 10-day limit gives you the right kind  
21 of timing that you need to practically do  
22 something and yet not have too much of a time  
23 delay?

24 MAJOR MERRYMAN: I think 10-day time  
25 frame in many locations is a reasonable amount

1 of time for us to work with.

2 REPRESENTATIVE MANDERINO: The other  
3 suggestion that you made, it's the part about  
4 the fingerprinting and the photographing. You  
5 were suggesting eliminating the requirement for  
6 reporting of photographs, and I think there was  
7 a suggestion of a different method of  
8 notification.

9 My question is to say, what are your  
10 limitations of your equipment of what you  
11 gather, whatever, that makes this, in your view,  
12 impractical, or whatever?

13 MAJOR MERRYMAN: As written there is  
14 some redundancy in this bill. We currently  
15 maintain central depository fingerprint cards  
16 and some photographs of the arrestees. We  
17 receive those things. We receive fingerprint  
18 cards on all persons who are arrested for  
19 fingerprintable offenses. In the bill the  
20 requirements is placed on the Court to forward  
21 these things to us post-sentencing. We do that  
22 as a means that they are using to notifying us  
23 of the disposition of the case and to providing  
24 us additional identifying --

25 REPRESENTATIVE MANDERINO: So you are

1 saying don't send us the fingerprints, we  
2 already have that. Just requires us to notify  
3 us in a different way.

4 MAJOR MERRYMAN: That's correct.

5 REPRESENTATIVE MANDERINO: If somebody  
6 wanted to, since what we are presumably looking  
7 to create is a bank of known sexual offenders,  
8 or whatever, is there some way that that  
9 information then gets -- Let me ask a different  
10 question first. Then I'll bring it around to  
11 this.

12 Any there other registries that state  
13 police keeps now? Any other statewide  
14 registries?

15 MAJOR MERRYMAN: We are working on a  
16 registry for -- a central registry for the  
17 Protection from Abuse Order right now that is  
18 mandated by Act 85 last year. That, in fact, is  
19 not implemented. That would be the first  
20 statewide registry of that type that we would be  
21 operating.

22 REPRESENTATIVE MANDERINO: I heard  
23 your testimony about we have that one. We have  
24 a gun one coming up. Assuming we are going to  
25 have a half dozen different kinds of registries,

1 the way your data is or perceiving it will be in  
2 there, somebody could be labeled or could be  
3 tagged as whichever registry they belong to. If  
4 and when you need to cross-reference them to  
5 their fingerprints, you could go to the central  
6 data bank. You don't need to 2 different banks,  
7 is that what you're saying?

8 MAJOR MERRYMAN: That is true.

9 REPRESENTATIVE MANDERINO: Don't send  
10 us two different sets.

11 MAJOR MERRYMAN: That is correct. All  
12 criminal history resides in a computerized  
13 criminal history data base, and we do apply  
14 flags to those records to identify certain types  
15 of offenses and offenders. As you put it very  
16 well, we don't need a separate data base.

17 REPRESENTATIVE MANDERINO: And then  
18 finally, the price tag information that you gave  
19 us, that would be the same -- This is kind of in  
20 anticipation of these half a dozen registries  
21 that you now put us on a statewide level or  
22 potentially may. So, we will need this kind of  
23 investment, if you want to call it that, we will  
24 need this kind of investment if we do the --  
25 when we do the Act 185 stuff, if and when we do

1 the gun registry. It's the same investment.  
2 It's not multiplied or there is not some  
3 multiplier factor in there for every additional  
4 registry, except to the extent that may affect  
5 the personnel process?

6 MAJOR MERRYMAN: That is correct.  
7 It's one piece of equipment that will serve many  
8 purposes. As I said, we are saturated at this  
9 point. We really are dealing with a number of  
10 mandates at this time which, technically, we  
11 will have a very difficult time accommodating  
12 because of the limitation of the system; so, one  
13 system to serve many purposes.

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

16 CHAIRMAN PICCOLA: Representative  
17 Feese.

18 REPRESENTATIVE FEESE: Thank you, Mr.  
19 Chairman. I'd like to thank Major Merryman and  
20 Major Miller for your accounts. I think they  
21 have been very helpful. I do have 2 questions.

22 One is, as Chairman Piccola indicated,  
23 there's a federal mandate which the state is  
24 acting under. The language of that statute  
25 places on the -- it says a state law enforcement

1 agency certain duties. In discussing or  
2 considering your testimony, then it would be  
3 beneficial from your prospective to have Board  
4 of Probation and Parole perform certain of those  
5 functions.

6 I'm concerned one, whether the Board  
7 of Probation and Parole is a state law  
8 enforcement agency. If we can stretch that term  
9 to include that board as a law enforcement  
10 agency, whether that agency now can enter  
11 information into the state record system and  
12 then can enter the information, or transmit that  
13 data to the FBI.

14 If my understanding is correct, I  
15 thought that might be only a function that the  
16 state police can perform.

17 MAJOR MERRYMAN: The definition of  
18 probation/parole is an enforcement agency I  
19 think is one of interpretation. I've reviewed  
20 the federal statute and they do, as you say,  
21 they reference the state law enforcement agency.

22 In considering this I thought about a  
23 state such as Ohio where there is not a state  
24 police organization, but a state highway patrol  
25 where the criminal history for depository

1 responsibilities are carried out by a different  
2 agency within state government. That is not  
3 unusual in the United States. It's my personal  
4 belief the intent of federal legislation is that  
5 there is a body empowered statewide to perform  
6 the duties of registering and keeping track of  
7 the offenders described here.

8 We do not see a problem in terms of  
9 receiving and entering data from probation/  
10 parole into our system. We currently exchange  
11 data with probation/parole on an ongoing basis,  
12 both electronically and paper documents. The  
13 forwarding of data to the FBI is an established  
14 practice whether we be a conduit when we receive  
15 information. We're really participants in a  
16 national data base system with the FBI. As we  
17 update our criminal history files, the FBI  
18 receives that information by an extension.

19 REPRESENTATIVE FEESE: If the Board of  
20 Probation and Parole forwarded that information  
21 to the Pennsylvania State Police, and the  
22 Pennsylvania State Police entered it into its  
23 information system, the cost which you listed at  
24 the end of your written testimony, which was  
25 very helpful, would still be incurred?



1 MAJOR MERRYMAN: Yes.

2 REPRESENTATIVE FEESE: So either way,  
3 whether it's the Pennsylvania State Police or  
4 Board of Probation and Parole that is the agency  
5 that actually enters the data and has a primary  
6 responsibility, the state will be incurring  
7 those costs?

8 MAJOR MERRYMAN: I think the important  
9 thing for us to be aware of as an agency is the  
10 fact that we would not want the duplication of  
11 effort. We see the tracking of offenders as an  
12 ongoing practice and mission of probation/  
13 parole. Our records are updated by probation/  
14 parole concerning status of offenders, whether  
15 they are on probation or removed from probation,  
16 things like that.

17 In terms of costs in conducting this  
18 work, I really can't comment beyond what I  
19 already have. I think we are all clear that  
20 this is an expense that's going to occur.

21 REPRESENTATIVE FEESE: We would incur  
22 the mainframe computer costs, the software  
23 costs, possibly the personnel cost to the state  
24 police would be less if the Board of Probation  
25 and Parole perform some of those functions?

1                   MAJOR MERRYMAN: We anticipate that  
2 there would be programming tasks and things to  
3 be done to accommodate this process. It's a  
4 principle of electronic data processing that you  
5 capture the data at the point that it's closest  
6 to the source to avoid centralized data entry.  
7 So that, many hands are doing the work as  
8 opposed to condensing it into one location. If  
9 the work is done by participating agencies such  
10 as probation/parole that task is not done in our  
11 building, but it's done by the contributor,  
12 closer to the source of the information.

13                   REPRESENTATIVE FEESE: I understand  
14 your concern, and it's a concern I assume that  
15 the state police is limited resources in terms  
16 of manpower. You are not in full complement now  
17 and I wish that you were. You don't want to  
18 allocate manpower resources, well, it's other  
19 resources, to record keeping function, so to  
20 speak, when you'd rather have more people out on  
21 the street, or criminal division or traffic  
22 division. I understand that.

23                   Just in terms of the costs, I was  
24 trying to get a grip on the cost. The computer  
25 costs, whatever agency is responsible for it,

1 the lion share of those costs we're going to be  
2 incurring, is that fair to say?

3 MAJOR MERRYMAN: I want to clairfy  
4 this for you. I don't want to mislead anyone.  
5 The costs that I have identified here for the  
6 mainframe and for the support to the software,  
7 we will be required as an agency to accommodate  
8 not only this issue should this pass in its  
9 form, but other legislative mandates that have  
10 occurred in the recent past. So, the \$6 million  
11 that I have identified here represents a need  
12 for us. This bill, in particular, whether this  
13 occurred or did not occur would not  
14 significantly impact on that figure.

15 REPRESENTATIVE FEESE: One other  
16 question from a law enforcement standpoint, is  
17 the Department supporting public, not  
18 registration, but public notification to  
19 communities when sexual offenders are in their  
20 community? Has the Department taken a position  
21 on that?

22 MAJOR MILLER: I haven't had an  
23 opportunity to really discuss this with our new  
24 Commissioner, but I think my feeling would be  
25 yes, that we would be in support of that.

1           However, the agency notification would be a  
2           great concern to us, if we are required to do  
3           it. I understand that some of the perceptions  
4           are, that we have a hundred plus state police  
5           facilities across the state. It's easier for  
6           you to do, but it's a lot easier to do it in  
7           Potter County than it is in Philadelphia County  
8           in a housing development. We really have to  
9           take a very close look at how it would be  
10          drafted as to who would have that  
11          responsibility.

12                    REPRESENTATIVE FEESE: I'm very much  
13           aware of that and your resources are stretched.  
14           Thank you very much, gentlemen. Thank you, Mr.  
15           Chairman.

16                    CHAIRMAN PICCOLA: The only other  
17           issue that I would suggest to you to evaluate as  
18           to why I would not be in favor of substituting  
19           the Board of Probation/Parole for the  
20           Pennsylvania State Police in this bill is  
21           because, under the provisions of this bill if we  
22           do not, as Mr. Feese has intimated, put  
23           mandatory public disclosure into it, but leave  
24           it discretionary with the law enforcement agency  
25           which is going to maintain the registry.

1                   There are certain kinds of decisions  
2                   are going to have to be made as to who receives  
3                   that information and under what circumstances  
4                   they receive it. I would point out that the  
5                   Board of Probation and Parole refers to the  
6                   offenders that they supervise as their clients,  
7                   indicating a relationship between them and the  
8                   offender; that you, I think, legitimate law  
9                   enforcement agency, state police, do not have.

10                   You don't refer to these people as  
11                   your clients. I know that. I would suggest the  
12                   relationship as subtle as it may be between the  
13                   Board of Probation and Parole and their  
14                   so-called clients is a significant issue and I  
15                   would entrust personally, speaking as one  
16                   representative, the decision making on when and  
17                   where and to whom the dissemination of these  
18                   registration information is made to a real law  
19                   enforcement agency; namely, Pennsylvania State  
20                   Police. I'm trying to clarify my thinking.

21                   MAJOR MERRYMAN: If I can respond to  
22                   that, we would certainly not hesitate to make  
23                   necessary notifications, and I think that the  
24                   probation/parole were given a responsibility to  
25                   tracking offenders as we discussed here, and if

1 they were required to make notification to law  
2 enforcement, whether that be state police or  
3 local law enforcement, that further  
4 identification responsibilities would be the  
5 responsibilities of this law enforcement  
6 agencies. I would like to say, sir, that we  
7 would pursue that aggressively as it should be.

8 CHAIRMAN PICCOLA: I'm not much  
9 concerned as to who does the administrative or  
10 the bookkeeping functions. I'm concerned about  
11 who is going to make the discretionary decisions  
12 that will, I think, by implication have to be  
13 made under whatever statute we pass.

14 Any other questions from any other  
15 members from the Committee? Comments?

16 ( No audible response )

17 CHAIRMAN PICCOLA: Before we adjourn  
18 the meeting, there will be no further public  
19 hearings this week. However, there will be a  
20 Committee meeting next Tuesday at 9 o'clock in  
21 regular session. There will be an agenda for  
22 the bills to be considered available later this  
23 week. This meeting stands adjourned.

24 ( At or about 2:45 p.m. the meeting  
25 adjourned )

## C E R T I F I C A T E

1  
2  
3 I, Karen J. Meister, Reporter, Notary  
4 Public, duly commissioned and qualified in and  
5 for the County of York, Commonwealth of  
6 Pennsylvania, certify that the foregoing is a  
7 true and accurate transcript of my stenotype  
8 notes taken by me and subsequently reduced to  
9 computer printout under my supervision, and that  
10 this copy is a correct record of the same.

11 This certification does not apply to  
12 any reproduction of the same by any means unless  
13 under my direct control and/or supervision.

14 Dated this 25th day of February, 1995.

15  
16   
17 Karen J. Meister - Reporter  
Notary Public

18 My commission expires  
19 10/19/96  
20  
21  
22  
23  
24  
25