

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

* * * * *

House Bill 1509

* * * * *

House Judiciary Subcommittee on Crime & Corrections

Main Capitol Building
Room 140
Harrisburg, Pennsylvania

Wednesday, May 19, 1999 - 1:00 p.m.

--oOo--

BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable Patrick Browne
Honorable Brett Feese
Honorable Timothy Hennessey
Honorable Albert Masland
Honorable Peter Daley
Honorable Harold James
Honorable Don Walko

ALSO PRESENT:

Karen Dalton, Esquire

Majority Counsel

Judy Sedesse

Majority Administrative Assistant

C O N T E N T S

<u>WITNESSES</u>	<u>PAGE</u>
Honorable Peter J. Daley, II 49th Legislative District	5
Lt. Colonel David Grossman Author and Educator	9
Gail Markels, Esquire General Counsel and Senior VP Interactive Digital Software Association	33
Dr. Stephen Ragusea American Psychological Association	59
Victor C. Romero ACLU of Pennsylvania	71
Mark Fisher, Vice President Retail Operations - West Coast Video	88
Frank Cervone, Esquire Executive Director Support Center for Child Advocates	101
Susan Houghton, Treasure Pennsylvania State Education Association	115
Reese W. Lessig, M.S.W. Dr. Veronique N. Valliere Forensic Consulting Associates	124 130

Submitted testimony by:

Senator Jack Wagner

1 CHAIRPERSON BIRMELIN: I'd like to call this
2 meeting to order. This is the House Judiciary Committee
3 and Subcommittee on Crime and Corrections meeting. We're
4 meeting today on a piece of legislation that's been
5 introduced by State Representative Pete Daley. The House
6 Bill 1509 deals with regulating video violence.

7 And with us today are many of the members of
8 the Committee. I'm going to ask them to introduce
9 themselves, starting with the gentleman to my immediate
10 left.

11 REPRESENTATIVE MASLAND: Representative Al
12 Masland, Cumberland and Northern York Counties.

13 REPRESENTATIVE FEESE: Representative Brett
14 Feese, Lycoming County.

15 REPRESENTATIVE HENNESSEY: Representative Tim
16 Hennessey from Chester County.

17 MS. DALTON: Karen Dalton, Counsel to the
18 Committee.

19 CHAIRPERSON BIRMELIN: Having reached the hour
20 of 1 o'clock at which this meeting was scheduled, we'll
21 begin as quickly as possible. We have a full agenda of
22 many people who are giving testimony. And for those who
23 aren't ready to give theirs and who are present, I will do
24 my very best to keep us within the time frames that have
25 been allotted to you.

1 And as members of the Committee have before
2 them an agenda, keep in mind that I will allow questions
3 for the members of the Committee to ask of those who are
4 testifying as long as the time allows for it. If it does
5 not, we will not have any questions for that particular
6 witness. And you may want to talk to them at a later time,
7 if possible. And we'll keep things moving along pretty
8 good.

9 Our first testifier is the author of the
10 legislation, Representative Pete Daley. And he has brought
11 with him Lieutenant Colonel David Grossman. And between
12 the two of them, they will be giving their testimony at
13 this time.

14 Representative Daley, I welcome you to our
15 Committee hearing. And after you and Lieutenant Colonel
16 have finished your testimony, I would encourage you to join
17 us here at the table with the rest of the members of the
18 Judiciary Committee. And you may begin.

19 REPRESENTATIVE DALEY: Thank you very much,
20 Mr. Chairman. I think this microphone is on. I'm not
21 sure. As a member of this House Judiciary Committee, it's
22 a pleasure to be able to testify before you on House Bill
23 1509. To my left is Dave Callen. He's on our staff.

24 I have also Jamie Kreamer. She's on my staff.
25 And what she is doing contemporaneously with this

1 presentation is she's going to be playing a video game so
2 that we don't have any lull in terms of a display or
3 presentation.

4 The particular game she has is for children in
5 their teens. You will see that it has graphic violence; it
6 has blood; and it does not have the mutilation. But she's
7 going to continue to play the game for a while. And if you
8 can just drift that way and you will see the type of games
9 that are being rented to children today.

10 Last session House Bill 2823 was introduced in
11 September of 1998 by myself and a number of members of the
12 House of Representatives. It came to the Judiciary
13 Committee, and it sat in that committee. It had to deal
14 with video violence.

15 And the purpose for that legislation at that
16 time was based upon my belief that too many of our young
17 children are watching video games and playing and
18 participating in video games that engendered violent
19 behavior.

20 At that time, when I introduced this bill, it
21 was between Jonesboro and Littleton. I was called by many
22 newspaper editorials as saying that this was kind of
23 off-the-wall legislation. As Colonel Grossman remarked to
24 me at lunch, it's kind of strange that in a matter of one
25 year, I've gone from being a fanatic in terms of video

1 violence to now something as a vanguard leading the second
2 of its kind in the country with this type of legislation.

3 I think we have a copy of our prepared text.
4 And if I may, a host of experts and policy leaders from
5 across the political spectrum have diagnosed a threat to
6 children's emotional health from excessive violent, vividly
7 real video games.

8 Mature adults who view these games experience
9 the same repugnation that is experienced when viewing the
10 crude, unredemptive sexually -- sexuality of hard core
11 pornography. Virtually every school violence case in the
12 national news in the last five or six years have had a
13 demonstrative connection to the use of excessive violent
14 video games like Doom and Mortal Kombat.

15 Cultural critics have been saying for the last
16 two decades that there is an inconsistency, in fact a
17 hypocrisy in the way in which we are willing to protect our
18 children from explicit sexuality and yet have no bounds on
19 the degree of violence in media or games that we will
20 permit them to see.

21 It is time we draw the line, a reasonable
22 line, in the sand over a clearly commercially driven
23 exploitation of violence as an entertainment form and its
24 prurient pandering to children, and to call it what it is,
25 obscene, and without redeeming social value.

1 House Bill 1509 will do just that. It will
2 create a panel of volunteers, all volunteers, from every
3 walk of life from across the Commonwealth of Pennsylvania
4 whose job will be not to determine the merits of video
5 games individually or their quality of production, but
6 simply to say that in some games too much is too much in
7 terms of violent content for impressionable minds to be
8 exposed to, indoctrinated in.

9 I firmly believe that the events, the sorrow
10 events of the last several months are a harvest of our
11 inability to determine reasonable standards for the
12 material to which our young people will be exposed. Part
13 of this has been from a sincere dedication to the
14 principles of the First Amendment.

15 A good part of it has been due to a
16 disingenuous, insincere exploitation of these ideals by
17 those who want to make a buck by doing anything and
18 everything to kids' minds without regard to the
19 consequences. This is a battle that has to be joined.

20 We fought this fight a year ago over the issue
21 of pornography, and it's pretty well settled at this point
22 what we think a minor can be exposed to or not. We need to
23 do the same thing for violence. We ignore the need to do
24 that at our own peril.

25 I'd like to introduce to you a gentleman that

1 has received tremendous national attention, is on the
2 cutting edge of this whole issue, Lieutenant Colonel David
3 Grossman. Dave comes from Jonesboro, Arkansas, came from
4 Louisiana last night to be with us via Baltimore.

5 He has been mentioned in President Clinton's
6 Saturday radio addresses. His literary work on this issue
7 has been cited. He's been on 60 minutes, Larry King,
8 Dateline MSNBC. Ladies and gentlemen, I'd like to present
9 to you a man of tremendous knowledge on this issue that's
10 going to show you some ads, that's going to talk to you
11 about this issue with tremendous enlightenment for all of
12 us. David.

13 LIEUTENANT GROSSMAN: Thank you, sir. I hope
14 I can live up to that. Mr. Chairman and distinguished
15 members of the Committee, members of the press, I'm a
16 retired West Point psychology professor, an Army ranger, an
17 ex-paratrooper sergeant. I'm the author of the textbook on
18 this topic that's used worldwide on killing, The
19 Psychological Cost of Learning to Kill in War and Society.

20 In this last year, I've written three
21 encyclopedia entries on this topic and the entry in the
22 Oxford Companion American Military History. Last week I
23 had the privilege of speaking before the US House Judiciary
24 Committee and the week before that the Senate Commerce
25 Committee.

1 And the week before that the President cited
2 my -- President Clinton cited my research in his national
3 address. And he essentially stated that Lieutenant Colonel
4 Dave Grossman, an Army psychologist, has identified the
5 fact that these violent video games are providing our
6 children with the same killing enabling mechanisms that the
7 military and the law enforcement give to those who have to
8 kill in the line of duty.

9 But when it's being given to the children,
10 it's done without the character development and without the
11 safeguards that are present when the military and the law
12 enforcement does that. And that's really my essential
13 point.

14 Last week I trained at the California Highway
15 Patrol Academy. Tomorrow I train the Commanding General
16 and all of the staff of Ft. Leonard Wood, one of America's
17 premier military training bases. From both these law
18 enforcement and military perspective, these individuals
19 whose job it is to teach people to kill -- God forbid that
20 they should have to -- but to enable them at the moment of
21 truth to do the job that may need to be done.

22 I need to give you a foundation of
23 understanding of what we're talking about when we talk
24 about killing enabling. There is a giant leap between
25 being a healthy member of American society and being able

1 to take a life. It's not necessarily something that
2 somebody can step out and do without any prior mental
3 preparation.

4 In World War II, we taught our soldiers to
5 fire at bull's-eye targets. When they actually went to
6 combat, we realized there was a tragic flaw in our
7 training. When no bull's-eyes actually appeared on the
8 battle field, they were not as competent as they ought to
9 be able to do to transfer their training to reality.

10 They were brave soldiers, wonderful soldiers.
11 They did their job, but we had failed them in our training.
12 Since World War II, every major military and law
13 enforcement organization in the world has learned that if
14 you want people to kill human beings, they have to practice
15 shooting at human beings.

16 And we transition from bull's-eyes to
17 man-shaped silhouettes. And in recent years in the
18 military, we actually have little dolls, little
19 three-dimensional Ivan dolls that soldiers call them that
20 pop up that we fire at. And these are killing simulators.
21 You have to simulate the act of killing.

22 You have to wrap your mind around the act of
23 killing. You have to rehearse it. Now, in the civilian
24 community, the simulators have developed so well that the
25 military now incorporates them extensively in their

1 training.

2 The Army has taken the basic Super Nintendo,
3 modified it just a little bit so that we have an M-16 and
4 simple plastic pistol. And now we use that device around
5 the world to practice shooting at human beings on the
6 screen. The Army's name for the Super Nintendo is the
7 MACS, the Multipurpose Arcade Combat Simulator. Combat
8 simulator. It is a combat simulator. You take the basic
9 device sold to kids around the world, and it has become a
10 combat simulator with minimal modification.

11 The Marine Corp. uses the game Doom. The
12 Paducah shooter and the shooters in Littleton were
13 infatuated with the game Doom. The Marine Corp. uses that
14 game to train their Marines in military strategies and to
15 rehearse the act of killing in combat.

16 Now, again, when the military and the law
17 enforcement does it, they do it with safeguards. I would
18 encourage any of you to go to the local law enforcement
19 organization and tell them you'd like to take a look at the
20 FATS trainer. FATS is an acronym for Firearms Training
21 Simulator.

22 Now, the FATS trainer, you'll see a law
23 enforcement officer stand in front of a large screen TV
24 with an imitation gun in his hand. As suspects on the
25 screen take particular actions, the officer decides when to

1 shoot.

2 When he pulls the trigger, the slide slams
3 back in his hand. And if he aims properly, it will hit the
4 target; and the target will fall and bleed and die. Now,
5 when the military and the law enforcement does this,
6 there's great safeguards. The law enforcement officer does
7 that if he hits the wrong target, shoots at the wrong time,
8 shoots in the wrong direction.

9 Ultimately, if he cannot control that
10 behavior, he's fired. He is not certified or authorized to
11 use a weapon in public. But what I want you to do is I
12 want you to take a look at that FATS trainer. And then I
13 would ask you to go to the local video arcade at the local
14 mall, and I would ask you to sit down at that video arcade
15 and watch the kids play these games because they have a
16 game identical to the FATS trainer.

17 One of the classic examples is one called Time
18 Crisis. And in Time Crisis, what happens is the children
19 -- now, we're not talking about adults here. We're
20 talking children. All you've got to do is be big enough to
21 hold the gun in your hand and look over the console to play
22 the game. Children stand there and hold a gun in their
23 hand.

24 But in Time Crisis, for example -- it's just
25 one of many. -- you're shooting at swat team members as

1 waves of swat team members come at you. You pull the
2 trigger. The slide slams back in your hand. You aim
3 accurately, it hits the target, the target falls and bleeds
4 and twitches.

5 And what has happened is the very worst of
6 these -- and we're talking about the home games here. And
7 that's appropriate. We should discuss these. But the
8 worst of them are down at the arcades. People don't
9 realize how expensive ammunition is.

10 The ammunition for a 9mm pistol costs about 25
11 cents a round. The average child puts 50 cents in one of
12 these games and gets 1,000 bullets. That's \$250 worth of
13 bullets, a \$500 pistol and a million dollar range all for
14 50 cents.

15 Countless thousands of human targets pop up in
16 front of them, and the child practices and practices and
17 practices killing human beings. This act of practicing
18 killing is so powerful and so effective, it is like a child
19 in a fire drill, like a pilot in a flight simulator. It is
20 identical to the dynamics of a flight simulator.

21 The Army has killing simulators. We have
22 flight simulators. We can put somebody in this flight
23 simulator. And without ever touching an aircraft, they can
24 learn how to fly. We have killing simulators that will
25 permit you to practice and rehearse the act of killing,

1 make it reflexive like a pilot in a flight simulator, like
2 a child in a fire drill.

3 But when these killing simulators are put in
4 the hands of children, they are now murder simulators.
5 They're actually mass murder simulators. You see, in all
6 of the killings that we're seeing, those mass killings,
7 most often the model is this: The child kills his
8 girlfriend or a teacher that they're mad at. But then they
9 keep on going and kill every other living creature in front
10 of them until they run out of bullets or run out of
11 targets.

12 Now, this is a new phenomenon. When we asked
13 the child afterwards why did you do it, why did you kill
14 all the other people, they don't know. But we know. I,
15 whose job it is to train people to kill and to train the
16 people who train the people to kill, know that if you
17 provide in your simulation a set of conditioned responses,
18 especially to young adolescents, in the actual stress of a
19 situation, that is precisely what they will do.

20 And what they have been programmed to do, what
21 they have rehearsed countless thousands of times is to kill
22 every living creature in front of them until they run out
23 of bullets or run out of targets.

24 Gentlemen, we have a new national video game
25 out there. And we have children who are intent on racking

1 up the new high score in the new national video game. The
2 one that gets the maximum body count, instead of getting
3 his little three letter initials up on top of the video
4 arcade, he gets his picture on Time Magazine and in every
5 television in America. And believe me, that is a
6 significant motivator for young adolescents to have that
7 opportunity to get on national TV.

8 For close to a year now, as I've been training
9 law enforcement and schools and medical personnel, I taught
10 Grand Rounds at Dartmouth Medical Center earlier this year,
11 I've been predicting that we'll see bombs in the next major
12 school shootings.

13 How could I know that we'll see bombs in these
14 school shootings? Well, because they're out to rack up the
15 high score. And in all the video games, when you get up to
16 the high levels, if you want to rack up a high score,
17 you've got to get access to the bombs, the grenade
18 launchers, the rocket launchers, the dynamite, the barrels
19 of T & T.

20 You've got to have instruments to kill people
21 in large numbers if you're going to get the high score.
22 All you had to do was see what the children are being
23 scripted to do, what they're doing in their rehearsals, and
24 it's an easy step to go ahead and predict that that's
25 what's going to happen next.

1 Now, people say it's the parents' job. It's
2 the parents' job to protect the kids. And they're right.
3 And so then why do we need this legislation if it's all the
4 parents' job. But understand this, when it comes to guns,
5 tobacco, alcohol, drugs, pornography, explosives, on all of
6 these substances we say it's the parents' job to help the
7 kid. But you know what, we help the parent.

8 We have legislation that says if anybody sells
9 your child guns, tobacco, alcohol, drugs, pornography,
10 explosives, we will help you protect your child. And we
11 will treat the individuals that gives that substance to
12 your child, we will treat them as a criminal.

13 Why in this one area, this tragic, desperate
14 area of violence enabling, why in this area is the parent
15 left entirely on their own when their failure in this area
16 can represent such a tragic cost to society? And we need
17 to realize that we didn't get here overnight.

18 My research is the first place that anybody
19 has published the following set of data. Now, we don't
20 understand how bad violent crime has gotten in America.
21 The first thing we need to realize is when we track violent
22 crime, we have to ignore the murder rate.

23 Why? Why would you ignore the murder rate?
24 Because medical technology saves ever more lives every
25 year. You see, a wound that nine out of ten times would

1 have killed you in World War II, in Vietnam you would have
2 survived that same wound nine out of ten times.

3 I've established the Scholarly Foundation and
4 several encyclopedia and journal articles to demonstrate
5 the fact that if we had 1930s level of medical technology
6 in America today, the murder rate would easily be ten times
7 what it is.

8 You've got to look at the rate at which
9 citizens are trying to kill one another off, the aggravated
10 assault rate. The aggravated assault rate in America since
11 1957 has gone up almost seven fold. The per capita, the
12 ratio of our citizens that are trying to kill one another
13 off since '57 has gone up seven fold.

14 In Canada, since 1964, the per capita assault
15 rate has gone up five fold. In the 15 years that I could
16 get interpolate data for, from 1977 to 1993, just 15 years,
17 we have seen a five fold increase in the per capita assault
18 rate in Norway and Greece, a four fold increase in
19 Australia and New Zealand.

20 I just got back from a couple of weeks in
21 Australia training their federal police and their military.
22 And they know what's happening, and they're scared to
23 death. The per capita assault rate in those 15 years
24 tripled in Sweden and doubled in seven other European
25 nations.

1 Now, the question you got to ask yourself,
2 what is the new factor, what is the new variable, what is
3 the new ingredient in that toxic stew of causal variables
4 that causes violent crime? Well, we know that one of the
5 major new factors is media violence. We feed our children
6 death and horror and destruction as entertainment, and we
7 reap what we have sewn.

8 I was on Meet the Press with the Surgeon
9 General three Sundays ago. They asked the Surgeon General,
10 Can you do a Surgeon General's report on the link between
11 media violence and violent behavior in children? He said,
12 Sure, I can do a Surgeon General's report on the link
13 between media violence and violent behavior in children;
14 but why don't we begin by reading the 1972 Surgeon
15 General's report that has already definitively identified
16 that link.

17 The bottom line is, we don't need more
18 research. We need action. The Surgeon General has been
19 calling for it since 1972, the same Surgeon General that
20 made the warning about the link between tobacco and cancer,
21 in almost the same year made a warning about the link
22 between media violence and violent behavior in children.
23 Why aren't we listening?

24 In 1982, the National Institute of Mental
25 Health assessed over 2,500 scholarly studies worldwide and

1 came to the conclusion that there is, quote, a clear
2 consensus about a, quote, strong link between media
3 violence and violent behavior in children.

4 In 1982, Eron and Huesmann released their
5 longitudinal study of 875 kids across 21 years
6 demonstrating the fact that the high level viewers of
7 television violence were four to five times more likely to
8 be violent criminals than the low level viewers of
9 television.

10 Most importantly, they demonstrated the fact
11 that the high level viewers of television violence were
12 orders of magnitude more likely to be violent to their own
13 children and abusive and aggressive to their own children
14 as a powerful correlation at the statistical significance
15 level of .0001.

16 In 1992, the American Psychological
17 Association said, quote, the scientific debate is over.
18 What we need to do now is take action. In 1992, the
19 Journal of the American Medical Association, the world's
20 most distinguished medical journal, published a study by
21 Brandon -- by Brandon Centerwall that demonstrated the fact
22 that throughout America and Canada, wherever television
23 appeared, 15 years later the murder rate doubled. Direct
24 cause and effect relationship 15 years later doubled.

25 They've got these wonderful little models of

1 cities up in Canada. Two demographically, ethnically
2 identical cities, neither one of which has ever had
3 television before. Over and over again they replicate this
4 in the Indian community, in the white community, two cities
5 side by side.

6 Now, television appears in one city. There's
7 an immediate explosion of violence in the experimental
8 group in the nation or the city or the region with
9 television, and 15 years later the murder rate has doubled.
10 Why does it take 15 years? Because the impact is on the
11 little ones. And 15 years later you reap what you have
12 sewn.

13 Now, in 1998, last year, the United Nations
14 has chimed into this with a major UNESCO study identifying
15 the link between the culture of violence and the saturation
16 of media violence worldwide. On top of the television
17 violence which we've already identified, we now have the
18 video games which are the most horrendous of all because
19 instead of being the passive receiver of violence, the
20 child actually inflicts violence on another human being.

21 There are by one count 16 million kids in
22 America with access to guns. Now, because a tiny fraction
23 of a percent of those children will use that access to guns
24 to kill, everybody from the NRA to civil liberties
25 organizations agrees on child access laws.

1 We all agree that there is no redeeming social
2 value in children having access to guns, and we all agree
3 that it is necessary for us to protect children from guns.
4 Everybody from the NRA to any other group you want to look
5 at supports child access laws in one form or another.

6 Well, if only a tiny remote fraction of a
7 percent of all the children with access to guns, because of
8 the fact that they might abuse that access, we all agree on
9 child access laws on that topic. Then why can't we agree
10 on the fact that these murder simulators, these firearms
11 training devices are also a device which in places like
12 Paducah and Pearl and Jonesboro and Edenboro and most
13 especially in Littleton were the precursors, the trainers
14 of vicious mass murderers?

15 Only a tiny percentage may actually turn into
16 killers. But think about this: Not everybody who smokes
17 gets cancer. Not everybody who smokes gets cancer, but
18 they're all made sick. Not everybody who plays these
19 violent video games is going to become a violent criminal,
20 but they are all affected by the influence of violent
21 media.

22 Dr. Brandon Centerwall has put together a
23 study that demonstrates what he calls the Mean World
24 Syndrome. Those children who are infatuated with media
25 violence may not become violent criminals; although, some

1 will. But the others will develop the sense that the world
2 is a dark, brutal, horrific place.

3 They will be more willing to accept violence
4 as the response in society, less willing to stop for
5 people, more fearful. They will add to the mean world.
6 They will believe that the world is a mean brutal place.
7 And because of that belief, the world will become a mean
8 brutal place.

9 The NRA has made a clear-cut statement. One
10 week I'm on with the Surgeon General and the next week I'm
11 on Wayne LaPierre's national radio show, the head of the
12 NRA. He has definitively stated that it is their belief
13 that these devices are at best firearms trainers and at
14 worst murder simulators.

15 The NRA, who believes themselves to be one of
16 the world's premier firearm safety trainers, are absolutely
17 outraged by the fact that these firearms training devices
18 are given indiscriminately to our children. Anybody who
19 doubts the NRA's position on this, I would encourage you to
20 call Wayne LaPierre's office and ask him.

21 He will be very clear-cut about the fact that
22 they believe that this is not a First Amendment issue.
23 This is a Second Amendment issue. These are at best
24 firearms training devices. And the NRA believes that
25 anybody that gives a child unrestricted access to a gun is

1 a criminal and anybody who gives a child unrestricted
2 access to one of these murder simulators is an equivalent
3 criminal.

4 Now, I want to give you one example of how
5 these devices train people to kill. They are training
6 devices. In Paducah, Kentucky, Michael Carneal, a
7 14-year-old boy, to the best of our knowledge, has never
8 fired a pistol before in his life.

9 He steals a pistol from a neighbor's locked
10 cabinet in a locked garage. He brings it to school, and he
11 opens fire. He's in a large foyer of a school, a room
12 about the size of this room right here. He stands back in
13 one corner of the room and holds the pistol in his hand.

14 There's a prayer circle in the middle of the
15 room. Not a compact mass of kids, a prayer circle. And as
16 the prayer circle starts to break up, Michael Carneal holds
17 the gun in his hands and begins to open fire. Now, the
18 average law enforcement officer in the average engagement
19 hits with less than one bullet in five.

20 The stress of firing at real human beings,
21 see, the dynamics of bullets possibly coming back at you,
22 just hitting a moving target is hard. It is hard. In the
23 Amadou Diallo shootings where four elite New York law
24 enforcement officers fired 41 shots at an unarmed African
25 immigrant at point-blank range, they fired 41 shots and

1 they hit 19 times. That's the norm.

2 Michael Carneal standing in the corner of that
3 room fires eight shots. Now, remember, he's never fired a
4 pistol before in his life. He fires eight shots at eight
5 different milling, scrambling, screaming children. How
6 many hits does he get? Eight shots, eight hits on eight
7 different children. Five of them are head shots. The
8 other three are upper torso.

9 Where does he get that from? I trained a
10 battalion of Green Beret this last summer, I trained the
11 Texas Rangers this fall, the California Highway Patrol last
12 week. And when I tell them about this, they are stunned.
13 Nowhere in the annals of law enforcement or military or
14 criminal history can we find an equivalent achievement.

15 And it's not some deranged Army ranger like
16 me. It's a 14-year-old who's never held a pistol before in
17 his life. Where does he get that from? The video games.
18 He has played and played and played these training devices
19 and has developed the skill and the will to kill. That's
20 what these instruments provide to the child.

21 Now, I say again, we have vast quantities of
22 research. We have 50 years of research on simulators, and
23 that's what these are. The military is the experts at
24 using these devices, and we know what happens when you put
25 them in the hands of an adolescent.

1 We have careful controls and discipline and
2 character development that goes with that. We understand
3 about simulators. The Surgeon General understands about
4 media violence. And the Surgeon General and the AMA are
5 the real media critics when it comes to your children, not
6 Siskel and Ebert.

7 And we need to understand that members of the
8 industry are about as reliable in testifying on this topic
9 as members of the tobacco industry are in testifying about
10 the toxic effects of their product. So what we need to
11 recognize is there is no need for further research. There
12 is need for action.

13 Everybody from the Surgeon General to the
14 United Nations has called for action. And that action
15 needs to take the form of education, legislation,
16 litigation. The education, the parents need to be educated
17 and informed.

18 By passing laws like this, we let the parents
19 know that our legislature, our individuals, our government
20 believes that harm can be done by these products. It's not
21 the seat belt laws that make parents buckle their kids up.
22 It's because they know it's the right thing to do. But the
23 laws help reinforce an interactive web of societal factors
24 that make the parents do the right thing.

25 The video game industry states that only 5

1 percent of their games are violent and only 10 percent of
2 their -- of their market are youth. So what we're really
3 talking about is 10 percent of 5 percent of their market.
4 Do you think they could let go of that when the AMA, the
5 APA, United States Army, United States Marine Corp., and
6 the law enforcement organizations all plead with them to do
7 so? I think maybe they can let go of that.

8 Education, legislation, litigation are the
9 factors that we're talking about here. And the final
10 product is the litigation. And I want you to understand
11 the, if you will, the legal ramifications of these
12 products. Just a few years ago, the supreme court allowed
13 to stand a circuit court decision that said the book Hit
14 Man was not protected by the First Amendment.

15 Now, this is a book that exhorts the reader to
16 become your own hit man, to kill people for pay. It
17 teaches the reader criminal behavior and exhorts the reader
18 to engage in criminal behavior. When somebody actually
19 read that book and went forward and committed a violent
20 crime using that book as their textbook, as their cookbook,
21 and they were sued in civil court and were held
22 accountable, the publisher and the author.

23 The supreme court declared that that book,
24 because of its callous disregard for human life and its
25 blatant advocacy of violent and criminal behavior, was not

1 protected by the First Amendment. Now, if a book that is
2 given to adults is not protected by the First Amendment, do
3 you think a plastic device in the hands of children is even
4 remotely protected, speech on the part of children? I
5 would submit to you that it is not.

6 In New York, I was on with the prosecutor on
7 television, a wonderful lady from New York. She said that
8 in her district, a father taught his 8-year-old son how to
9 load and fire a pistol. Now, that's free speech. That's
10 his First Amendment speech, speaking to his son,
11 communicating a set of skills.

12 But when that child took those skills and went
13 out and murdered somebody, the father was prosecuted for
14 manslaughter because the skills that he taught that child
15 are something that society says a child does not need to
16 know and there is no cause for anybody to provide these
17 skills to a child.

18 Now, if that's the case, then I want to show
19 you a couple of ads here. The first ad is for a joystick.
20 People say, well, the game Doom, you're playing that with a
21 keyboard. No, you're not playing it with a keyboard or a
22 mouse.

23 When the kids really play it, they play it
24 with the joystick. And the joystick is like a -- is like a
25 pistol grip that you hold in your hand. And you pull the

1 trigger, and you learn trigger control. Now, one of the
2 brands of joystick, the joystick actually bucks in your
3 hand when you pull the trigger.

4 It's like a pistol. It actually recoils in
5 your hand, and you see the pistol on the screen recoil.
6 When you turn the gun, the gun on the screen turns. The
7 ads for this joystick in a youth-oriented magazine says,
8 "Psychiatrists say it's important to feel something when
9 you kill."

10 "Psychiatrists say it's important to feel
11 something when you kill." That's callous disregard for
12 human life for the act of killing. And teaching the skills
13 of killing on the behalf of this industry indicates the
14 degree to which they are liable.

15 Now, the latest version of Quake -- I'm told
16 when I was on ABC that the latest version of Quake, Quake
17 III you can go into your high school yearbook, you can scan
18 in the pictures of your fellow students and teachers and
19 then morph those pictures onto the characters that you
20 shoot in the game so that the individuals you're going to
21 shoot in this game and you're going to rehearse killing are
22 the ones you have a grudge against at school.

23 Well, one of a similar game has an ad, again
24 in a youth-oriented magazine, that says, "Kill your friends
25 guilt-free." Now, another ad -- a lot of people say, well,

1 these home systems, these are just push a mouse, you know,
2 push a button on the keyboard.

3 No, there are many home systems in which you
4 do actually hold a gun in your hand and shoot at
5 characters. And one of those home systems has an ad in a
6 youth-oriented magazine that says, "More fun than shooting
7 your neighbor's cat."

8 This is the moral level that this -- this
9 industry functions at. And I would submit to you that the
10 representatives of this industry, if they're going to try
11 to stand up and defend these products and defend their
12 right to have 10 percent to 5 percent of their market sold
13 to kids, need to be considered with great caution.

14 Folks, I come from a place called Jonesboro,
15 Arkansas. After four years as the Chair of the Department
16 of Military Science at Arkansas State University, I retired
17 there in Jonesboro. I retired in February of last year.
18 In March last year, what was then called the largest school
19 yard massacre in American history happened in my home town.

20 I was the lead trainer in mental health
21 professionals on the night of the shootings and did the
22 in-briefing to the teachers the next morning. Just a month
23 or so later, I was called in as a consultant in the Paducah
24 shooting.

25 And then I ended up going to a town called

1 Springfield, Oregon where a young man carried a gun into
2 the cafeteria and gunned down 24 people. And I trained the
3 law enforcement and the civic personnel there. I ended up
4 in Louisiana yesterday in a tri-state law enforcement
5 conference and got a chance to interview the prosecuting
6 attorney in the Pearl, Mississippi shootings.

7 And in just a couple of weeks, I'll be going
8 to Littleton to do some law enforcement and civic training
9 there. And I tell you when you're in the midst of one of
10 those situations, those horrific situations in which a
11 young adolescent walks up and kills every living creature
12 in front of them until they run out of bullets or run out
13 of targets and when you are a human being who for my entire
14 adult life I have trained individuals to kill -- that's my
15 job. -- when you see those same devices being
16 indiscriminately provided to our children as it does to law
17 enforcement officers around America, it simply enrages me.

18 That's my home town where these boys gunned
19 down all of these people. And this is a factor in the
20 equation. And nobody but the industry is even trying to
21 deny it. There will be more Jonesboros, and there will be
22 more Littletons until we stop this because you see, the
23 killers are already trained. Thank you very much.

24 CHAIRPERSON BIRMELIN: Thank you, Lieutenant
25 Colonel Grossman. And I'm going to give the opportunity to

1 our Committee members to ask questions. I'll start with
2 Representative Hennessey.

3 REPRESENTATIVE HENNESSEY: I'll pass.

4 CHAIRPERSON BIRMELIN: Representative Feese?

5 REPRESENTATIVE FEESE: No.

6 CHAIRPERSON BIRMELIN: Representative Masland?

7 REPRESENTATIVE MASLAND: No.

8 CHAIRPERSON BIRMELIN: I see no other
9 Committee members here so we want to thank you for your
10 testimony, and copies of it will be presented to the
11 members who are not here present today.

12 And Representative Daley, if you would like to
13 join us here at the desk with the rest of the members, we'd
14 appreciate that. Thank you.

15 REPRESENTATIVE DALEY: Thank you, Mr.
16 Chairman. And if I could just quote a very good friend of
17 mine, Bracken Burns from Washington County, Washington
18 County Commissioner, that was at a similar press conference
19 about a week ago.

20 And the issue was, he said, Is it between the
21 First Amendment or the Fifth Commandment? And the Fifth
22 Commandment is, "Thy shall not kill." I'd rather air on
23 the side of the Fifth Commandment. Thank you very much.

24 CHAIRPERSON BIRMELIN: Thank you,
25 Representative Daley. Our next testifier is Gail Markels,

1 Esquire. She's General Counsel and Senior Vice President
2 for Interactive Digital Software Association. Ms. Markels.

3 MS. MARKELS: Thank you.

4 CHAIRPERSON BIRMELIN: She has printed
5 testimony for members of the Committee if you have it. It
6 should be in that packet. If not, please let me know; and
7 I'll make sure that you get that. Attorney Markels,
8 whenever you're settled in and ready to present your
9 testimony, you may begin.

10 MS. MARKELS: Mr. Chairman, members of the
11 Committee, good afternoon. My name is Gail Markels. And I
12 am Senior Vice President and General Counsel to the
13 Interactive Digital Software Association or the IDSA, which
14 is a trade association representing US video and computer
15 game software companies. I am also a former assistant
16 district attorney and a mother of two children.

17 IDSA's 35 members account for 90 percent of
18 the educational and entertainment software sold in the
19 United States marketplace. In my testimony, I would like
20 to offer some background on our industry and our past and
21 continuing commitment to giving parents the information
22 they need to monitor the games their children play.

23 I'd like to start by looking at who plays
24 video and PC computer games. In fact, 70 percent of the
25 most frequent users of PC games are over 18, and 38 percent

1 of these are over 36. The picture is similar for video
2 game consoles. 57 percent of the most frequent users are
3 over 18, and 20 percent are over 36.

4 In other words, the majority of those who most
5 frequently use video and computer games are adults.

6 There's a misperception today that violent video games are
7 the most popular games in the market. In fact, in 1998,
8 only two of the top 20 bestselling video games were rated
9 mature and only three of the top 20 selling PC games
10 carried that rating.

11 Instead, the charts are dominated by titles
12 such as the adventure game Myst, sports games like Madden
13 Football, racing games like NASCAR '99, board games like
14 Monopoly, flying games like Flight Sim., fishing and
15 hunting games like Trophy Bass Fishing, and character
16 adventure games like Zelda.

17 Over the past two years, one of the most
18 popular titles is a series of Barbie games. Of the top 20
19 bestselling software games in 1998, 15 were rated in the
20 Everyone category, three in the Teen category, and two in
21 the Mature category. A complete list is attached to my
22 testimony.

23 The variety of popular titles reflects the
24 development of a mass market for games. Just as some books
25 and films are appropriate for different groups, there are

1 video games for people of all ages and tastes.

2 To help parents determine which games are
3 suitable for their children, five years ago the IDSA
4 created a rating body called the Entertainment Software
5 Rating Board, or the ESRB, that rates video and computer
6 games.

7 We hired Dr. Arthur Pober, an educational
8 psychologist and principal from the Hunter Elementary
9 School in New York City, to design and implement a system
10 to provide credible, reliable and easily understood
11 information about games to consumers.

12 Dr. Pober built the system after significant
13 input and research and consultation with consumers,
14 psychologists and child advocates. And Dr. Pober meets
15 periodically with those advocates and child psychologists
16 to get their inputs and suggestions about the rating
17 system.

18 ESRB ratings are based on the prior review of
19 actual game content by panels of demographically diverse
20 individuals. Three persons review each game and generate a
21 consensus rating in two areas: First, age appropriateness
22 and, if necessary, content. There are five ratings: Early
23 Childhood, Everyone, Teen, Mature and Adults Only, as
24 indicated in this poster in the brochures.

25 To date, the ESRB has rated over 5,000

1 products. Seventy-one have been rated in the Everyone
2 category, 19 in the Teen category and 7 in the Mature
3 category. In addition, many games carry one or more of 20
4 content descriptors which are simple but clear phrases that
5 give information on the content which influenced the rating
6 such as mild animated violence, realistic violence,
7 language, mature themes and so on.

8 All of the first person action games
9 containing the intense type of violence associated with
10 games like Doom carry an M rating as well as several
11 content descriptors. A complete description of the rating
12 -- of the ESRB's rating system is attached as part of the
13 ESRB's Guide to Interactive Entertainment brochure.

14 Ratings, of course, do not work if parents
15 either don't know about them or don't use them. To that
16 end, ESRB has made a significant effort to publicize its
17 ratings. In addition to a web site, esrb.org, and a
18 toll-free number, 1-800-771-ESRB, it has distributed over 5
19 million copies of its brochure called A Parents Guide to
20 Buying Video Games.

21 These brochures are carried by such retailers
22 across the country as Wal-Mart, Toys 'R Us, Hollywood
23 Video, Blockbuster, Funco, Best Buys and many others. And
24 IDSA has supported efforts by retailers over the years to
25 make the ESRB system as effective as possible.

1 Today, 100 percent of all video games and
2 about 80 percent of all PC games are ESRB rated with the
3 majority of the nonrated games in the early childhood
4 category, games like Blues Clues and the various Disney
5 titles aren't submitted for rating for a variety of
6 reasons.

7 Most recently, last October, we wrote to major
8 retailers asking that they publicize and enforce the
9 ratings. I understand that there is concern that ratings
10 are not adequate to prevent games from being bought by
11 persons for whom they are rated as not appropriate.

12 But it's important to understand that unlike
13 many other entertainment products, such as books or CDs,
14 the typical PC or video game costs between 40 and \$60, a
15 considerable sum of money for most teens. Thus, it is not
16 surprising that 9 out of every 10 games is actually
17 purchased by somebody over 18; that is, the game sale
18 transaction involves an adult.

19 This is significant because it suggests that
20 if we can educate adult consumers, these ratings can be an
21 effective tool to empower parents to regulate what they
22 bring into the home. This is a critical point. I am a
23 parent, as are many of you. It's a 24-hour-a-day job.

24 We must monitor the books they read, their
25 friends, their schoolwork, their self-esteem, as well as

1 the video and PC games they play. Parents must ask if the
2 games -- the game they bring home is rated as appropriate
3 for their child. And once the game is home, the parents
4 should watch their child play it to see if it meets their
5 tastes and standards. And it is okay to use the on/off
6 switch as well.

7 Much has been said about the possible role of
8 video games in the school shootings and youth violence
9 generally. I am not a behavior psychologist, but there has
10 been considerable research in the academic community since
11 the 1980s on video games.

12 In 1995, the government of Australia
13 commissioned Kevin Durkin at the University of Western
14 Australia to review all of the research on video games pro
15 and con as part of this consideration of whether to
16 regulate them. Durkin reviewed dozens of studies on the
17 issue of video games and aggression, including those which
18 suggest a link and those which do not.

19 His conclusion follows: A small number of
20 experimental studies have been reported. Either no or
21 minimal effect has been obtained. Some very tentative
22 evidence indicates that aggressive play may be cathartic
23 which promotes the release of aggressive tensions for some
24 individuals, though this work is open to methodological
25 criticisms.

1 Overall, evidence is limited but so far does
2 not lend strong support to the claims that computer game
3 playing promotes aggressive behavior. Durkin is not alone
4 in that conclusion that video games do not cause
5 individuals to become more aggressive in real life.

6 And I think most objective researchers would
7 agree that more work in this area would be helpful. But I
8 think most would also agree that bold statements that claim
9 as fact that video games cause violent behavior are at best
10 overstated and at worst at odds with prevailing academic
11 literature.

12 Finally, I would caution you to review any
13 research or claims in this area carefully. Opinions that
14 are not backed up by empirical peer reviewed research
15 involving video game players should not be the basis for
16 policy. Moreover, examine the research carefully.
17 Methodology does matter, sample size matters, and accurate
18 interpretation of data matters as well.

19 I'd like to tell you as well about additional
20 efforts we're undertaking as an industry to increase the
21 effectiveness of our rating system. First, we will take
22 new steps to increase the visibility of the ESRB ratings,
23 increase parental awareness of them and to encourage their
24 use.

25 The IDSA board will meet shortly to evaluate

1 options to accomplish this goal, including the possibility
2 of paid media, public service announcements, retailer
3 outreach and outreach with parent and teacher groups to
4 explore whether there are ways to get ESRB material such as
5 our brochure into the hands of parents through the schools.
6 And we would welcome the Committee's help in this endeavor.

7 Second, the IDSA will explore ways to
8 encourage retailers to enforce the ratings. While our
9 industry has the ability to rate the product, we cannot
10 require retailers to enforce it. Each retailer must adopt
11 its own policies. And to that end, you will hear from Mark
12 Fisher from Hollywood Video who will tell you how their
13 company handles the rental of video games to children in a
14 very responsible manner.

15 Our goal is to work cooperatively with
16 retailers to institute systems that limit the ability of
17 persons under 17 to buy or rent mature rated products and
18 better educate the consumers and employees as well as
19 parents on the use of the rating system.

20 A focus on better education and better
21 retailer enforcement I believe will continue to allow us to
22 strike a proper balance between effective self-regulation
23 and protecting freedom of expression guaranteed by the
24 Constitution.

25 Let me end on a personal note. I am not a fan

1 of violent video games nor do I purchase them for my
2 children. But as I noted earlier, tens of millions of
3 people of all ages play video games of all kinds; and they
4 are perfectly capable of separating fantasy from reality.

5 They know the difference between fighting to
6 save a world from animated aliens with a controller such as
7 this, and carrying out premeditated murder in a school yard
8 with real guns is quite different.

9 Something was terribly wrong with these boys
10 in Colorado. I do not have an explanation for what
11 happened, but video games did not teach them to become
12 Nazis, to hate. And video games did not isolate them from
13 their peers.

14 As an industry, we have a record of making
15 serious efforts to address concerns about a minority of
16 game content. We will continue to try and meet that
17 obligation. Thank you.

18 CHAIRPERSON BIRMELIN: Thank you, Ms. Markels.
19 I'll turn this over to the Committee for any questions they
20 might have. Representative Hennessey.

21 REPRESENTATIVE HENNESSEY: Thank you, Mr.
22 Chairman. Ms. Markels, I noticed on your first page of
23 your prepared testimony you referred -- there's apparently
24 been an editorial change. And toward the end of the second
25 to last paragraph, instead of calling them video computer

1 games, you called them video educator games.

2 What exactly do some of the kind of programs
3 that were the target of the -- Mr. Grossman's comments
4 educate children to do?

5 MS. MARKELS: Well, we have Phonics with Fred.
6 We have --

7 REPRESENTATIVE HENNESSEY: No, I'm not talking
8 about Phonics with Fred. I'm talking about the kind of
9 programming, the FATS simulators that Mr. Grossman was
10 talking about. What kind of education is behind the
11 development and the distribution of those particular games?

12 MS. MARKELS: I'm not sure which games Mr.
13 Grossman was talking about. I didn't see the game that was
14 on the computer screen. I assume it was a game such as
15 Doom which is a first person action game, and there are
16 violent segments in it. It's -- it is a game. It is rated
17 M, and it is not --

18 REPRESENTATIVE HENNESSEY: That's for mature
19 audiences?

20 MS. MARKELS: For mature audiences. It's not
21 intended for persons under 17.

22 REPRESENTATIVE HENNESSEY: But what does it --
23 what does it educate -- what does a mature rated video game
24 intend to educate people to do?

25 MS. MARKELS: I'm not sure if I can answer

1 your question. I can tell you that when a game is rated M,
2 that in the opinion of the rating board, it is not suitable
3 for those persons under 17. You have to speak to the
4 content developers.

5 I can't speak as to the purpose of what the
6 game is. And I'm not here to defend individual games
7 either. I can't tell you what the purpose of Doom is.

8 REPRESENTATIVE HENNESSEY: Okay. So some of
9 the video products that your companies -- or your industry
10 puts out may be educational and some may not be educational
11 at all? Or are you saying you just don't know what the
12 educational purpose is?

13 MS. MARKELS: When we spoke about educational
14 games, I was talking about games such as Phonics With
15 Fred --

16 REPRESENTATIVE HENNESSEY: Phonics With Fred.

17 MS. MARKELS: -- Kindergarten Start-up. Both
18 the games -- we have games that are based on -- they're
19 educational and games that are entertainment.

20 REPRESENTATIVE HENNESSEY: Your industry
21 creates -- created a ratings system. And if I understood
22 your testimony correctly, you ask retailers to enforce it;
23 but you don't feel that you have any enforcement
24 alternatives available to the industry?

25 MS. MARKELS: We are very proud of the steps

1 we've taken. Our rating system was created five years ago.
2 And in that short time, just about 100 percent of all
3 titles are rated. We've worked with groups such as the
4 Video Software Dealers Association, which has adopted what
5 they call a Pledge to Parents where they pledge to keep
6 movies that are rated R as well as video games that are
7 rated M out of the hands of children without parental
8 consent.

9 And in the state of Washington, we've been
10 working with the Local Retailer Trade Association. And
11 they've come forward adopting the Pledge to Parents across
12 the board covering all retailers in the state. That is our
13 goal, to work with the retail community to make sure they
14 have information about the rating system and they enforce
15 it at every level in the community.

16 One of the things we are working with is a
17 program that when an M rated game is scanned at the cash
18 register that the question comes up for the clerk, check
19 ID. This is an industry that is committed to working with
20 parents and consumers to give them the information they
21 need to make informed purchase and rental decisions.

22 And we are committed to working with our
23 retailers to make that possible as well. And we've
24 received a lot of support from the retail community as
25 well, and they're very pleased about that.

1 REPRESENTATIVE HENNESSEY: If the retailer
2 doesn't check the ID, is there any -- any consequence to
3 the retailer for not doing that? Or are we back in a
4 situation where your industry says, Well, we've asked them
5 to follow our guidelines, but we can't enforce them?

6 MS. MARKELS: Consumers, as in all areas, can
7 vote with their pocketbook. And if a retailer --

8 REPRESENTATIVE HENNESSEY: That's not what I
9 asked. I asked whether or not there is any punishment for
10 the retailer?

11 MS. MARKELS: I'd like to try to answer, if I
12 could.

13 REPRESENTATIVE HENNESSEY: Sure. Why don't
14 you answer that question first, if you would.

15 MS. MARKELS: Retailers, you know, are members
16 of the community. They live in the community. They pay
17 taxes in the community. They employ people in the
18 community. And retailer -- if a retailer is not civically
19 responsible, consumers have a choice as to whether they do
20 business with them.

21 If we get a complaint with a consumer, we will
22 follow up with that retailer as well.

23 REPRESENTATIVE HENNESSEY: And what
24 enforcement does your industry do when you follow up with
25 the retailer after a complaint from a consumer?

1 MS. MARKELS: We have the power of persuasion.
2 But as a former assistant district attorney, I'd ask -- or
3 raise a question as to how many police officers are
4 available in the City of Pittsburgh or Philadelphia to go
5 into the Wal-Mart's, the Targets and the Blockbusters that
6 require the enforcement?

7 If you have an industry that's willing to
8 regulate itself, we think that takes a lot of pressure off
9 local municipalities that are hard-pressed to have cops,
10 enough cops on the street to protect them from areas that
11 they need protection.

12 This is an industry that is willing to do its
13 job. We're a young industry. And we need to work harder,
14 and we need to do more. But we are willing to do that.

15 REPRESENTATIVE HENNESSEY: I guess I'm
16 confused when you say you're an industry that's willing to
17 regulate itself, but you tell us that you cannot enforce
18 even the guidelines that you publish because the retailers
19 are free to do whatever they want.

20 And when I asked you how do you enforce it,
21 you say, Well, we can't turn them over to the police
22 because the local police forces are over-burdened so
23 there's really no enforcement. It sounds like a circular
24 argument.

25 MS. MARKELS: Well, what I was suggesting was

1 if the state passed their own rating statute, the state
2 would be hard-pressed to have local enforcement spend their
3 time enforcing the guidelines. But one of the problems
4 arises under the antitrust laws is the antitrust laws
5 prohibit us from controlling what retailers do in the
6 community.

7 We can use our powers of persuasion, and we
8 intend to do so. But we cannot force them or cut them off
9 from the supply field or that would be violating the
10 antitrust laws. And there are criminal penalties for doing
11 that, and we can do that.

12 But we believe that we can achieve the same
13 goals by voluntary industry cooperation. And we'd be
14 willing and happy to bring members of the retail community
15 in before this Committee to sit down and talk about what
16 retailers can do.

17 Mister -- Mr. Fisher is here from Hollywood
18 Video. He can tell you what the video retail and rental
19 communities are willing to do. We can bring members of the
20 self-regulating community, the Wal-Marts, the Targets, the
21 Best Buys as well to develop policy.

22 REPRESENTATIVE HENNESSEY: Can I ask you, if
23 your industry truly believes there is no relationship at
24 all to the video content of the games and the messages that
25 are brought -- or that are sent to children, why does your

1 industry even create a rating system? If there's no
2 connection, why have a system at all?

3 MS. MARKELS: Well, we do not believe there is
4 a connection. Well, let me step back to my experience as
5 an assistant district attorney. One of the bureaus I was
6 in when I was an attorney there was the Investigations
7 Bureau. We would go to the scenes of the crime, we'd
8 investigate child abuse cases, murders.

9 And, you know, I was in that bureau for four
10 months. And in that short tenure, I had two child abuse
11 cases where the parents told me they killed their children
12 because the Bible told them to do it. And when I asked
13 what do you mean and explored more to get a statement, they
14 said, Well, the Bible said spare the rod and spoil child.
15 The devil had taken over so and so, and I was beating the
16 devil out of him.

17 I mean, in answer to your question, we do not
18 know what triggers most people. And based on my
19 experience, you can take my four months as an assistant
20 district attorney in investigations saying I had two cases
21 where people cited the Bible. Based on that experience,
22 perhaps the Bible is a dangerous tool. That could be
23 beyond appall to suggest that.

24 But we do not know what affects and what
25 impacts people. We had one school shooting in Littleton

1 this year, and that is certainly one too many. But out of
2 the millions of games, movies, books, records, we had one
3 shooting. And to say that the boys played video games is
4 probably likely since 80 percent of boys in this country
5 do.

6 But we've had school shootings, we've had
7 violence, we've had horrendous crime. In fact, crime is
8 down. In the past eight years, crime is dramatically down.
9 Every article you read indicates that crime among juveniles
10 and crime among adults is dramatically down.

11 So one can say there's this inverse
12 correlation between declining crime rates. At the same
13 time, some people are saying there's increased violence in
14 the media. I think one could argue there's an opposite
15 correlation as to cause and effect. It all depends on what
16 numbers you look at.

17 REPRESENTATIVE HENNESSEY: Thank you very
18 much. Mr. Chairman, I have no other questions. Thanks.

19 CHAIRPERSON BIRMELIN: Thank you. And Ms.
20 Markels, I would like to ask you if you would consider
21 making your answers a little more concise. There are other
22 members of the panel who have questions for you. And I
23 understand you have -- this is a subject of the heart for
24 you, perhaps.

25 But with the time frames that we're working

1 in, if you could try to keep your answers as concise and to
2 the point of the question, I'd appreciate that. Not that
3 what you have said isn't helpful, but sometimes we're
4 getting a lot more than we're asking for. And that would
5 diminish the time that other panel members would have to
6 ask you questions so that we can stay to our schedule.

7 MS. MARKELS: Certainly.

8 CHAIRPERSON BIRMELIN: All that having been
9 said, Representative Masland.

10 REPRESENTATIVE MASLAND: Thank you, Mr.
11 Chairman. I think former Defense Attorney Hennessey was
12 just relishing the opportunity to question an Assistant DA.
13 But he asked a lot of good questions, many of which I would
14 have asked so mine will be very brief.

15 On page 5, you cite this 1995 study that was
16 commissioned by the government of Australia. Has your
17 association commissioned any studies?

18 MS. MARKELS: We've had researchers review the
19 literature for us and compile the research. And the
20 research review that they've brought to us is consistent
21 with what Durkin said, that there is no correlation. But I
22 will -- if I may, you know, answer your question.

23 REPRESENTATIVE MASLAND: I'm just asking if
24 you've done it. And my reason is this, 1995 is long ago
25 and far away. We have gone light year -- light years from

1 where a little figure like Pacman used to gobble up little
2 pellets.

3 And just over the past few years, I think it's
4 safe to say that the -- the types of games that are being
5 sold have changed astronomically. And we've gone from
6 stick figures playing hockey and baseball to what looks
7 like real people playing the sports.

8 And we've gone from stick figures shooting
9 little guns to real people shooting and receiving the
10 bullets. So I would suggest that you do a more recent
11 study, that you conduct a study now because I, quite
12 frankly, do not believe that this 1995 study is still
13 valid. That being said, I -- obviously, I've answered my
14 own question.

15 MS. MARKELS: Thank you.

16 REPRESENTATIVE MASLAND: Have you looked at
17 House Bill 1509? You didn't make any reference to House
18 Bill 1509. You talked about self-regulating and trying to
19 get the retailers to do this on their own. House Bill 1509
20 does not appear to be excessively burdensome. It takes
21 that next step, though. Are there any specific objections
22 that you have to this bill?

23 MS. MARKELS: I believe there are some serious
24 constitutional issues that are raised with 1509. One of
25 the first that I recall, you know -- because I don't have

1 the bill in front of me. -- is that the bill sets up a
2 number of different standards for regulating whether games
3 may be purchased or rented by minors. And one of those is
4 a violent standard.

5 And my understanding is the courts have
6 consistently stated that minors' access to materials may be
7 regulated if and only if those materials are obscene or
8 harmful to minors under state law. And that is tied into
9 the -- thank you. -- the obscenity definition.

10 So any limitation on minors' access to violent
11 products I do not believe would withstand constitutional
12 muster.

13 REPRESENTATIVE MASLAND: Do you have any cases
14 to cite in that respect?

15 MS. MARKELS: Oh, I've -- certainly. VSDA v.
16 Webster.

17 REPRESENTATIVE MASLAND: If you could get us
18 some -- in writing -- copies of those cases, I'd like to
19 take a look at it.

20 MS. MARKELS: I'd be happy to do that. Would
21 you like the citations or the actual copies?

22 REPRESENTATIVE MASLAND: If you have the
23 copies, that would be fine. And I realize we don't have
24 much time so let me just say in closing, on page 6, your
25 last paragraph, you say, A focus on better education,

1 better retail enforcement, and advertising restraint will
2 continue to allow us to strike the proper balance.

3 Let me suggest that you forgot restraint by
4 manufacturers and restraint by producers. I think that's
5 where it really needs to start, with the people who are
6 members of your association. If they do not exercise any
7 restraint, I don't think you can expect a 16- or
8 17-year-old to exercise restraint either. Thank you.

9 CHAIRPERSON BIRMELIN: Representative Daley.

10 REPRESENTATIVE DALEY: Yes. Thank you, Mr.
11 Chairman. I'll try to keep my questions very brief because
12 I know the length of the debate here today. I'm appalled
13 by your comments concerning violent crimes dropping while
14 school crimes committed on school yards are increasing
15 tremendously over the last three years.

16 And I just do not understand your correlation.
17 I just wanted to make that comment. Secondly, do you
18 believe that children should have access to M titled
19 videos?

20 MS. MARKELS: No, I don't. And we have a
21 rating system which gives parents the ability -- I do not
22 allow my children to have access to M rated games.
23 Occasionally, I allow my daughter to see an R rated movie.
24 She's 13, but that's my individual choice.

25 REPRESENTATIVE DALEY: Then you agree -- then

1 you agree that retailers should be punished if they provide
2 access -- sell or give children access to M rated videos?

3 MS. MARKELS: I do not believe they should be
4 punished. I think retailers need to develop systems and
5 mechanisms for limiting minors' access. I think the
6 problem with punishing them is you're instituting a
7 voluntary rating system into state law, and the courts will
8 not allow you to do that because the standards that are
9 used exceed the standards of what a state may limit.

10 REPRESENTATIVE DALEY: I think what you have
11 is smoky mirrors. You're not answering the question. You
12 said you work with retailers to limit purchase, in your
13 testimony, of these videos by children. But what you
14 actually do then actually limits anyone's purchase of this
15 video, especially children. What do you do with retailers
16 to limit this access?

17 MS. MARKELS: May I answer that?

18 REPRESENTATIVE DALEY: Yes.

19 MS. MARKELS: I wasn't sure if you were
20 finished. We educate retailers, we train them on what the
21 rating system means, and we help them implement systems
22 that are designed to allow them to do that.

23 REPRESENTATIVE DALEY: So you're saying it's
24 up to them to do it then?

25 MS. MARKELS: It is up to them. But as we

1 said -- if I just may finish. -- they live and work in a
2 community. If they violate the community standards, they
3 -- people vote with their pocketbook. A store that's not
4 morally responsible is not a store that will stay in
5 business for long.

6 REPRESENTATIVE DALEY: Have you ever seen a
7 14-year-old kid purchase one of these videos with a \$50
8 bill?

9 MS. MARKELS: No. Well, let me -- can I
10 answer your question? I mean, my daughter's 13. She --
11 but she knows that our neighborhood theatre will not rent
12 -- give her a ticket to an R rated movie unless a parent
13 buys a ticket for her.

14 But she knows because of the way we've raised
15 her that she will not try to sneak in and get another
16 parent in line to do that because we haven't given her the
17 permission. But we believe that retailers can, should, and
18 do enforce them.

19 And we are a young industry, unlike other
20 industries. We're five -- five years old. If we need to
21 work harder, we will. And we are committed to doing that.

22 REPRESENTATIVE DALEY: Ma'am, self-policing
23 does not work. I'm telling you that right now. When my
24 daughter Daliah and her friend Holly went to a recent
25 arcade and walked through, 90 percent of the children in

1 there playing violent video games like Mortal Kombat and
2 Doom and a few other things were under the age of 16 years
3 old.

4 MS. MARKELS: May I answer your question? I
5 do not represent the arcade part of the business. I
6 represent the part of the business that -- for packaged
7 goods, video games in the home. I cannot speak to what
8 happens at arcades.

9 REPRESENTATIVE DALEY: These -- I'm sorry.

10 MS. MARKELS: All I can tell you is that we
11 are working with retailers to have them institute systems
12 and methods. I do not represent the arcade part of the
13 business.

14 REPRESENTATIVE DALEY: I think your testimony
15 was that these violent games sold to kids are only a
16 fraction of the market. And as an active responsibility or
17 good citizenship, why does not your industry do more to
18 limit children's access to these type of games, that small
19 fraction?

20 MS. MARKELS: We are -- we are trying to do
21 that. And we are taking steps. We are meeting with
22 retailers, we are working with them. What we were -- I met
23 with representatives of a group of Video Software Dealers
24 Association last week in California to talk about their
25 Pledge to Parents and to get them to roll it down, to

1 redistribute it to their members. And they agreed to do
2 that, and they're happy to do that.

3 We visit conventions of retailers. We work
4 with them to educate them as to the system. We visit with
5 them to teach them that the rating system is important and
6 to encourage their support and enforcement. We send out
7 hundreds of thousands of these posters, hundreds of
8 thousands of our brochures to retail outlets where they're
9 on display.

10 We work with them to develop the systems to
11 get them to be better corporate citizens. And if we're not
12 perfect, we hear you loud and clear. We understand that we
13 need to do a better job. You have our commitment on that.
14 And you have, you know, you have my agreement and my
15 support.

16 REPRESENTATIVE DALEY: My last question, Mr.
17 Chairman, very quickly is -- if he had a hook, he would be
18 hooking me right now. My last question is what percentage
19 of -- in real dollars, how much does that small fraction
20 represent in terms of real dollars to the industry?

21 MS. MARKELS: I'm sorry. I don't have that
22 answer for you. I can get that answer for you.

23 REPRESENTATIVE DALEY: I think the Committee
24 would be interested. And also, House Bill 1509 defines
25 these type of titles, these type of games under the

1 definition of obscenity. So I think you need to read the
2 bill to really see how the bill marries the constitutional
3 issue with the bill itself.

4 MS. MARKELS: That -- if I could answer you.
5 That very issue was litigated in a case called VSDA v.
6 Webster. That's with respect to video cassettes in the
7 mid-'80s where it prohibited the sale or rental of violent
8 video cassettes to minors. And that was stricken, and it
9 was upheld at the higher court of appeals.

10 In fact, it was unconstitutional. And I'd be
11 happy to supply that.

12 REPRESENTATIVE DALEY: Please provide that to
13 us. Thank you, Mr. Chairman.

14 CHAIRPERSON BIRMELIN: I want to thank you,
15 Ms. Markels, for your testimony. I appreciate your
16 coming. Thank you for being here. Our next testifier is
17 Dr. Stephen Ragusea. I hope I'm pronouncing that
18 correctly. If not, he can correct me.

19 And he's from the American Psychological
20 Association. And while he's getting seated, I want to make
21 note for the record that State Senator Jack Wagner has
22 submitted remarks for the record. Each of the members has
23 a copy of that.

24 And also, I want to welcome here this
25 afternoon two other members of our Committee,

1 Representatives Walko, second seat to my right, and behind
2 me is Representative Pat Browne from the Lehigh Valley.

3 Doctor, did I pronounce your name correctly?

4 DR. RAGUSEA: You did it beautifully. Thank
5 you.

6 CHAIRPERSON BIRMELIN: Excuse me?

7 DR. RAGUSEA: I think you did it beautifully.
8 Ragusea is about as good as it gets.

9 CHAIRPERSON BIRMELIN: Well, myself having a
10 name that oftentimes is mispronounced, I appreciate your
11 problem. But now that you're seated, if you would present
12 your testimony, we'd appreciate it.

13 DR. RAGUSEA: Sure. Mr. Chairman, I really
14 kept my remarks brief so that I could answer as many
15 questions as possible in the short time available. Let me
16 begin the statement by thanking the Committee for the
17 opportunity to address this important issue from a
18 psychological perspective.

19 My name is Dr. Stephen Ragusea. I'm a member
20 of the Board of Directors of the Pennsylvania Psychological
21 Association. I also currently sit on the American
22 Psychological Association's Council of Representatives as a
23 representative of the more than 5,000 psychologists in the
24 Commonwealth of Pennsylvania.

25 The recent shooting madness in Littleton,

1 Colorado's high school took 15 lives and again focused
2 America's attention on violence and youth. Soon the focus
3 of America's collective consciousness will move to another
4 story. But before that happens, let's try to learn
5 something from this most recent nightmare.

6 Littleton, of course, is only the most recent
7 example of a series of such incidents including tragic
8 teenage murders which have occurred right here in our home
9 state of Pennsylvania. Let's not kid ourselves. Youth
10 violence is a complex problem with multiple causes
11 including the disintegrating American family, wide
12 availability of guns, violence in the media, weakened codes
13 of morality, and poor individual judgment.

14 But the gathering storm of seemingly mindless
15 youth violence was predicted years ago in volumes of
16 published research. The research warned of the bitter crop
17 to be harvested from the seeds of violence sown in our own
18 mass media.

19 Psychological research, despite what the
20 previous speaker stated, has clearly revealed that the mass
21 media do profoundly influence our children, having
22 repeatedly shown that violence on television, in the movies
23 and in video games increases the likelihood of violent
24 behavior in kids.

25 No rational person can examine the scientific

1 data in its totality and conclude otherwise. After an
2 exhaustive review of hundreds of published research
3 articles, three major national studies concluded that
4 repeated exposure to media violence is one of the
5 significant causes of violence in our culture.

6 These published studies include: First, the
7 1972 Surgeon General's report; second, the 1982 National
8 Institute of Mental Health Ten-Year Follow-Up; and last,
9 the report of the American Psychological Association's Task
10 Force on Television in Society published in 1992.

11 As you know, in addition to this vast body of
12 scientific research, there's even some anecdotal evidence
13 that at least one recent adolescent killer was actually
14 trained in how to kill entirely by playing video games. We
15 must change the way we teach our children.

16 We must reexamine and redefine the terms
17 "entertainment" and "education." We must return to an era
18 where responsible people with good judgment decided that
19 some of our fantasies were not suitable to be made into
20 major motion pictures, television shows and video games for
21 kids.

22 We don't need government censorship in the
23 arts. What we do need are procedure -- I'm sorry. --
24 producers and distributors of art to be responsible
25 citizens of society.

1 This Committee can help by supporting
2 appropriate legislation which would make it illegal to
3 distribute violent video games to kids under the age of 18.
4 When I use the term "violent", I'm referring to the
5 portrayal of gratuitous, graphic violence which may include
6 scenes of murder, dismemberment, disfigurement, torture,
7 sadistic sex, stabbing, shooting, impaling or other acts of
8 brutalization directed against human beings or other
9 sentient creatures. Such legislation would begin to
10 address at least one element of this complex societal
11 problem.

12 I would strongly encourage the Committee to
13 make use of some resources developed by the American
14 Psychological Association. APA has prepared a guide which
15 addresses some of the relevant issues such as how to
16 recognize the warning signs of violent behavior and what
17 causes violent behavior and how to prevent it.

18 Those who are computer savvy can access this
19 material on the Internet by going to <http://helping.apa.org>
20 and clicking on the button that says "Warning Signs." For
21 those individuals who prefer to call, they may call
22 1-800-268-0078 and ask for a copy of the brochure entitled
23 "Warning Signs." For the benefit of the Committee, I
24 distributed copies of this brochure to each of you today.

25 This is a problem that can be fixed. Let's

1 fix it. We can do better. Now I'm available for your
2 questions.

3 CHAIRPERSON BIRMELIN: Thank you, Doctor. And
4 the first member of the Committee that would like to ask
5 you some questions is Representative Browne.

6 REPRESENTATIVE BROWNE: Thank you, Mr.
7 Chairman. Thank you for your testimony. You had mentioned
8 generally about studies --

9 DR. RAGUSEA: Yes, sir.

10 REPRESENTATIVE BROWNE: -- that have been done
11 in relation to the media and video games and how they
12 affect children. But you also mentioned that violence for
13 children is based on a lot of complex risk factors that
14 interrelate?

15 DR. RAGUSEA: Yes.

16 REPRESENTATIVE BROWNE: Could you go into the
17 studies in a little more detail and explain how they took
18 into account the different risk factors and how they zeroed
19 in on how video games have a relationship to violent
20 activity?

21 DR. RAGUSEA: Sure. As much as possible, what
22 the behavioral scientists do is try and identify as many
23 covariables as possible. When I'm talking about variables,
24 I'm talking about different factors that can affect
25 anybody's given behavior.

1 So children would, for example, typically be
2 matched up in terms of their age, their sex, their
3 educational background, their financial status, their
4 parents' education, things of that nature, their health.
5 And what we'd have typically is two groups.

6 One of the groups would be an experimental
7 group, and the other group would be a -- what's called a
8 control group. I'm sorry. I was blanking out on the term
9 for a second. So the other group would be the control
10 group. And what you would do is varied depending on the
11 experiment, of course.

12 But one experiment might go something like
13 this. We take a group of kids matched as controls and
14 experimental subjects. And we'd have the experimental
15 subjects play a video game for an hour, and then we'd have
16 the control group playing with some other kind of game for
17 an hour.

18 It may even be a video game, but it may be one
19 that doesn't involve violent behavior, whereas the
20 experimental one involves violence in the video game
21 content. And then what we do is we monitor what those
22 children do for the remainder of the day.

23 And what we see is the kids who play violent
24 video games or watched violent TV or watched violent movies
25 are much more likely than the control group is to engage in

1 violence throughout the remainder of the day so that the
2 experimental group winds up being shown fairly consistently
3 to get in more fights on the school playground, to try and
4 settle problems in a more aggressive way as opposed to in a
5 nonviolent way that enhances everybody's well-being.

6 And that's the kind of experiment that's
7 typically done. Now, there are some that are more complex
8 than that. There are some studies that have been done, for
9 example, matching up the number of hours children spend
10 watching violent television or playing violent video games
11 and then seeing what their long-term results are.

12 So for example, we'll take that group of
13 experimental kids again and we'll -- we'll say that what
14 we're going to do is monitor all kids who watch -- who are
15 participating in this study, some of whom watched TV and
16 played video games for less than 10 hours a week, some of
17 whom watched violent video games and watched violent TV for
18 more than 30 hours a week.

19 And we've actually followed that up to the
20 mid-20's in age. And we've been able to see that the
21 children who are more involved in those violent activities
22 on television and on video games and watching violent
23 movies are much more likely to have been arrested by the
24 time they're 25 for violent behaviors in society.

25 So that that kind of correlational data has

1 been collected as well over a long term. So we try and
2 control for as many of these variables as possible. It's
3 very difficult because we can't treat human subjects like
4 laboratory rats.

5 We can't ask for people to volunteer their
6 children to be kept in a socially isolated environment and
7 let us test them with video games, see how cruel we can
8 make them. But based upon the amount of data that's been
9 gathered, no reasonable person can conclude that there is
10 not danger in this behavior.

11 And these studies I pointed you to, these
12 great mega studies that were done each of these decades
13 simply -- what they did was told us this was going to
14 happen. This isn't a surprise.

15 REPRESENTATIVE BROWNE: Is there -- just one
16 follow-up comment or question. Do the studies take into
17 account parental involvement with the child?

18 DR. RAGUSEA: They try to by using variables
19 like household income and things of that nature. It's very
20 difficult to do because you have to go by people's
21 willingness to be honest about how many hours they spend
22 with their kids.

23 It's very tough to do. But it's -- an
24 effort's been made in some studies to try and control for
25 that. Obviously, parents are the most important variable,

1 in my judgment at least. But we can help in other ways.

2 REPRESENTATIVE BROWNE: Thank you very much.
3 Thank you, Mr. Chairman.

4 CHAIRPERSON BIRMELIN: Representative Daley.

5 REPRESENTATIVE DALEY: Mr. Chairman, I have no
6 questions. I just want to thank the gentleman for his
7 testimony today.

8 CHAIRPERSON BIRMELIN: Representative Masland.

9 REPRESENTATIVE MASLAND: Actually, I also want
10 to thank him for illuminating us with the fact that there
11 are other studies out there other than a 1995 study
12 conducted by Crocodile Dundee. And I appreciate the fact
13 that we have done some research in the United States and
14 that it can be illuminating as well.

15 DR. RAGUSEA: I thought that was a valid point
16 you made, by the way.

17 REPRESENTATIVE MASLAND: Thank you.

18 CHAIRPERSON BIRMELIN: Representative
19 Hennessey.

20 REPRESENTATIVE HENNESSEY: Thank you, Mr.
21 Chairman. Professor Ragusea, I think we all agree that
22 certain children can watch these violent videos and
23 probably not be effected at all and that a small percentage
24 of the kids that watch them do have some adverse profound
25 reaction to them and act out accordingly.

1 In the standards that you would like to see
2 developed, would you be targeting videos that -- in trying
3 to find ways to eliminate them from the market -- the ones
4 that basically focus on the -- on the small percentage of
5 children who have these adverse reactions? Or are the
6 standards that -- you know, you suggested yet in your
7 testimony by saying we can fix this problem.

8 What kind of standards are you aiming at -- or
9 what kind of standards are you suggesting and what targets
10 are you aiming at?

11 DR. RAGUSEA: Well, first of all, what I tried
12 to do in my testimony was try and refine the definition of
13 violence a little bit as I read it in the bill by giving
14 some examples of the kind of things I would focus on in
15 terms of games that train people to kill, maim, torture and
16 things of that nature.

17 To answer the first part of your question
18 next, I don't think we can focus on -- on the particular at
19 risk group that's most likely to eventually commit mass
20 murder. I don't think we're sophisticated enough to do
21 that. There's another psychologist at Cornell named Jim
22 Garbarino, and Jim has a great metaphor for this.

23 What he does is he says it's like air
24 pollution. Air pollution affects us all. Some of us just
25 can't see a beautiful sunset because the air's too gray.

1 But for some of us, things are so severe that we have
2 asthma; and for some people, we die from emphysema.

3 Video game violence, television violence,
4 movie violence is a form of pollution in our lives. It
5 diminishes all of us. It reduces our sensitivity to
6 violence. It makes us more angry, cruel people. So from
7 my point of view, reducing our exposure to these things in
8 general is probably a healthy thing for all of us, just
9 like controlling air pollution in general is a healthy
10 thing.

11 And I don't think there's any way to focus on
12 any specific group that might be most at risk.

13 REPRESENTATIVE HENNESSEY: Okay. In light of
14 your last comments, let me just revisit the first question
15 I asked you. And that's -- I suggested to you that perhaps
16 some children can watch these things and not have any
17 adverse reaction.

18 Do I understand you to say that everybody's
19 having some sort of an -- some sort of diminishment or it's
20 harmful in some respects but simply not elevated to an
21 adverse reaction or some sort of --

22 DR. RAGUSEA: This is a statement I can't back
23 up with research. It's just my personal opinion. And that
24 is yes, I think we're all being hurt by it. I think we're
25 becoming a course of society. I think we're becoming a

1 course of humanity, and I don't think that's healthy for
2 us.

3 REPRESENTATIVE HENNESSEY: Thank you very
4 much.

5 CHAIRPERSON BIRMELIN: Doctor, I would tend to
6 agree with you, in particular in your last few comments.
7 And I think the word that we hear frequently is that we are
8 becoming desensitized. We see violence. We see people
9 dying all the time.

10 And we hear the statistics about what the
11 average child sees on TV as far as murder and mayhem. And
12 I think they've just become insensitive to it. And though
13 only a few will act out those violent scenes perhaps, we
14 all have somewhat become less sensitive to other people
15 being injured or harmed or even killed. And so I think
16 your observations are right on target.

17 DR. RAGUSEA: But I don't want us to feel
18 helpless about it. There are some things here we can do
19 something about, and this is one of the problems we can
20 fix. We shouldn't hesitate to fix it.

21 CHAIRPERSON BIRMELIN: I understand what
22 you're saying. Thank you very much for your testimony
23 today. We appreciate your coming here to be with us.

24 DR. RAGUSEA: Thank you.

25 CHAIRPERSON BIRMELIN: Our next testifier is

1 Victor C. Romero. He's an Associate Professor of Law at
2 the Dickinson School of Law, and he's here this afternoon
3 representing the American Civil Liberties Union of
4 Pennsylvania.

5 And for members of the Committee, there is a
6 copy of his testimony for you on your desks. Mr. Romero,
7 we welcome you to our House Judiciary Subcommittee
8 meeting. And when you're ready to begin, you may do so.

9 MR. ROMERO: Thank you, sir. Good afternoon,
10 Chairman Birmelin and other members of the House Judiciary
11 Committee, Subcommittee on Crimes and Corrections. Thank
12 you for providing me this opportunity to testify on House
13 Bill 1509.

14 My name is Victor Romero. I appear before you
15 today in my capacity as Vice President of the South Central
16 Chapter of the ACLU of Pennsylvania. And while I hold the
17 title of Associate Professor of Law at Penn State's
18 Dickinson School of Law, the views expressed here are not
19 to be attributed to the law school.

20 Over 10,000 members strong, the ACLU of
21 Pennsylvania is a nonpartisan advocacy organization whose
22 sole purpose is the protection of the Constitution and the
23 Bill of Rights. I share with you today the ACLU's
24 opposition to House Bill 1509's ban on the sale or rental
25 of certain video games to minors.

1 The legislation violates the First Amendment's
2 guarantees of freedom of speech and expression by
3 criminalizing the sale or rental of games deemed by a
4 preselected panel to be too violent or obscene for
5 distribution to minors.

6 Specifically, the bill infringes the rights of
7 all Americans by usurping the Judiciary's duty to determine
8 the constitutionality of a work and delegating it to a
9 select group of citizens. It also deprives parents of
10 their right to raise their children as they see fit by
11 substituting the panel's judgment for the parents'.

12 At its core, House Bill 1509 punishes persons
13 who sell or rent to minors video games that a group of 100
14 decides are, quote, excessively violent, unquote, or
15 quote/unquote, obscene. The bill impinges upon all
16 Americans' right to create, on the one hand, and to enjoy,
17 on the other, video games of their own choosing.

18 Close to 30 years ago, Pennsylvania attempted
19 a similar restraint on public choice when it passed Act No.
20 100 which imposed criminal sanctions on film exhibitors who
21 showed movies inappropriate for viewing by minors,
22 according to the voluntary rating system adopted by the
23 Motion Picture Association of America.

24 In Motion Picture Association of America, Inc.
25 v. Specter, the Federal District Court struck Act No. 100

1 on vagueness grounds holding that the law's lack of
2 ascertainable standards chilled First Amendment expression.

3 More recently, the Supreme Court of Tennessee
4 invalidated as unconstitutionally vague a state nuisance
5 statute allowing for the seizure and ultimate forfeiture
6 of, quote/unquote, excessively violent printed and visual
7 material.

8 In this case named Davis-Kidd Booksellers,
9 Inc. v. McWherter, the court held that the law gave no
10 guidance to those who trade in printed and visual material
11 as to how to apply the term "excess violence." With its
12 failure to clearly define material that depicts violence in
13 a graphic manner, House Bill 1509 suffers from the same
14 fatal flaw as the laws at issue in these precedent cases.

15 Just as the Pennsylvania Legislature in the
16 MPAA case ceded authority to industry to create vague
17 standards to be used in enforcing criminal sanctions, House
18 Bill 1509 gives virtually unbridled power to a small group
19 of persons to define what constitutes a depiction of,
20 quote, violence in a graphic manner, end quote, without
21 clear guidance to creators and consumers of video games,
22 thus chilling their First Amendment rights.

23 And just as the term "excessively violent"
24 gave insufficient notice to members of the print industry
25 in the Davis-Kidd case, House Bill 1509's operative phrase

1 "violence in a graphic manner" is similarly unclear.

2 Moreover, unlike its ruling on obscenity, the
3 supreme court has determined that violent expression is
4 protected by the First Amendment. As such, any statute
5 attempting to regulate the violent content of an expressive
6 work must be narrowly tailored to accomplish a compelling
7 state interest.

8 House Bill 1509's attempt to limit regulation
9 to depictions of, again, violence in a graphic manner is
10 not sufficiently narrow in its scope because its broad
11 terms cover many video games that may not be objectionable
12 in their content.

13 In a case involving a Missouri statute similar
14 to House Bill 1509 that prohibited the sale or rental of
15 violent videos to minors, the Eighth Circuit Court of
16 Appeals noted that as written, the statute covered all
17 types of violence.

18 And I'm going to quote from this case that
19 actually Ms. Markels referred to earlier, the VSDA case v.
20 Webster. Missouri assures us that the statute does not
21 apply to animated violence in many cartoon shows, simulated
22 violence in western and war movies, real violence in the
23 boxing ring, or psychological violence in suspense stories
24 or thrillers.

25 The statute, however, provides no support for

1 Missouri's assurance. So like the Missouri statute in
2 VSDA, House Bill 1509's terms cover video games that
3 society might not deem harmful to children. Indeed, one
4 appellate court judge has noted recently that it is unclear
5 whether a law regulating depictions of violence and crime
6 could actually be drafted to survive constitutional
7 scrutiny.

8 Just as the provisions regarding violent video
9 games are problematic, those involving obscenity are
10 likewise suspect but for a different reason. While the
11 regulation of obscenity is permissible under the First
12 Amendment, especially where minors are involved, House Bill
13 1509 is superfluous legislation in light of existing
14 Pennsylvania criminal law that already prohibits the sale
15 or loan of obscene material to minors.

16 In fact, the bill at issue references Title 18
17 of the Pennsylvania Consolidated Statute, Section 5903.
18 Supporters of House Bill 1509 contend that the violence in
19 many contemporary video games leads to violent juvenile
20 behavior. However, there is no conclusive scientific proof
21 that video games or any other form of expression actually
22 causes, as a legal matter, violence or other undesirable
23 conduct.

24 Courts have consistently rejected claims that
25 artists, publishers or other creative enterprises can be

1 held responsible for the occasional acts of unstable
2 individuals. I have several cites there that I will leave
3 you to look up at some other point.

4 Indeed, any legislative attempt to control
5 criminal behavior by restricting one's exposure to artistic
6 expression would set a dangerous precedent because many
7 criminals have identified legitimate works of art as
8 inspirations for their wrongdoings. For example, Jon
9 Hinkley cited the movie Taxi Driver as the source for his
10 inspiration for attempting to assassinate then President
11 Ronald Reagan.

12 Finally, House Bill 1509 deprives parents of
13 the choice to raise their children as they see fit. Even
14 if most parents in Pennsylvania disagreed with the proposed
15 panel as to whether a certain video game was,
16 quote/unquote, violence, the minority of 100 would have
17 succeeded in imposing its will upon the majority of
18 Pennsylvania parents.

19 Worse yet, the message sent by such
20 legislation is that the government selected panel of 100
21 knows what is better for Pennsylvania's children than their
22 own parents. If the government wants to help parents,
23 there are many other ways to do so that do not adversely
24 impact the First Amendment.

25 For example, offering children better

1 alternatives to playing home video games such as quality
2 after school programs would go further toward giving
3 parents the support they need to be good mothers and
4 fathers without offending the Bill of Rights.

5 Because this legislation violates the First
6 Amendment as a content-based restraint on free expression
7 and does not serve the purported purposes of protecting
8 minors or aiding their parents, the ACLU strongly urges the
9 General Assembly to firmly reject House Bill 1509. I thank
10 you for your time.

11 CHAIRPERSON BIRMELIN: Thank you, Mr. Romero,
12 for your testimony. And we'd like to give you the
13 opportunity to answer some questions. And as I did with
14 one of our former testifiers, ask that your answers would
15 be concise and to the point as much as possible.
16 Representative Daley.

17 REPRESENTATIVE DALEY: What standards would
18 the ACLU propose to clarify and perfect the vagueness of
19 the current phrase "graphic violence"?

20 MR. ROMERO: I think the ACLU's position, sir,
21 is that while it might be possible that such legislation
22 could be drafted appropriately, its position is that that
23 shouldn't be the way that the government should handle this
24 issue.

25 As I stated in my -- the last two pages of my

1 comment, the government should approach this problem in
2 some other way, especially since no court has upheld a
3 statute that regulates on violence when challenged under
4 the First Amendment.

5 REPRESENTATIVE DALEY: Does the ACLU defend
6 the unrestricted access of minors to play Laser Tag?

7 MR. ROMERO: I don't know what the ACLU's
8 position is on that, sir.

9 REPRESENTATIVE DALEY: How about to play Paint
10 Ball?

11 MR. ROMERO: I don't know what the ACLU's
12 position is on that.

13 REPRESENTATIVE DALEY: Fire real guns?

14 MR. ROMERO: I'm sorry. What was that?

15 REPRESENTATIVE DALEY: To fire, discharge real
16 guns, weapons?

17 MR. ROMERO: I'm sorry. I personally don't
18 know what the ACLU's position is on that.

19 REPRESENTATIVE DALEY: At what point do we
20 draw the line on rights to teach marksmanship and killing
21 skills?

22 MR. ROMERO: I wouldn't know the answer to
23 that.

24 REPRESENTATIVE DALEY: Then you're saying at
25 no point, there should be no point? We should not draw the

1 line?

2 MR. ROMERO: Oh, no. I didn't say that.

3 REPRESENTATIVE DALEY: Do you have an answer
4 for me?

5 MR. ROMERO: No, I don't.

6 REPRESENTATIVE DALEY: Does the ACLU defend
7 the right of minors to practice killing human beings at the
8 local video arcade?

9 MR. ROMERO: I wouldn't think so. But again,
10 I -- let me see if I can answer your question this way. I
11 think that the ACLU is suggesting that to the extent that
12 violent video games are not treated the same or violent
13 expression is not treated the same way as obscenity, the
14 supreme court has made it very clear that you have to have
15 both a compelling state-addressed and a narrowly tailored
16 statute.

17 And unless you can do that, it seems very
18 difficult, given precedent, that that can be achieved.

19 REPRESENTATIVE DALEY: And the cases you've
20 cited are -- are any of those cases from Pennsylvania or
21 from any federal or --

22 MR. ROMERO: The first case was from
23 Pennsylvania.

24 REPRESENTATIVE DALEY: And that was from 1942?

25 MR. ROMERO: Nineteen seventy.

1 REPRESENTATIVE DALEY: Nineteen seventy?

2 MR. ROMERO: Correct.

3 REPRESENTATIVE DALEY: And that's the most
4 recent case law you can cite for the panel?

5 MR. ROMERO: Well, with respect to
6 Pennsylvania, that's the one that I was able to come up
7 with. But if you look at the case, it's very similar to
8 the -- the Act No. 100 at issue is very similar to the bill
9 at issue today to the extent that it criminalizes conduct
10 based on a rating system.

11 The only difference is that the designation of
12 the rating system in this particular House Bill goes to a
13 preselected panel of 100 as opposed to an industry standard
14 developed by the Motion Picture Association of America.
15 But otherwise, the standards are pretty much the same.

16 REPRESENTATIVE DALEY: Does the ACLU support
17 any standard whatsoever that would help regulate video
18 games in the hands of children that are violent video
19 games?

20 MR. ROMERO: I don't know what the specific
21 position of the ACLU on that is.

22 REPRESENTATIVE DALEY: So basically, this
23 position is your position; is that correct?

24 MR. ROMERO: Oh, no. I'm here representing
25 the ACLU. And what I was charged to do was to take a look

1 at the law and describe it in a way that we saw the
2 precedent. And I don't know as to the other hypotheticals
3 that you've thrown out what the specific position of the
4 ACLU would be.

5 REPRESENTATIVE DALEY: Does the ACLU have a
6 written position on this issue? Is this position presented
7 today your position on behalf of the ACLU?

8 MR. ROMERO: I'm not sure that I understand
9 the distinction.

10 REPRESENTATIVE DALEY: Well, there is a
11 distinction, and it does have a difference. The
12 distinction is this: Is this position today your position
13 on behalf of the ACLU, or is this a written position that
14 was formulated by the ACLU and you're presenting that
15 position?

16 MR. ROMERO: Let me answer it this way: I
17 drafted this with the -- and it was shared with Larry
18 Frankel, the Legislative Director of the ACLU; and he
19 approved it.

20 REPRESENTATIVE DALEY: So two of you?

21 MR. ROMERO: Correct.

22 REPRESENTATIVE DALEY: Was it voted on by
23 anyone else at the ACLU? Was it presented to the board?

24 MR. ROMERO: No.

25 REPRESENTATIVE DALEY: Thank you. No further

1 questions.

2 CHAIRPERSON BIRMELIN: Representative Masland.

3 REPRESENTATIVE MASLAND: I think you really
4 got into the question. I guess the bottom line is, it's
5 just a question of definition. And the ACLU's position is
6 that it may be possible to craft legislation that does not
7 violate the Constitution, but 1509 does not do that; is
8 that correct?

9 MR. ROMERO: That would be a fair
10 representation. Although, again, I would add that there
11 has not been a case to date that has upheld a violence type
12 statute.

13 REPRESENTATIVE MASLAND: No one else has been
14 able to do that. You cited the judge who said it may not
15 be possible?

16 MR. ROMERO: That's correct.

17 REPRESENTATIVE MASLAND: So the question is
18 whether we can come up with that magic formula?

19 MR. ROMERO: That's correct.

20 REPRESENTATIVE MASLAND: Thank you.

21 CHAIRPERSON BIRMELIN: Representative
22 Hennessey.

23 REPRESENTATIVE HENNESSEY: Thank you, Mr.
24 Chairman. Professor Romero, I'm going to have to hike it
25 back 25 or so plus years to my law school training in terms

1 of constitutional limits of free speech. But I do remember
2 the -- I think it was Holmes who talked about not having
3 the right to yell fire in a crowded theatre.

4 As I remember being taught that concept, there
5 was some indication that the right to free speech carried
6 with it some responsibility. And I guess what seems to be
7 the nub of House Bill 1509 is a feeling on the part of the
8 people that the industry has abdicated its responsibility
9 by portraying excessive violence, graphic violence and yet
10 still wants to hide behind the shield of -- of the First
11 Amendment.

12 I thought the two went hand in hand.
13 Responsible speech was protected. But it seems we've come
14 almost 180 degrees and said to where the industry can say,
15 we can be as irresponsible, as unresponsive to -- to public
16 morality as we wish to be.

17 But we still have the other half of that
18 argument, that other half of the balancing test which is
19 the right to the First Amendment guarantee of free speech.

20 MR. ROMERO: Well --

21 REPRESENTATIVE HENNESSEY: Is there a problem
22 -- I mean, am I missing something? Or maybe you just want
23 to comment on that.

24 MR. ROMERO: I am not an expert on the First
25 Amendment in particular. My area is more the equal

1 protection rights of immigrants. But my understanding of
2 the categories of First Amendment protection and exception,
3 you -- you referred to the don't shout fire in a crowded
4 theatre, for example.

5 And the idea behind that beside from other
6 specific categories of speech that can be regulated, for
7 example, liable obscenity, shouting these fighting words,
8 are that aside from those specific areas, if you're going
9 to have content-based regulation with respect to any other
10 area of speech, that must be subject to the strictest
11 scrutiny.

12 The idea being that whether you characterize a
13 form of speech as responsible or irresponsible is really a
14 lot of times up to the hearer. And so aside and apart from
15 these specific exceptions, the courts are going to look
16 very stringently at content-based regulation such as the
17 one that we have before us in terms of this violent
18 expression bill.

19 I think that the main difference between your
20 example of the fire in a crowded theatre and this
21 particular bill is the question of imminence. I think what
22 Justice Holmes was getting at was that, is there an
23 imminent connection between the speech that is made and
24 some particularized harm that may result.

25 And one could argue that there isn't that same

1 sort of nexus between the language here and the juvenile
2 behavior, the criminal behavior of juveniles.

3 REPRESENTATIVE HENNESSEY: Okay. You had also
4 indicated in your testimony that there was a distinction
5 between violent -- the control -- or whatever controls
6 might exist with regard to the depiction of violent
7 behavior and those controls which exist regulating the
8 depiction of obscenity?

9 MR. ROMERO: That is correct.

10 REPRESENTATIVE HENNESSEY: Are there times
11 when those two categories cross over each other? I mean,
12 are you telling us that you could have a situation of
13 mayhem violence to an animated human -- or realistic human
14 form, dismemberment, torture before dismemberment, and then
15 that would always remain a separate category and not become
16 obscene?

17 Or is there some time when violent behavior
18 itself can be so outrageous that it passes into the realm
19 of obscenity?

20 MR. ROMERO: I think the crux of the obscenity
21 definition has to do with an appeal to -- and the term is
22 this prurient interest, essentially a sex-based interest.
23 And to the extent that that's a requirement under the
24 obscenity category, violence that does not include some
25 appeal to sexual interest is therefore not included under

1 that category.

2 REPRESENTATIVE HENNESSEY: So under
3 traditional American jurisprudence, you're saying that
4 obscenity always has a sexual content?

5 MR. ROMERO: That is my understanding.
6 Correct.

7 REPRESENTATIVE HENNESSEY: In one of the
8 obscenity cases from back in the '40s or '50s, I think one
9 of the justices said, "I can't tell you what obscenity is,
10 but I know it when I see it." Well, is the -- can this
11 panel at some point look forward to a situation where we
12 can simply view a video game and say, My God, that's --
13 that is, you know, unconstitutionally violent or it is -- I
14 mean, I'm seeing it in a much broader sense than -- it just
15 doesn't seem to have any redeeming social value at all
16 except perhaps to the industry who can make money on it.

17 MR. ROMERO: I think unless the supreme court
18 decides to create a separate category called violence, then
19 unfortunately -- or fortunately, depending on your point of
20 view. -- violence will be treated as a separate
21 content-based regulation that is subject to stricter
22 scrutiny than obscenity.

23 So it would have to take the supreme court to
24 say that violence is a category that is not subject to
25 constitutional protection just as obscenity, liable

1 fighting words, et cetera.

2 REPRESENTATIVE HENNESSEY: But until we get
3 some legislation that finds the proper balance and defines
4 violence as a separate category, the supreme court will
5 never be able to pass upon that statute because we won't
6 have passed one?

7 MR. ROMERO: That's my understanding.
8 Correct.

9 REPRESENTATIVE HENNESSEY: Okay. Thank you.
10 No further questions.

11 CHAIRPERSON BIRMELIN: Thank you, Professor
12 Romero. We appreciate your testimony and the fact that you
13 came to share it with us today.

14 MR. ROMERO: Thank you, sir.

15 CHAIRPERSON BIRMELIN: Thank you very much.
16 Our next testifier is Mark Fisher, Vice President of Retail
17 Operations for West Coast Video. And while he's coming to
18 the table, let me also introduce Representative Harold
19 James to my right and behind me. He is the counterpart of
20 my position; that is, he is the Democratic Chair of the
21 Subcommittee on Crime and Corrections.

22 Mr. Fisher, we're eagerly awaiting your
23 testimony because you've been mentioned a few times already
24 today. I don't know if you'll live up to the building or
25 not. But when you're prepared to do so, you may begin.

1 MR. FISHER: Okay. Good afternoon, Mr.
2 Chairman and members of the Committee. My name is Mark
3 Fisher. I'm the Vice President, Retail Operations of West
4 Coast Video headquartered nationally in Langhorne,
5 Pennsylvania. We're a video retail chain of 255 stores in
6 14 states, primarily operating in Pennsylvania,
7 Massachusetts, New York and New Jersey.

8 I also serve on the Government Affairs
9 Committee of the Video Software Dealers Association, VSDA,
10 which is the trade organization that represents the \$16
11 billion home video entertainment industry.

12 Established in 1981 by a group of 24 video
13 store owners, VSDA currently enjoys a membership of more
14 than 3,400 companies that range from thousands of smaller
15 independently owned retail video outlets to large
16 multi-store video store chains. I'm also a proud resident
17 of Newtown Township in Bucks County.

18 Video game rental is an important and ever
19 increasing segment of the video rental business. Between 7
20 and 10 percent of revenues in our stores comes from video
21 game rentals and purchases.

22 When it comes to youth access to these video
23 games, we believe the voluntary rating system supported by
24 the Entertainment Software Rating Board provides parents
25 currently with the most reliable information for making

1 decisions about their children's play.

2 We firmly believe that parents, not the
3 government, know what forms of entertainment are suitable
4 for their own children. VSDA also believes that we should
5 provide parents with all available information about our
6 entertainment products to help them make informed and
7 appropriate choices for their children.

8 To that end, I'd like to take a moment to tell
9 you about VSDA's Pledge to Parents which was implemented in
10 1991. It's a policy of VSDA member stores participating in
11 the Pledge to Parents Program not to rent or sell video
12 tapes or video games designated as restricted to persons
13 under the age of 18 without parental consent, including all
14 movies rated R by the Motion Picture Association of America
15 and all video games rated M by the Entertainment Software
16 Rating Board.

17 It is also the policy of these Video Software
18 Dealer Association member stores not to rent or sell video
19 tapes rated NC-17 by the Motion Picture Association of
20 America or video games rated Adult Only by the
21 Entertainment Software Rating Board to persons under the
22 age of 18.

23 The manner in which parental consent may be
24 given varies according to the method that works best for
25 each retail store. For example, some video retailers allow

1 the parents to designate restrictions or permissions in
2 their computer-based membership files as we do in our
3 stores.

4 In addition to voluntarily restricting minors'
5 access to certain video games and video tapes, some video
6 retailers may make a determination that other video tapes
7 and games, including those that are not rated by the MPAA
8 or the ESRB, should not be rented or sold to minors without
9 parental consent.

10 Our store employees are members of the
11 community. We have a responsibility to the communities
12 that we operate in. Our store managers most often live in
13 the communities that they operate in. They know their
14 customers by name.

15 Our customers are our neighbors. We take
16 pride in our entertainment offerings, and we realize that
17 our reputation is on the line every time we rent a game or
18 a movie. Bottom line, our ultimate goal is repeat
19 customers, and we can't meet that objective by renting
20 inappropriate games to children.

21 We believe the nearly decade old Pledge to
22 Parents Program demonstrates VSDA's strong commitment to
23 serving our communities. But we also recognize that we
24 need to do a better job educating our customers and parents
25 about the video game rating system and other content

1 information available to them.

2 You have my pledge that in the months ahead,
3 VSDA will launch programs to publicize the Pledge to
4 Parents Program and better familiarize our customers with
5 the video game rating program. We believe this kind of
6 voluntary industry-led programming can make a difference.

7 I understand, however, that there have been
8 bills introduced that would impose rating schemes and
9 criminal liability on video stores and other retail
10 establishments. I have several concerns about such
11 legislation.

12 First, many mainstream video games that are
13 socially acceptable to the majority of Pennsylvania
14 residents could be the focus of prosecution brought against
15 video stores. The cost of fighting such prosecution would
16 undoubtedly force most video stores, particularly small
17 independent-owned stores, to close their doors.

18 Second, to avoid the likelihood of criminal
19 prosecution, video stores may be forced to carry only the
20 mildest video games that don't fall within the broad
21 definition of violent behavior in legislation bills like --
22 legislation like House Bill 1509 and Senate Bill 960.

23 The threat of prosecution, conviction, fines
24 and imprisonment, as well as the potential for negative
25 publicity simply outweighs the risk of keeping many video

1 games in stock. As a result, customers, including adults,
2 could be denied access to many of the popular video games
3 they now enjoy.

4 The impact of such a reduction in stock on
5 Pennsylvania's video stores would be hard felt, possibly
6 even forcing some stores to reduce their staff or maybe
7 make a difference in their ability to remain in business.

8 Thank you very much, Mr. Chairman, and members
9 of the Committee. I'd be happy to answer any questions you
10 might have.

11 CHAIRPERSON BIRMELIN: Thank you for your
12 testimony. And there are some members of our panel who
13 would like to ask you some question, and I'll start with
14 Representative Daley.

15 REPRESENTATIVE DALEY: Thank you, Mr.
16 Chairman. Sir, you're aware that House Bill 1509 does not
17 interfere with parental rights to give these -- their
18 children any video games they choose?

19 MR. FISHER: I do understand that the bill
20 would allow games as rated to be rented by the parents.
21 Certainly. I do understand that.

22 REPRESENTATIVE DALEY: And it appears from at
23 least your last three pages that one of the bases for
24 consideration for this Committee to take in consideration
25 for an analysis of this bill at least to vote on this bill

1 would be that its financial impact upon defending any
2 litigations may be brought against the video store as well
3 as the loss of business that may be generated by taking
4 these types of titles off the shelf or, in the alternative,
5 restricting to sell some of these videos or rentals of
6 these videos by children?

7 MR. FISHER: Let me again say that our goal --
8 I know that we can do better. And we as an industry can
9 and will do better at educating the consumer and at
10 self-restricting the rental of product. But please
11 recognize that a -- that punitive damages, if -- would
12 punitive damages have -- would punitive damages -- would
13 punitive damages actually restrict a minor from renting the
14 game and if action had been taken based on that game -- and
15 I'm not saying that -- and I don't know -- I'm certainly
16 not a child psychologist.

17 I certainly don't know that there's a cause
18 and effect. But if there was a cause and effect, would
19 punitive damages have stopped the child from renting the
20 game? Punitive damages wouldn't have done that. Punitive
21 damages would have made the video retailer perhaps a bit
22 more careful but not more careful than we'll be able to
23 make the video retailer.

24 REPRESENTATIVE DALEY: I'm kind of confused.

25 MR. FISHER: I may have --

1 REPRESENTATIVE DALEY: Yeah. I'm kind of
2 confused by your use of the word "punitive damages." I
3 don't think that this -- I mean, if you're talking about
4 financially punishing someone by levying a fine against
5 them, assessing a fine for violation of this law, I don't
6 think that that's a fine, and/or some other consequences as
7 set forth by it being a third degree misdemeanor.

8 I don't think punitive damages, in the
9 broadest legal sense, would be applicable here unless
10 there's some sort of civil litigation in which punitive
11 damages may be awarded. So I just want you to understand
12 there's a difference between punitive damages and fines
13 assessed by this legislation. I don't think I have any
14 other questions. Thank you.

15 CHAIRPERSON BIRMELIN: Representative Browne.

16 REPRESENTATIVE BROWNE: Thank you, Mr.
17 Chairman. Thank you for taking the time to testify --

18 MR. FISHER: Sure.

19 REPRESENTATIVE BROWNE: -- in front of us
20 today. The issue I sort of have with self -- I guess
21 self-regulating in terms of the overall industry, I know
22 that in most cases you're going to have a situation where a
23 franchisee is a member of the community and they're
24 responsible business owners. That's going to be the large
25 majority of the circumstances.

1 But there is a possibility that someone who
2 has financial difficulties or looking to expand its --
3 their market would resort to doing things that would be
4 outside of industry standards. What would the industry do
5 in the case of such retailer in terms of self-regulating to
6 make sure that didn't happen?

7 MR. FISHER: I don't know that I can answer
8 that. I don't know that the industry, frankly, has the
9 ability to take sanction. But again, recognize that the
10 consumer ultimately makes a decision. Video stores are
11 local community stores.

12 And the consumer will ultimately make the
13 decision. If the consumers in the community find a store
14 to be not responsible, that store won't be the success in
15 the marketplace and probably won't last.

16 REPRESENTATIVE BROWNE: How would the -- how
17 would that information get out that a store was being
18 irresponsible, would it just be the fact that the parent
19 found out the child purchased or rented the video game?

20 MR. FISHER: Yes.

21 REPRESENTATIVE BROWNE: Does the Motion
22 Picture Association of America have any voluntary sanctions
23 against the theatres that don't comply with their rating
24 system?

25 MR. FISHER: I can't answer that question. I

1 don't know.

2 REPRESENTATIVE BROWNE: And it's only -- the
3 only real concern I have in regards to the voluntary rating
4 is the level of deterrence. One thing that government does
5 is that it has penalties for noncompliance with statutes
6 and regulations.

7 And the penalties are not really there to
8 penalize. They're there to deter any unlawful or
9 inappropriate activity. And if there's no downside risk at
10 all for any retailer -- no matter how rare it might be --
11 for any retailer to do something that would be outside of
12 industry standards, I think there's a potential loophole.
13 And it's something that this legislation does try to
14 address.

15 MR. FISHER: Again, I do believe that there is
16 a long-term downtime and I'd say a more short-term -- in
17 today's day and age -- downside risk to the retailer for
18 simply not being the retailer of choice in the community.

19 REPRESENTATIVE BROWNE: Thank you very much.

20 CHAIRPERSON BIRMELIN: Representative
21 Hennessey.

22 REPRESENTATIVE HENNESSEY: Thank you, Mr.
23 Chairman. Thank you, Mr. Fisher. West Coast Video, does
24 -- does the company have a policy with regard to requiring
25 a full range of videos to be stocked by its franchisees?

1 MR. FISHER: I can't answer that question. I
2 run the retail operations division. I run the retail
3 operations division, the corporate-owned stores. I can't
4 answer a question regarding our franchisees, our policy on
5 franchisees. I don't believe that's the case.

6 REPRESENTATIVE HENNESSEY: In terms of --
7 well, let me ask you this. If I was a franchisee of West
8 Coast Video and I chose to simply not stock certain videos,
9 either video games or films because I chose -- I personally
10 found them to be offensive, would I be required -- or would
11 there be any sanctions from West Coast Video against me as
12 a store owner or operator?

13 MR. FISHER: No, there wouldn't.

14 REPRESENTATIVE HENNESSEY: So if a West Coast
15 franchisee says that it doesn't want to have a -- an adult
16 film section in its store, that's an acceptable alternative
17 to West Coast Video and you wouldn't punish the --

18 MR. FISHER: Again, sir, I run the store
19 operations, our corporate-owned stores. I don't believe
20 so, no. I can't answer that question directly.

21 REPRESENTATIVE HENNESSEY: Okay. The
22 corporate-owned stores uniformly from West Coast Video have
23 an adult section?

24 MR. FISHER: No, sir.

25 REPRESENTATIVE HENNESSEY: They don't?

1 MR. FISHER: No.

2 REPRESENTATIVE HENNESSEY: Can you tell us
3 what the policy is with regard to whether they do or do
4 not?

5 MR. FISHER: Our policy is truly based on our
6 expectations of community interest. And if there's what we
7 believe to be a demand for product -- or a demand for
8 product in a certain geographic area and our store size is
9 large enough, then we put an adult department in that
10 store. In others, we don't. It's a store-by-store
11 decision.

12 REPRESENTATIVE HENNESSEY: You told us at the
13 bottom of page 3 of your testimony that some retailers can
14 make a decision on their own as to whether or not certain
15 video tapes or games should or should not be rented to
16 people without parental consent?

17 MR. FISHER: That was specifically directed
18 regarding nonrated games that aren't -- games that aren't
19 currently rated.

20 REPRESENTATIVE HENNESSEY: Do you allow your
21 store owners to simply not stock some of the more
22 accessibly violent films?

23 MR. FISHER: Again, I can only go back to our
24 corporate stores where we direct basically general product
25 going into stores. And again, it's a -- a buyer

1 store-by-store decision based on the demand and types of
2 product that are rented in each individual store.

3 REPRESENTATIVE HENNESSEY: I guess what I'm
4 getting at is if you -- if West Coast Video recognizes the
5 right of individual retailers to simply make their own
6 decision that they will not rent certain types of games or
7 carry them in their stores, then obviously those retailers
8 have certain rights in a sense of private censorship over
9 what their customers will be able to access in their store?

10 MR. FISHER: Frankly, in our corporate stores,
11 most popular games are in fact in stock and rented. But
12 our store staff certainly takes the community
13 responsibility to ensure that those games are only rented
14 to adults.

15 REPRESENTATIVE HENNESSEY: Okay. Well, we've
16 heard from an earlier witness that there aren't really any
17 consequences if you violate that rule. Is there a
18 different policy in West Coast Video?

19 MR. FISHER: There are in our company,
20 certainly. If I find out -- we recently embarked on a
21 mystery shopper program to look at this situation as well
22 as a number of others. If I were to find out that a store
23 employee in fact did rent an adult rated video game or a
24 mature rated video game or an adult rated tape, for that
25 matter, to an underage consumer, normal disciplinary would

1 be taken.

2 The person would be documented, suspended, and
3 second time out be terminated. We do take that seriously.

4 REPRESENTATIVE HENNESSEY: While you recognize
5 the right of some individual retailers to pass upon the
6 appropriateness or inappropriateness of some of the stuff
7 that they will rent out to the public, West Coast Video
8 provides it all and that's the choice of the individual
9 retailer?

10 MR. FISHER: No. West Coast Video, we operate
11 stores. We have 255 corporate stores that we in fact run.
12 We are the retailer.

13 REPRESENTATIVE HENNESSEY: Well, you say --

14 MR. FISHER: I'm sorry. I didn't understand
15 the question.

16 REPRESENTATIVE HENNESSEY: You said some video
17 retailers can make a determination that some types of video
18 tapes and games, including those that are not rated, should
19 not be rented so --

20 MR. FISHER: I'm sorry.

21 REPRESENTATIVE HENNESSEY: I'm assuming they
22 can choose not to carry certain lines.

23 MR. FISHER: I'm making that statement on
24 behalf of the VSDA retailers throughout the country, not
25 West Coast Video retailers.

1 REPRESENTATIVE HENNESSEY: Okay. But you
2 would still recognize West Coast's right to not carry
3 certain lines if it chose not to do so?

4 MR. FISHER: Correct.

5 REPRESENTATIVE HENNESSEY: And -- all right.
6 Never mind. Thank you very much.

7 MR. FISHER: Certainly.

8 CHAIRPERSON BIRMELIN: Thank you, Mr. Fisher.
9 We appreciate your testimony --

10 MR. FISHER: Sure.

11 CHAIRPERSON BIRMELIN: -- and for taking the
12 time to be with us today. Our next testifier is Frank
13 Cervone. He's an attorney and an Executive Director for
14 the Support Center for Child Advocates. Mr. Cervone,
15 welcome to the House Judiciary Subcommittee on Crime and
16 Corrections. And when you feel comfortable, you may begin
17 to give your testimony.

18 MR. CERVONE: Thank you for having me today.
19 The Support Center for Child Advocates is Philadelphia's
20 lawyer pro bono program for abuse and neglected children.
21 We offer the skills and dedication of lawyer-social worker
22 teams, and we represent more than 550 children each year.

23 Our work is focused in four core programs:
24 Abuse and Neglect, Medically Needy Children, Kinship Care,
25 and Adoptions. All of our children are children of

1 poverty. For more than 20 years, we have served as a
2 resource to this Legislature and to the staff; and I thank
3 you for the invitation to serve in this role once again.
4 When asked, we attempt to offer to you a balanced, candid
5 and constructive assessment of what our children need and
6 how we're all doing for our kids.

7 The video game violence bill leaves some folks
8 shuddering at the violence that our young people face in
9 this violent world of ours and others snickering at the
10 intrusion to which it aspires. I confess to some of each
11 response myself.

12 I think this bill works to a noble purpose, a
13 nonviolent childhood. Though commendable, the bill misses
14 the mark with its focus on a few videos reprehensible as
15 their content may be. I suggest you look at a broader,
16 heavier kind of question. What's violence?

17 Is it what 100 of us today or at some point in
18 the future would say it is? If we were truly committed to
19 eradicating the violent influences in our culture, we might
20 take on more and different bills.

21 Children who are beaten by parents at their
22 wits end; children abused or neglected by parents and do
23 not see or know a healthy response to their children's and
24 their own needs; gun battles on the streets of
25 Philadelphia; violence learned from other youths and from

1 drug dealers, not from videos; the violence of the slow
2 death to poverty from facing work without job skills, from
3 raising a family on 6 bucks an hour or \$11,000 a year, from
4 starting out young behind the curve never getting the help
5 to catch up. These are the forms of violence that concern
6 me.

7 Consider yesterday's Philadelphia Inquirer
8 story which I've reproduced for you in the back of the
9 comments. They quote the study of the Casey Foundation
10 Kids Count, a very reliable source of -- of statistics on
11 kids. Despite the economic good times, 9.2 American
12 children, 1 in 7, are in serious distress and at risk of
13 having continuing problems later in life.

14 This should be our concern. Where would you
15 draw the line on violence? What will be banned? Professor
16 Romero addressed the significant civil liberties problems
17 with this bill. I heard in the tone of some questions a
18 certain cynicism about his position.

19 I'm not here to talk about civil liberties but
20 really about the impact on children. But I would flag for
21 you this historical trend that in the present moment most
22 flags about civil liberties are looked down upon. And it's
23 only in the retrospective years that we find respect for
24 that.

25 I call your attention to the other part of the

1 same line that you would draw, the behaviors that will be
2 validated when we begin to proscribe the most extreme forms
3 of violence. For example, the bill says, quote, the
4 graphic depiction of violence.

5 Where will the censors draw the line? And
6 what would get by the censors' screen, the killing without
7 blood, the body blow without death? If I got up today and
8 socked somebody, we'd call that violent. I'd get arrested.
9 That's nowhere close to what this bill would proscribe, of
10 course.

11 What forms of killing are not violent? What
12 level of child pain and child neglect and child poverty
13 will we tolerate? I venture the prediction that screening
14 out of so-called graphic forms of violence would let in
15 many dangerous and influential effects.

16 The flag you would place on the most heinous
17 violence is likely to allow into our psyche, to our culture
18 and to our video stores less dramatic but just as traumatic
19 forms of violence. This is a disconnect. This process of
20 rating videos as acceptable only for adults could actually
21 validate all of the rest of this violence.

22 Is this the standard we're likely to accept as
23 efficient, and is this any way sufficient to achieve your
24 noble end? We're likely to continue to tolerate
25 innumerable forms of violent, hurtful human interactions.

1 We teach and glorify boxing.

2 We take our kids to gruesome wrestling
3 matches. Spectacles they are, absurdities. We find
4 hunting to be an all-American sport. We view the harassed
5 child as weird and whining, the bully as youthful and
6 exuberant, as a case this week in Bucks County.

7 We're a community that thinks it is okay, even
8 necessary, to physically discipline our children. We give
9 guns as toys to the smallest children, and then we smirk at
10 the critics of such practices, do-gooders or radical gun
11 control freaks.

12 We are a culture that is at best ambivalent
13 about violence. What would a group of 100 likely exclude
14 from their proscription and thus imply to be okay? By
15 contrast, some communities truly tackle the problem. They
16 dialogue with their troubled youth in youth aid panels and
17 community groups.

18 Quaker schools so value -- I'm not a Quaker,
19 and I'm not here to promote Quakerism per se. But I found
20 this fascinating. -- Quaker schools so value the person
21 that they respond to the smallest abruption in the
22 community of the school.

23 I heard of one class that was called to
24 reflect as a group to a child who had pulled the petals
25 from another child's flowers. Why aren't we having a

1 hearing today about relationships? I believe that what you
2 are really after is the violation of relationship that
3 comes from youthful violence.

4 The need for recognition, the estrangement and
5 isolation that many young people feel today, the premature
6 feeling of independence we promote so well that young
7 people need to learn to make it on their own. This all
8 sounds too soft, too feminine, too much about values. We
9 giggle.

10 And indeed, the answer lies not in
11 proscription but in engagement. This is the problem you
12 should take on with the conviction and candor with which
13 you address the task. We're far too downhill on the
14 slippery slope of violence in human conduct to arrest the
15 slide of our culture with a video rating system.

16 I fear we tell ourselves, as we often do in
17 the legislative process, that we have done something
18 meaningful, something important for our children when we've
19 really done very little at all. I urge you to get honest
20 with the epidemic of violence in our culture, in our
21 communities, in our families.

22 Is this a good start, as Dr. Ragusea suggests?
23 I don't think so. My friends and I often come to ask you
24 for support for programs for kids. And so I ask a simple
25 numbers questions. What will \$3 million buy? At 30 bucks

1 an hour per total cost of service, that's 100,000 hours.
2 It's not a small budget, indeed, for any kind of program
3 planner.

4 What kind of engagement, what kind of
5 character development, to use Colonel Grossman's word,
6 could you get for your money? 100,000 hours of Head Start
7 for young kids or for peer mediation for school conflicts;
8 100,000 hours of quality day care where children can learn
9 to respect each other; 100,000 hours of crisis intervention
10 or treatment services or group work for youths who feel
11 disaffected; 100,000 hours of school social work now
12 nonexistent in many school districts; 100,000 hours of
13 youth groups and outreach to those marginalized kids
14 hanging out in the video arcades.

15 Perhaps this is discomfoting, but our
16 hypocrisy runs deeper than videos. If you want to make a
17 difference in the violence our children experience and
18 perpetrate, get the guns out of the hands of our children.
19 Pass meaningful gun control legislation.

20 Allow Philadelphia to govern the sale of
21 handguns in its boundaries. Let go of the fear that sport
22 uses of guns will lose their freedom. Reject the specious
23 argument about our right to bear arms. It's the easy
24 availability of guns that is doing the most violence to our
25 kids.

1 I note that the bill's criteria on sexual
2 conduct is easier to accept and probably easier to label.
3 But look at what is glorified on daytime television and ask
4 yourself, What do we really care about? What are we really
5 concerned about about our children's values?

6 What makes our children do the things they do?
7 Children, like adults, act out of need. They're born to
8 learn. Is there a connection between what they see and
9 what they do? Sure there is. It's silly to think
10 otherwise.

11 The research may be unclear on videos, but
12 there appears to be some correlation in the report and
13 literature between how some children -- between some
14 children's exposure to violence and their own behavior and
15 world view. Perhaps we need more research.

16 But if you really believe there's a
17 connection, then get honest about all the bad things we're
18 teaching and tolerating. Don't respond to the few
19 tragedies that are grasping for your attention and your
20 heart. Instead, understand how and why children act.

21 Respond to those needs up front, not with
22 penalties but with engagement. We've learned this before.
23 For sexuality, the answer does not lie in hiding the
24 condoms or whispering about sex. For alcoholism in the
25 family, the answer is not to keep kids away from the truth

1 or from locking up the liquor cabinet.

2 For teen smoking, we've had bans on the sale
3 of cigarettes to minors for two generations. I remember
4 the labels as a little kid on the machines as I used to go
5 buy the cigarettes for my uncle. Yet as adults, we
6 continue to drink and smoke and fight into our own
7 oblivion.

8 Parents can and should restrict their
9 children's access to some forms of entertainment but mostly
10 in the context of their relationship, not from a civil
11 rights perspective but because that's what works.

12 The popular radio psychologist Dan Gottlieb
13 this week had some suggestions for parents which you might
14 emulate in legislation and funding support. Spend more
15 time with your kids. Find out about their lives and values
16 and don't just share yours.

17 Be aware of what they watch on television, at
18 the movies and videos and which of those they -- which of
19 those are violent. If they seem violent, go watch it with
20 them and talk about what it means. Teach them directly
21 about how to handle their emotions, especially their anger.

22 From infancy, be a role model for compassion.
23 Racial, ethnic, and sexist jokes are not funny. They are
24 mean. Teach children how to work with and for justice.
25 When you see something that troubles you, whether it's

1 injustice of poverty or the proliferation of guns, become
2 active. Show kids that it's good to be involved. It
3 diminishes the chances of their feeling alienated as they
4 grow up.

5 There will be more violence indeed, as
6 Representative Daley suggests, on and among our children
7 until we get honest about the real causes and about our
8 response. In our work, we see children victimized by
9 violence in their homes. But statewide it's still hard to
10 find an effective treatment, a skillful treatment program
11 for parents and their children who are exposed to violence.

12 We find that most folks are horrified by the
13 plight of children, and yet most folks don't want to get
14 too close because the reality brings upset and fatigue. We
15 find it hard to get others to take seriously the depth of
16 violence in our own lives and the lives of others.

17 I commend your threshold of sensitivity, from
18 the bottom of my heart I do. Finally someone has seen what
19 we have seen so broadly and so pervasively for so long.
20 And of course, children should not see this trash. But the
21 video games initiative may indeed be the wrong step that
22 will lead -- that will allow violence to continue to grow.

23 The test question for me is -- it kind of
24 purifies one's motive. -- how do you feel about toy guns
25 for little kids? If you can get at that, then we can get

1 at the real violent stuff that you're concerned about.

2 Thank you for your interest in children.

3 CHAIRPERSON BIRMELIN: Thank you for your
4 testimony, Attorney Cervone. And I'll turn the questioning
5 over at this point to Representative Daley.

6 REPRESENTATIVE DALEY: Thank you, Mr.
7 Chairman. Attorney Cervone, in a larger sense, I
8 understand your testimony and the issues that
9 philosophically you're trying to present to all of
10 Pennsylvania regarding children and our responsibility to
11 deal with them in a more social redeeming way.

12 And I understand that what your -- you're the
13 Executive Director for the Support Center for Child
14 Advocates, and you do a tremendous job. However, I think
15 either you are not addressing specifically House Bill 1509
16 or that you're trying to web a weave of philosophy around
17 1509 regarding your own philosophies.

18 In any sense, I have a couple of questions for
19 you. You say that rating violent -- you say that rating
20 video games validates other forms of violence. And it's
21 sort of an inverse psychological profiling you're trying to
22 do here. Does that mean gun control validates knives and
23 fists?

24 MR. CERVONE: No, certainly not.

25 REPRESENTATIVE DALEY: I had the same response

1 when you asked us the question. Does regulation of child
2 access to alcohol, tobacco or pornography validate these
3 substances?

4 MR. CERVONE: Our treatment of those
5 substances validates those substances. Our treatment --
6 our broad scale treatment -- I don't find this
7 philosophical at all. I don't think I was here to make a
8 philosophical argument at all.

9 I'm talking about kids who smoke, about kids
10 who use knives on each other, about kids I know. I don't
11 think that's philosophical at all, Representative. I think
12 that -- that regulations are important. And I think that
13 some regulation of the -- of these videos is important.
14 And not only that, it's critical.

15 REPRESENTATIVE DALEY: But do regulating
16 children's access to pornography and tobacco and alcohol
17 validate those substances? And actually, it does not, does
18 it?

19 MR. CERVONE: Oh, I get it. Now I get it
20 exactly.

21 REPRESENTATIVE DALEY: Okay. I think that's
22 what your question is here.

23 MR. CERVONE: No. No. If I may, see if I get
24 it. We restrict a child's access to pornographic material.
25 Does that validate that material? No. What it does is

1 validates most behavior up to that line. When we create
2 bright lines, we invite folks up to the line.

3 And adolescents are best at running up to the
4 line. It's what they do to learn how to be independent.
5 They jump across the line and jump back all the time in all
6 sorts of ways. I mean, precisely what I'm talking about
7 are the forms of violence, the fighting, the -- that would
8 not fall under this bill, by any measure would not fall
9 under this bill but that most of us would find intolerant
10 in our own family life.

11 And yet we don't flag those. In fact, we --
12 we snicker at them. Oh, that's just boys being boys.

13 REPRESENTATIVE DALEY: But I think your
14 comment was -- and maybe I'm not understanding what you
15 have written or said. -- that by limiting children's access
16 to certain violent acts, it in essence validates those acts
17 for those children as adults?

18 MR. CERVONE: No, I didn't mean validates
19 those acts. I meant -- I believe I said -- and I'll try to
20 be more clear. -- validates similar acts short of the line.
21 A phrase was used earlier -- I'll give an example. I
22 believe it was in the Colonel's very effective testimony
23 that the machine that teaches a kid and a soldier how to
24 shoot.

25 I think of all of the different devices that

1 I've seen and used that teach how to shoot, and I think of
2 all the targets in those shooting games that were human.
3 Now, are they more human because they're three-dimensional
4 and bleeding? Certainly.

5 But did we not teach -- do we not teach
6 something about how to kill and how to shoot in video
7 arcades of a lesser sort and at carnivals since time in
8 memorial. And we have not named those forms of violence as
9 problematic.

10 We -- and this is where I think the trip wire
11 of your use of the word philosophy is. I wasn't here to
12 talk about gun control per se or to talk about the violence
13 and the death penalty or a lot of other things that I
14 believe about.

15 That's not what I was here to talk about, and
16 I don't believe I did. I tried to address 1509 on point.
17 You would draw a bright line, and your belief is that that
18 bright line will prevent some forms of conduct. I'm
19 suggesting to you the obverse of that coin.

20 It will invite some other forms and promote
21 slightly lesser violent forms of conduct.

22 REPRESENTATIVE DALEY: My last question, Mr.
23 Chairman, do you support the child's right to practice
24 killing human beings in a local arcade?

25 MR. CERVONE: Not for a million dollars.

1 REPRESENTATIVE DALEY: Thank you.

2 CHAIRPERSON BIRMELIN: Thank you, Mr. Cervone.

3 We appreciate your coming here this afternoon and giving
4 your testimony. Thank you for being here.

5 MR. CERVONE: Thank you.

6 CHAIRPERSON BIRMELIN: Our next testifier is
7 Susan Houghton. She's the Treasurer for the Pennsylvania
8 State Education Association. Ms. Houghton has a packet
9 that has been prepared for the Committee members, and
10 included in that is her testimony.

11 Ms. Houghton, welcome to our Committee
12 meeting. And when you're prepared to do so, you may give
13 your testimony.

14 MS. HOUGHTON: Thank you. Good afternoon. I
15 am Susan Houghton, Treasurer of the Pennsylvania State
16 Education Association representing more than 143,000
17 members. I would like to take this opportunity to thank
18 Representative Birmelin and the other members of the
19 Subcommittee on Crimes and Corrections for allowing me to
20 speak today.

21 PSEA is also affiliated with the National
22 Education Association representing more 2.2 million members
23 nationally. Our membership represents a cross section of a
24 full range of school employees from across the state who
25 will potentially receive the benefits of this proposed

1 legislation when working with students who have not been
2 subjected to countless hours of violent video games.

3 As PSEA treasurer, I have covered the state in
4 scores of meetings with members who share many of the
5 concerns of the legislators and parents on the topic of
6 school violence and how we can reach the root causes of
7 this phenomenon.

8 We at PSEA are aware that the establishment of
9 a uniform rating system for video games, one of the
10 provisions of this proposed legislation, is an idea that
11 has gained increasing popularity across the nation. It is
12 important that efforts undertaken here are consistent with
13 the efforts of other states and the federal government.

14 The production and distribution of video games
15 is a massive industry. Any rating system enacted in
16 Pennsylvania will have potentially far reaching application
17 and impact outside the state. Likewise, legislative and
18 other collaborative efforts among law makers and the
19 entertainment industry, particularly at the federal level,
20 need to be considered in Pennsylvania.

21 How to deal with aspects of the possible
22 impact of violent video games readily available to many
23 youth of various ages is addressed in our PSEA's Change
24 That Works. For your convenience, I have included a copy
25 of the packet of materials that we have prepared for you.

1 In Change That Works, the section on Safe
2 Schools recognizes that schools and their communities
3 should equally share three broad responsibilities: Provide
4 a safe school environment; two, reexamine programs to be
5 sure that they support long-term family and educational
6 needs for prevention rather than just intervention; and
7 three, demand and achieve a strong and consistent
8 disciplinary expectation for every student.

9 Additionally, PSEA's Task Force on Violent and
10 Disruptive Students, a statewide committee of public school
11 teachers, researched the issues relating to school
12 violence. Again, for your convenience, I have included a
13 copy of the Task Force report in the packet that we have
14 prepared.

15 The Task Force recommended early intervention
16 by means of a reporting system that assures disruptive
17 behavior is noted as soon as possible and is communicated
18 to guidance counselors, home and school visitors, parole
19 officers and the administration.

20 These broad responsibilities and
21 recommendations serve to underscore the collaborative and
22 prevention efforts in the whole community that will be
23 necessary to successfully counter any possibly negative
24 influences on the learning process such as students viewing
25 violent video games.

1 In today's society, the schools and families
2 will have to work together closely to prevent violence, to
3 monitor its existence and provide early interventions, and
4 to reinforce a comprehensive approach of discipline that
5 links the home and the school. Legislative proposals such
6 as this, if enacted responsibly, can represent the whole
7 community's effort to provide a comprehensive safe school
8 environment.

9 Recent discussion within our teacher ranks
10 concerning this proposed legislation raised many thorny
11 legal issues that must be addressed. These include
12 considerations such as conflicts with First Amendment
13 rights, rights to interstate commerce for regulating video
14 game sales, selection of the appropriate mix of panel
15 members, et cetera.

16 Our consensus is that this issue needs to be
17 addressed. Additional information needs to be obtained on
18 this issue and processed thoroughly before a bill is
19 created. At this time, PSEA can support the broad
20 legislative intent of House Bill 1509 to provide parents
21 with a reasonable tool to assist in guiding impressionable
22 youth through the years of video game viewing.

23 Providing a general rating system for video
24 games and monitoring their sale, rental and use can be a
25 prevention tool. Because many video games are viewed in

1 homes on TV monitors, the rating of video games may also
2 favorably influence home TV viewing generally.

3 PSEA's support is consistent with the position
4 of the NEA at the national level regarding the adoption of
5 a video rating system as a tool for teachers and parents.
6 As early as 1988, the National Coalition on Television
7 Violence reported on the potential negative impact of video
8 games on school-age children.

9 Over the years, NCTV has generated information
10 supporting their opinion that viewing violent video games
11 and TV is linked to increased aggressive and violent
12 behavior in school-age youth. While scientific research on
13 this topic is ongoing and not totally conclusive, a
14 consensus seems to be developing that violent video games
15 like violence on TV does have an impact on the effect and
16 behavior of school-age children.

17 How adverse or positive, how long the effect,
18 and how the effect is formulated in the mind of an
19 individual all remain a mystery. What is clear is that our
20 experience as a violence acted out in the schools and the
21 highest levels of interest in violent video games rests
22 with male students.

23 Likewise, males spend more of their time
24 playing arcade videos -- video games. Support is growing
25 for the notion that there is a correlation between viewing

1 aggressive behavior and the aggressive behavior itself.
2 While we have primarily seen males acting in aggressive
3 ways, we cannot eliminate the possibility of females acting
4 out in similar ways in the future.

5 Although educational and psychological
6 research on the effects of viewing violent videos is not
7 conclusive or delineating the behavior of young people who
8 have watched many hours of violent videos, common sense
9 suggests that surely there are parallels to TV or motion
10 picture viewing.

11 Research in this area shows that extended
12 viewing of violent material results in a tolerance for acts
13 of violence. For many youth, viewing violent video games
14 will result in the same desensitization that occurs from
15 watching violent TV or motion pictures.

16 With the assistance of this proposed
17 legislation or other similar legislation, parents can work
18 collaboratively with teachers by preempting the viewing of
19 violent videos. We will need tools like this legislation
20 coupled with strategies to limit and monitor video game
21 selections according to the developmental level of the
22 viewer.

23 Also, monitoring the game content may be as
24 important as the parental monitoring of TV privileges. No
25 matter how you view this issue, it will come down to a

1 collaborative effort from the whole community if we are to
2 be successful.

3 The legislature can do its parts. I look
4 forward to answering any questions that the members may
5 have.

6 CHAIRPERSON BIRMELIN: Thank you, Ms.
7 Houghton. Just out of curiosity, you're listed as the
8 Treasurer for PSEA. And I was just wondering if you
9 perhaps wear two hats or -- you obviously do more than just
10 be the Treasurer.

11 You've been asked to come here to present
12 PSEA's position on this. Do you have any firsthand
13 experience working on this issue?

14 MS. HOUGHTON: Yes. I am currently on leave
15 -- full-time leave of absence from the Central Dauphin
16 School District where I teach 5th or 6th grade, depending
17 on the year, at South Side Elementary School which is right
18 outside of Harrisburg.

19 CHAIRPERSON BIRMELIN: Just one other question
20 for you. Your statement says that the PSEA broadly
21 supports the concept, as is noted in one of your
22 paragraphs. They also raise the issue of constitutional
23 questions, et cetera.

24 Is your organization doing anything
25 specifically on this particular legislation or the concept

1 of legislation? I obviously didn't read your Task Force on
2 Violent Disruptive Students so I can't -- maybe you can
3 answer it from that.

4 But does the PSEA take a position specifically
5 on what legislation they think can or should be passed by
6 this General Assembly to help?

7 MS. HOUGHTON: We have not officially taken a
8 position on this legislation nor are we doing any action on
9 it. However, we do see the relationship between videos,
10 television and the movies and the effect they have on this
11 behavior, especially as an elementary teacher watching it
12 on the playground and a variety of other places, on busses
13 and so on.

14 So I am well aware of the effect. But as far
15 as us taking a position and really moving forward, not yet.
16 I guess what we want to see is a variety of things. But we
17 have no problem with the legislation as it is right now.

18 CHAIRPERSON BIRMELIN: And myself having been
19 a teacher, although on the high school level, some of that
20 is acted out there as well I might add. But it's not very
21 difficult, and it doesn't take a lot of common sense to see
22 the connection between what the child has seen the night
23 before on TV and is acting out in the classroom and the
24 playground and whatever.

25 And I think the observation of many of our

1 teachers will be helpful in this process. And I want to
2 thank you for your testimony today. There are no other
3 members of the Committee that wish to ask you any questions
4 so we want to thank you very much for coming.

5 MS. HOUGHTON: Okay. Thank you.

6 REPRESENTATIVE DALEY: Mr. Chairman, just
7 quickly.

8 CHAIRPERSON BIRMELIN: I take that back.
9 There is one other member that has a question for you.
10 Representative Daley.

11 REPRESENTATIVE DALEY: More of a comment. I
12 want to thank you for your attendance today. And we look
13 forward to your participation in the formulation of this
14 issue as it progresses through the Judiciary Committee and
15 the floor of the House.

16 We know that this bill is not in its final
17 form, of course. This is, I think, a good first step. And
18 as a former middle school teacher, I too saw those types of
19 games -- even though they were not as pervasive when I was
20 teaching school as they are today. -- being acted out on
21 the playground and in the halls and in the classroom. So I
22 want to thank you for your testimony.

23 MS. HOUGHTON: Thank you. We also have an
24 urban education initiative which we are beginning to work
25 with and which we are bringing together representatives

1 from the urban school districts within the state, not as
2 defined by the census bureau as urban but what we as
3 teachers see as urban areas. So you will be hearing more
4 from that group also.

5 CHAIRPERSON BIRMELIN: Thank you very much.
6 Our next and last testifiers will be testifying as a
7 couple, as a team. Dr. Veronique Valliere and Reese W.
8 Lessig.

9 (Discussion off the record.)

10 CHAIRPERSON BIRMELIN: Well, I'm not sure
11 which of you -- which is to go first.

12 MR. LESSIG: I will, Mr. Chairman.

13 CHAIRPERSON BIRMELIN: I guess, Mr. Lessig,
14 that's you then. And I think the microphone to your right
15 has been working well, and the one to your left hasn't
16 been. So maybe you'd like to push the one on your left
17 away from you and then share the one on your right with Dr.
18 Valliere after you are finished.

19 MR. LESSIG: Thank you.

20 CHAIRPERSON BIRMELIN: And you need to speak
21 directly into that microphone, by the way. You may begin.

22 MR. LESSIG: Thank you, Mr. Chairman, members
23 of the Subcommittee. My name is Reese Lessig, and I'm a
24 social worker. I work with violent children, physically
25 violent, sexually violent children and adults in Monroe

1 County, Pennsylvania. I also do some training here and
2 there.

3 I have a few comments about the legislation,
4 but I first want to establish a context from which I'm
5 speaking. In looking at the manner in which people have
6 responded to the recent school shootings, I have heard two
7 words repeated over and over. These words are that it was
8 unbelievable and unthinkable.

9 And if I could do anything today, I just want
10 to move the "un" from these words. I would like to make
11 violent crime wherever it occurs both believable and
12 thinkable for the members of the Subcommittee and the
13 public.

14 The reason for this is that until you're able
15 to understand what motivates individuals to be violent, we
16 will not be able to deter them. We tend to
17 compartmentalize the violence in our culture. We have
18 school violence, workplace violence, domestic violence,
19 hate crimes, ad infinitum.

20 We do this, I believe, because that insulates
21 us from the accountability of acknowledging that we are a
22 violent culture. We don't want to think the way violent
23 people think. They are the other people. This is exactly
24 what perpetuates violence and aggression.

25 Our failure to understand the thoughts and

1 motivations of violent individuals allows them to continue
2 to fantasize and eventually put into action the violent
3 crime we say we abhor.

4 The massacre at the school in Colorado has
5 frustrated me personally and professionally more than any
6 other incident in my recent memory. When I first heard
7 what occurred, I already knew what was going to happen over
8 the next two weeks. First everyone would say there was no
9 warning and no indication. Then over time, bits and pieces
10 of information would be brought to light. And in the end,
11 those pieces would form a puzzle of violence which was in
12 place long before shots were ever fired.

13 If I asked for a show of hands, I doubt there
14 are many people in this room who think there will be
15 another school shooting by the end of the school year.
16 However, I do believe that. In a country this size, it is
17 unreasonable to think that there are not at least a few
18 more children who are predisposed to this type of violence.
19 They're already thinking about it.

20 A few of them will have the means to complete
21 a successful attack. When you take a moment and put
22 yourself in their minds, you can begin to realize in the
23 next months, school will be over. These are not the kind
24 of people who would be content to wait until autumn. It is
25 actually more likely that they will act than they will not

1 act.

2 In recent news reports, there's been a focus
3 on those children who have made threats. While threats
4 must always be taken seriously, the children who have
5 murderous intent will not make threats. They will act.

6 In my practice, I deal with violent children
7 and adults, and I sit and talk with them usually for an
8 hour a week. Violent people have taught me to think
9 differently about violence. What I've learned is as
10 practical as it is distasteful.

11 People engage in violence because it meets
12 their needs. I have asked the kids that I work with what
13 they would do if they wanted to commit an act of school
14 violence with the stipulation that there are now metal
15 detectors in the school.

16 The responses I have received included getting
17 plastic explosives, bringing gasoline in their thermoses,
18 or getting other toxic substances from the chemistry
19 laboratory. The most telling comment I heard was from a
20 boy who said he would just kill people in the parking lot.

21 All the adolescents I have spoken with knew
22 how to make napalm. As we increase the security in
23 otherwise safe places, we increase the creativity of those
24 who will be violent.

25 Does the media contribute to a desensitization

1 toward violence? Absolutely. However, as I see it, the
2 media does not create violence. Rather, it reflects our
3 culture; it reflects what sells; it reflects what we want
4 to see.

5 We will rant and rave about shows like South
6 Park, Jerry Springer and Celebrity Deathmatch; but they
7 would not be on the air if they were not watched by the
8 American public. Violent media presentations gain huge
9 ratings. We watch it, and we pay for it.

10 Violent video games are no exception. They
11 are reflective of the culture of violence in which we live.
12 Many children will play these games and not commit a
13 violent crime. A few will use them to feed their homicidal
14 needs and practice their killing. When these are not
15 available, they will resort to other means.

16 Did you know that the number one reading
17 material of serial killers is the detective magazine found
18 on any newsstand? We would not think of -- that banning
19 this material would eradicate serial killing because we
20 know serial killers have tremendous pride to commit their
21 crimes.

22 Violent children have similar needs to be
23 violent. Should our children be exposed to graphic
24 portrayals of violence in which we can electronically
25 participate? No. We do not allow our children exposure to

1 sexually graphic comments. Why do we think twice about
2 allowing exposure to graphic murders?

3 The sad thing is that this will not end youth
4 violence because we still are unwilling to understand the
5 manner in which violent children think. The children who
6 are obsessed with violence are disenfranchised and
7 isolated.

8 They do not believe that others will take the
9 time to understand them. They don't feel they belong. And
10 after time, they turn this into a life-style. They nurture
11 their anger, fantasize about their worthlessness, and blame
12 others for their miserable state.

13 As they devalue themselves, they devalue
14 others. They are drawn further and further into
15 themselves. For them, taking a life is of no more value
16 than doing homework. And in fact, they invest much more
17 time, thought and effort in violent fantasies than in
18 activities which would cause them to value their lives and
19 give them a sense of accomplishment.

20 No one understands them. No one takes the
21 time to do so. This is not to say that others are at
22 fault. Only the violent child can be responsible for his
23 or her aggression. However, as long as we continue to
24 ignore these children, they will continue to act violently.

25 Solving the problem of school and youth

1 violence involves two processes: Identification and
2 intervention. Identifying those children at risk is
3 relatively easy. Walk into any school and ask school
4 personnel whom they are worried about.

5 You will then have a reference list. Of those
6 children, some will be at more risk than others. There are
7 methods available to discern this. Prioritize the list,
8 and you are ready to intervene. Intervention involves
9 actually speaking with and understanding violent children.

10 Explaining this is lengthy and takes more time
11 than I have. Basically, learn the things that motivate
12 violent children, learn what they need, anticipate the
13 method of violence they will use. Most children who are
14 potentially violent will tell you what they are thinking if
15 they are not condemned for doing so.

16 When you learn their needs, you develop a
17 method of intervention which understands the violent child
18 and provides alternatives for violent behavior. As long as
19 we glorify violence with our fear and our ignorance, we
20 will continue to produce violent children. Thank you.

21 CHAIRPERSON BIRMELIN: Dr. Valliere.

22 DR. VALLIERE: Hi. I'm Veronique Valliere.
23 I'm a clinical psychologist, and I direct two outpatient
24 clinics that deal with violent offenders. Mr. Lessig and I
25 also train agencies like Parole and Probation on

1 identification and risk reduction in violent incidence with
2 violent offenders.

3 And if I guess, that's probably why we were
4 asked here because we're incomparable to nobody -- to who
5 else you've listened to. But I do thank you for any
6 efforts to intervene in violent acts with children.

7 I want to say that the term school violence
8 implies that school violence is some particular type of --
9 or species of violence. But we really -- what we're seeing
10 is the same kind of violence that children experience just
11 in the school yard. We have all kinds of promotions of
12 violence and all forms of denying, minimizing and
13 glorifying violence.

14 Part of my daily battle is battling the denial
15 of those around violent offenders that keep me and parole
16 officers from keeping them from acting out. Video games
17 are obviously and dramatically violent. Much of the
18 testimony definitely illustrates that.

19 Video games also provide particular issues in
20 the socialization of violence in children. Specifically,
21 video games are typically used in isolation. And they
22 don't promote any kind of prosocial activities like
23 communication, cooperation, negotiation, conflict
24 resolution skills like more interactive or less socially
25 isolated games do.

1 They also link physiological arousal and
2 violence. All of our physiological arousal is the same
3 with every strong emotion. It's only how we mentally or
4 cognitively label that arousal that tells us what is --
5 what is fear, what is love, what is lust, what is thrill.

6 Like if we fall, we're afraid because we know
7 that that arousal is based on a danger. But if we ride a
8 roller coaster, we're thrilled because we know that we're
9 safe on some level even though we experience the
10 physiological arousal.

11 Violent video games link with children the
12 cognitive labeling of thrill with the killing because video
13 games obviously by their nature produce arousal and stress.
14 That's what makes them fun. So that's a very important
15 issue in the media's impact on violence in children.

16 Also, violent video games organize children's
17 thinking around strategizing and planning and learning
18 better how to kill. Problem solving skills are definitely
19 how -- what we want to teach, but we don't want to teach
20 them where better to plant bombs and things like that.

21 But the children -- video games are so
22 obvious, they're an excellent target and definitely need to
23 be controlled. But we also need other measures. Children
24 get sexualized violence through wrestling which basically
25 produces living cartoons.

1 I've treated more children for injuring their
2 brothers doing pile drivers than I have with violent video
3 games. Children can't cognitively grasp this. But
4 children also see that violence works.

5 I was talking with a young boy, ten years old,
6 yesterday who told me how he lured the neighbor out down
7 the street and hit him with a baseball bat to avenge the
8 neighbor shooting a BB gun at him. This is a boy I'm
9 treating because his dad nearly killed his mom and is now
10 violating PFAs over and over and over again to have access
11 to the child. This child learns that violent force, and
12 that's what he's using even though he's been exposed to
13 tremendous destruction of it.

14 I want -- the message I want -- I support the
15 bill, but I want you to hear that it's only a first step of
16 many steps we need to take to protect children. And in
17 truth, part of, I think, some of our -- as treating people,
18 our reaction is the \$3 million going towards rating video
19 games while I can't get \$20,000 extra to treat substance
20 abusers, or we can't get legal representation for children
21 to get PFAs protected.

22 That's part of this bill that's very hard to
23 swallow while treatment monies are getting cut. And so I
24 want this bill to be a tool but not the only tool that you
25 use in terms of regulating the violence our children are

1 exposed to.

2 Regardless of how sudden and explosive this
3 violence seems, we can teach people how to identify. And
4 some of our money should go into training parents and
5 teachers and care takers how to identify children at risk
6 and how to understand the risk factors associated with the
7 commission of violent acts like substance abuse, juvenile
8 histories of crime and exposure to prevent the violence.

9 So please let this -- if you're going to make
10 this a first step, don't let it be an only step. And don't
11 provide yourself the illusion that rating video games is
12 going to cure the violence but can be one tool in using it
13 and helping decrease it. Thanks.

14 CHAIRPERSON BIRMELIN: I want to thank you
15 both for your testimony. And we have some questions from
16 our panel here. And first I'm going to give the
17 opportunity to one of our staff attorneys, Karen Dalton.

18 MS. DALTON: Thanks both for coming. I have a
19 couple of questions. The first two actually I'm going to
20 address to Mr. Lessig, and then I'm going to ask you both a
21 question. Mr. Lessig, you had said that kids are violent
22 because it meets their needs. Can you tell us what needs
23 those are?

24 MR. LESSIG: There are many needs. Primarily,
25 the need to be somebody. When you look at all of the

1 children who commit very violent acts, it's all because
2 they're lacking in so many other areas. They identify with
3 the violence. It gives them power. It gives them control.

4 It gives them all the things they're lacking
5 everywhere else. In general, that's the need. There are
6 many other factors that contribute to violence. But
7 basically, it allows them to be somebody.

8 MS. DALTON: Okay. And can you give us an
9 example of the type of intervention that would stop
10 violence before it begins?

11 MR. LESSIG: Yeah, I can. Unfortunately, it
12 requires a lot of mental flexibility. We need to learn to
13 think the way violent children think. There are children
14 in every school district who are already thinking about how
15 to kill, how to maim, how to torture, how to set fires.

16 I sit down and talk with them. They tell me
17 this. If they think they're going to be condemned for
18 talking about it, they will isolate, which is what they do.
19 But if you can identify them and sit down and have an
20 honest talk with them about what kinds of needs that
21 fulfills, what it's like to think that way.

22 When the next school shooting happens -- and I
23 firmly believe when. -- the same reaction will occur. This
24 is unbelievable. This is unthinkable. And then it will
25 all get put into place. All the many, many warning signs

1 and risk factors will be laid out before us.

2 And then we'll say, Why didn't we see this?
3 And basically, it's because it's uncomfortable for us to
4 look.

5 MS. DALTON: And when you talk with these kids
6 -- my understanding of psychology is so much more limited
7 than your folks' is. But my understanding is that
8 psychologists sort of look at behavior and then values and
9 identity. And I think I actually learned that from both of
10 you at a seminar I attended.

11 When you talk about the violence that these
12 kids exhibit and that they talk about, if you can put them
13 into one of those three categories, can you place it
14 there? When you actually talk with them, are we talking
15 about their identity; or are we talking about their values
16 which we could actually change by that kind of
17 intervention?

18 MR. LESSIG: Depends on the child and how
19 deeply invested they are. I would say identity is, you
20 know, that's a very deeply invested child. That would be
21 much more difficult to change than simple behaviors more
22 than values. It would sort of be a continuum.

23 As you see more of a child's identity absorbed
24 in violence, in violent behavior and violent thinking, the
25 more difficult the intervention is going to be.

1 DR. VALLIERE: Also, children are able to
2 vocalize the values that are promoted. For instance, this
3 young boy I was talking about can tell me that it's wrong
4 that his dad beats his mom. He can tell me that violence
5 is wrong. But when it comes to him and benefiting from
6 that same behavior, he doesn't put those two together.

7 And that's a difficult thing, and especially
8 with kids that are very egocentric in their cognitive
9 development. So they do what works for them. And exposure
10 to violence gives them one of those options. So it's very
11 hard to sort out for the child what values they know and
12 they can verbalize versus what they adopt and internalize.

13 MS. DALTON: Okay. I just have one last
14 question, and this is for both of you. Have you had any
15 clients who have attributed their violent behavior to video
16 games?

17 MR. LESSIG: No, I haven't.

18 DR. VALLIERE: I haven't either. I have had
19 people say just like I've had violent sexual offenders say
20 they've used pornography for stimulus to feed the
21 preexisting fantasies. I've seen, for example, a small
22 sexually abused boy who seemed to gravitate after he was
23 abused towards violent video games when his expressions of
24 anger were shut off by his parents.

25 But again, that shows to me that he was

1 expressing a preexisting need or gaining stimulation for
2 that need rather than the video game causing that need.

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

4 CHAIRPERSON BIRMELIN: Representative Daley.

5 REPRESENTATIVE DALEY: Thank you, Mr.

6 Chairman. Mr. Lessig, in the United States, aggravated
7 assault has gone up almost seven fold since 1957. And
8 Colonel Grossman outlined the fact of similar increases in
9 other countries throughout the world.

10 The AMA and the APA say the media violence is
11 one of those causes for violent crime, but you seem to
12 disagree with the APA and the AMA's conclusion of the
13 causal relationship here. Do I understand your position
14 correctly, or am I misreading your evaluation of the
15 situation?

16 MR. LESSIG: I think that rather than causal,
17 I see the relationship as correlational. There certainly
18 is an association. Whether that association creates in an
19 individual those needs or whether those individuals
20 gravitate toward that type of material I think is what's
21 still open to question. Does that answer your question?

22 REPRESENTATIVE DALEY: Yeah, I think it
23 basically does. And for both of you, we realize this
24 legislation is a first step and it's not the only solution.
25 There's a much broader question here as to what really is

1 the root problem to the violent acts by children today.

2 And we realize and I know I realize that it's
3 not the only step that we need. Some things are
4 legislatively, and some things that can be legislative
5 societally in terms of what we as parents are doing with
6 our kids. And I want to thank you for your testimony
7 today.

8 MR. LESSIG: Thank you.

9 CHAIRPERSON BIRMELIN: I want to thank you as
10 well. And just as a general statement for those who are
11 still here and for our viewers, public hearings like this
12 are not intended necessarily to line up support for or
13 against legislation but to take legislation that becomes a
14 starting-off point for discussion.

15 And as those of you who were here today
16 understand, we had people that are for it and some are
17 against it and some are kind of for it and some are kind of
18 against it. And I think we all recognize that there is a
19 general consensus that violence is a problem in society.
20 And whether or not this legislation in its current form is
21 a part of addressing that remains to be seen.

22 But I think if nothing else, we have the
23 opportunity to give a forum to the ideas that have been
24 expressed by you folks and by those who preceded you at
25 that table. And that gives our Committee some food for

1 thought as well as for those who I'm sure are watching
2 through the cable network.

3 So we thank you all who were here today. And
4 as of now, this meeting is adjourned.

5 (Whereupon, at 4:00 p.m., the hearing
6 adjourned.)

7 * * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

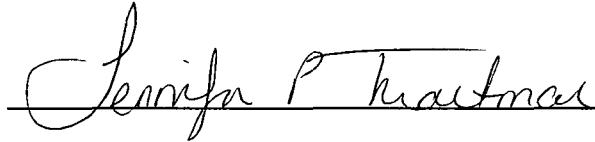
22

23

24

25

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

5
6
7
8
9 

10 JENNIFER P. TROUTMAN

11 Registered Professional Reporter

12
13
14
15
16 My Commission Expires:
17 April 30, 2001

18
19
20
21
22
23 JENNIFER P. TROUTMAN, RPR
24 P.O. Box 1383
25 2nd & W. Norwegian Streets
Pottsville, Pennsylvania 17901