

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bill 1436

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House Judiciary Committee
Task Force on Domestic Relations

East Hempfield Township Municipal Building
1700 Nissley Road
Landisville, Pennsylvania 17538

Tuesday, August 24, 1999 - 9:00 a.m.

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BEFORE:

Honorable Lita Indzel Cohen, Majority Chairperson
Honorable Stephen R. Maitland
Honorable Katie True
Honorable Andrew J. Carn
Honorable Peter J. Daley
Honorable Don Walko

ALSO PRESENT:

Karen Dalton
Majority Executive Director

Jane Mendlow
Minority Research Analyst

Beryl Kuhr
Minority Counsel to Judiciary Committee

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Testimony Submitted by:

Daneen Miller Smith, Esquire
Lancaster Shelter for Abused Women

1 CHAIRPERSON COHEN: Good morning. I'm State
2 Representative Lita Cohen from Montgomery County, 148th
3 District. Welcome to the hearing, the Pennsylvania House
4 of Representatives Judiciary Committee Task Force on
5 Domestic Relations Hearing. We will today be discussing
6 House Bill 1436.

7 As many of you know, the House has established
8 the Task Force on Domestic Relations to delve into all
9 aspects of in fact domestic relations dealing with divorce,
10 custody, support, as well as other issues. And one of the
11 issues that we've been dealing with for the past several
12 years is domestic violence.

13 House Bill 1436 has been prime sponsored by
14 Representative Katie True of Lancaster County and
15 Representative Andrew Carn of Philadelphia County. They
16 will give opening statements. And at that point, we will
17 proceed with the testimony from the people that have been
18 scheduled to appear before us today.

19 I'll make an announcement now and I will make
20 it again at the close of the hearing that if there is
21 anyone that is interested in presenting testimony that has
22 not been listed and not been scheduled, we will take
23 written testimony and written reports from anyone that's
24 interested and we will include that as part of the official
25 record of these proceedings today.

1 And I will make that announcement again at the
2 end of the hearing, the scheduled hearing today. I must
3 remind all of you that we are on a very, very tight
4 schedule today. You have the agenda before you. We will
5 stick very close to that agenda so that please keep your
6 remarks to the time that you've been allotted.

7 And also, we would like you to allot time and
8 be available for questions from our panel of legislators as
9 well as staff. I would like to introduce Karen Dalton who
10 is the Chief Counsel to the Task Force as well as our two
11 representatives who are the prime sponsors of this
12 legislation.

13 They will give opening remarks, and then we
14 will proceed with the first person scheduled to testify.
15 First I would like to introduce Representative Katie True.
16 We want to thank you for hosting us in this wonderful
17 environment. And thank you for bringing us at this time of
18 year to your wonderful Lancaster County.

19 You and Representative Carn are the prime
20 sponsors so why don't you proceed with your opening
21 statement.

22 REPRESENTATIVE TRUE: Thank you,
23 Representative Cohen. And I'd like to welcome everybody,
24 Representative Carn, to the 37th District here in Lancaster
25 County. We appreciate the consideration of this hearing

1 very much. Just a couple brief remarks.

2 Domestic violence is something all of us in
3 the House, Senate, the public light, it's an issue that we
4 hear about a lot. And I'm pleased to have worked on this
5 legislation with Representative Carn. Hopefully, we will
6 be showing to all that can hear and all that can see that
7 this is not just an urban issue but very much, as we hope
8 hits home because we are here in Lancaster County, that
9 this is an issue that hits everybody no matter where you
10 live, the very rural areas, the very urban areas.

11 This is a problem that is everywhere. And so
12 I am very pleased to be working with Representative Carn on
13 this. And we do hope, as we go down the road and bring
14 this legislation hopefully to the floor to be voted on,
15 that everyone will keep in mind just what a very important
16 issue this is to deal with.

17 And I thank everyone in the audience for
18 coming also. And now I'd like -- Representative Carn would
19 like to make some remarks.

20 REPRESENTATIVE CARN: Thank you. I would like
21 to thank Representative Cohen and the members of the Task
22 Force on Domestic Violence for the opportunity to discuss
23 this important issue and an important weapon in the fight
24 to combat this very serious problem in our society.

25 Address confidentiality provides an important

1 safety mechanism for victims of domestic violence who wish
2 to end abusive relationships. A woman is at 75 percent
3 greater risk of being seriously or fatally injured at the
4 time of separation.

5 Last year, there were 136 domestic violence
6 related homicides in the Commonwealth. At least 42 of the
7 deaths occurred after the victim had separated or was
8 attempting to separate from the abuser. Address
9 confidentiality programs provide substitute addresses and
10 mail-forwarding service for victims.

11 The substitute address, usually a post office
12 box, ensures abusers cannot locate victims or use public
13 records to locate victims. Address confidentiality allows
14 victims to get on with their lives free from harassment.
15 Under this program, a victim's address is kept confidential
16 and can only be revealed in three circumstances: One, a
17 judge's order; two, at the request of law enforcement; or
18 three, in a medical emergency.

19 Several states, including California,
20 Washington, Nevada, New Jersey and Florida, have already
21 seen the wisdom of address confidentiality and have
22 implemented this program, while several other states are
23 considering it.

24 In addition, I would also like to thank
25 Representative Katie True for working with me in a

1 bipartisan fashion on a campaign to make this program a
2 reality in the Commonwealth of Pennsylvania. Our
3 partnership on this issue symbolizes how widespread the
4 problem of domestic violence is in our state and nation.

5 Domestic violence affects rural and urban
6 areas. Domestic violence occurs in every community
7 regardless of race, ethnicity, wealth or religion.
8 Domestic violence is a problem that affects men, women and
9 children.

10 Recently, Central Pennsylvania has been the
11 site of two domestic violence tragedies with the deaths of
12 Kim LaRosa and Barbara Mort in York. While there are no
13 magic bullets or cure-alls, there are steps that we can
14 take to make sure that victims of domestic violence are
15 safe from abusers.

16 The value of individual's safety or the loss
17 of a loved one cannot be calculated. However, there are
18 some costs that can be measured, and the totals are
19 staggering. In 1996, the Pennsylvania Blue Shield
20 Institute estimated the total -- the total medical costs
21 associated with domestic violence in Pennsylvania was \$326
22 million.

23 Almost 40 percent of all Pennsylvania women
24 who visited emergency rooms do so for emergencies inflicted
25 by current or former partners. However, address

1 confidentiality programs are relatively cheap to
2 administer. Annually, other states spend less than \$200
3 per participant.

4 According to the experiences of states, I
5 believe that an address confidentiality program in
6 Pennsylvania would cost approximately a half million
7 dollars. This is not much considering our incredible state
8 surplus.

9 In conclusion, I urge the members of this Task
10 Force to support House Bill 1436 for a number of reasons:
11 First, address confidentiality protects crime victims;
12 second, address confidentiality prevents crime in that it
13 prevents further abuse of victims; third, address
14 confidentiality is cost effective; and finally, address
15 confidentiality is the right thing to do. Thank you, Madam
16 Chairman.

17 CHAIRPERSON COHEN: Thank you, Representative
18 True. Thank you, Representative Carn. Understand that the
19 hearing today is exploring the issues as presented in House
20 Bill 1436. We will hopefully explore all of the issues
21 that relate to this bill and be able to determine the fate
22 of this bill and how we will proceed in the future.

23 So it is very important that we hear from
24 everyone, those of you that are scheduled to testify and,
25 again, anyone who has views relating to this bill, pro or

1 con. It really doesn't matter. We want to explore all of
2 the issues surrounding this particular bill so that we can
3 come up with and present to the members of the House of
4 Representatives an intelligent solution to what we consider
5 a vast and very serious problem.

6 The first two people that are scheduled to
7 testify are Assistant District Attorneys in Lancaster
8 County. We have Donald Totaro and Susan Ellison. If you
9 are here, would you please come forth? Are you Ms.
10 Ellison?

11 MS. ELLISON: Yes.

12 CHAIRPERSON COHEN: Why don't you come up
13 also. And we do have written testimony from you. You may
14 read from it if you'd like. You are scheduled to testify
15 until 9:40. You can share your time any way you want.
16 We'd like you to leave some time for questions from the
17 panel if you'd like.

18 So you can either read from this or you can
19 just speak and present your testimony. Which of you is
20 going first?

21 MR. TOTARO: I'll start first.

22 CHAIRPERSON COHEN: Mr. Totaro, please, any
23 time you're ready.

24 MR. TOTARO: Thank you very much,
25 Representative Cohen. It's my pleasure to be here this

1 morning. My name is Donald Totaro. I'm an Assistant
2 District Attorney in Lancaster County. I've had the
3 privilege, the honor of serving in Lancaster County as an
4 Assistant District Attorney now for the past 12 years. And
5 on behalf of the District Attorney's Office, we would like
6 to welcome the Task Force on Domestic Relations to
7 Lancaster County this morning.

8 Over the past 12 years, unfortunately, I have
9 seen a tremendous increase in crime in Lancaster County. A
10 lot of times -- oftentimes in the newspaper -- you see
11 crimes involving drug -- drug use, drug abuse, drug
12 dealing, homicides. Not as often domestic violence. But
13 over the same period of time, there has also been a
14 tremendous increase in domestic violence in Lancaster
15 County.

16 And as I think was mentioned by the two
17 Representatives in their opening remarks, there is no limit
18 to where these violent acts occur with regard to race, with
19 regard to socioeconomic factors. It does not matter.

20 I have provided in my written statement
21 statistics from Lancaster County. And I don't know that I
22 necessarily have to recite those, other than to indicate
23 they do reflect the problems that we have not only in
24 Lancaster County but I'm sure also throughout the
25 Commonwealth of Pennsylvania.

1 In 1997, we had 1,181 cases in which
2 protection from abuse orders were obtained. In 1998, that
3 went up to 1,253 cases. And in 1999, as of early August,
4 it was 745 cases reported. We also have a large number of
5 indirect criminal contempt charges that have been filed
6 against individuals who have violated their protection from
7 abuse orders: In 1997, 362 cases; in 1998, 325; and in
8 1999, 200.

9 And you might look at that and question
10 whether there is actually a reduction in individuals who
11 violate the protection from abuse orders, and that actually
12 is not the case. Because of recent court rulings, we now
13 have made a decision in our office to only charge indirect
14 criminal contempt against a perpetrator if they have not
15 committed some sort of crime of violence for which they
16 would be charged with, criminal assault, terroristic
17 threats, stalking, et cetera.

18 I would also point out that the Domestic
19 Violence Unit in our office, which is actually headed up by
20 Susan Ellison, was created in 1996 as a result of the
21 drastic increase in domestic violence cases in this county.
22 It is now a unit that she will I'm sure provide additional
23 detail on.

24 But a full-time attorney, a county detective
25 and a paralegal who operate within that unit and do nothing

1 but domestic violence criminal prosecutions. We also have
2 another assistant district attorney who is responsible for
3 protection from abuse orders.

4 In the past 10 years in Lancaster County, we
5 have had 26 victims who have been killed as a result of
6 domestic violence. And what I think is even more drastic
7 is in the last two years, we have had 10 victims killed as
8 a result of domestic violence.

9 And I think with regard to the legislation
10 that is presented in House Bill 1436, it is legislation
11 that we believe, with regard to the District Attorney's
12 Office, our position is that it is legislation that is good
13 legislation, it is legislation that will help victims of
14 domestic violence who choose to break away from an abusive
15 relationship and attempt to move on in their lives.

16 I would point out, however, in reading the
17 legislation, I don't know whether it includes certain
18 victims that might also benefit from the provisions. And
19 if I could, I would like to address some remarks with
20 regard to that.

21 CHAIRPERSON COHEN: Please.

22 MR. TOTARO: The bill is a good bill for those
23 who have already taken that step and moved out of the
24 abusive relationship, a victim who has obtained another
25 apartment or another location who does not want to be found

1 by the abuser.

2 I would like to share with this Task Force a
3 case that I prosecuted earlier this year. It was a
4 homicide here in Lancaster. The homicide actually occurred
5 in May of 1998. In that case, the abused victim had not
6 yet taken the steps to move out of the apartment complex
7 that she shared with the abuser and their son.

8 She was in the process of making those efforts
9 when he found out and when he murdered her. And in that
10 case -- and this would be testimony that was presented to
11 the jury at trial. -- there was testimony that there was an
12 abusive relationship.

13 There was testimony that the defendant in that
14 case had previously threatened the victim with a butcher
15 knife; that he had made comments to other individuals,
16 including her parents, that if she attempted to move out on
17 him, he would kill her; that there would be, quote, hell to
18 pay.

19 Despite those threats, she did go to a local
20 apartment complex in Lancaster County and at that time fill
21 out a rental application for herself and for her son. It
22 was very clear -- and she had told a number of her
23 friends. -- it was very clear that she intended to move out
24 and away from this abusive relationship.

25 Unfortunately, when she filled out the rental

1 application, it called for her address and her phone
2 number. And the address she put in was the address that
3 she shared with this abusive individual. On May 1st of
4 1998, she was scheduled to move into that apartment. She
5 did not show up.

6 She had paid the security deposit. She did
7 not call to indicate why she didn't show up. The apartment
8 complex then, without understanding what the situation was
9 here, called the phone number to the apartment that the two
10 individuals shared. No one was home, and a message was
11 left on that machine. And that was on May 4th.

12 On May 12th, a second phone call was placed;
13 and a message was left on the answering machine again
14 inquiring as to whether she still intended to move into
15 this apartment. On that same date, a letter was sent out
16 from the manager of the apartment complex to the address on
17 the application that was shared by these two individuals
18 again inquiring as to whether she intended to move into
19 this apartment.

20 Now, we could not prove conclusively at trial
21 that he intercepted the letter or that he actually heard
22 these phone messages that were left. However, we do know
23 that on May 18th, he did storm down to the victim's
24 parents' home, at that time very, very upset, screaming at
25 her parents that he had discovered she was intending to

1 move out, that they were helping her financially to buy
2 items for a new apartment.

3 And then approximately one hour later, she was
4 actually murdered in that apartment. And that's where I
5 question whether we might be able to -- the Legislature
6 might be able to expand the language of this House Bill to
7 include not only those who have been able to take that
8 step, but those who are trying to take that step; in this
9 case, Martha Kurtz.

10 A confidential address at that point in time
11 that she could have used on that application I think would
12 have been significant. And I've tried to follow through
13 with the language of the bill as to how that would work.
14 And any correspondence then I think from the apartment
15 complex would go to the Secretary of State, Department of
16 State.

17 Obviously, under the language of the bill, the
18 mail is forwarded then from the Secretary of the Department
19 of State to the actual residence of the victim, which in
20 this case would go right back to the residence that she was
21 at that time sharing with the abuser. And that wouldn't
22 help either.

23 And I throw this out just as a possibility.
24 But that perhaps on the application that is filled out by
25 the victim, she could put on there the nearest post office

1 so that she could then retrieve any mail from the post
2 office of this sort.

3 And so in that situation, Martha Kurtz might
4 have been able to escape this household and get out before
5 he knew about it. And I mean, there's no way in hindsight
6 to say, Well, that would have made a difference in this
7 case. We don't know what he would have done even if she
8 was able to successfully move out and he tracked her down.

9 But I think that in a lot of cases I have
10 dealt with, not just domestic violence but other cases in
11 general, the first few moments, first few hours after a
12 volatile situation are the worst. And if there is an
13 opportunity for a cool-down, maybe some of these incidents
14 could be avoided.

15 So I would like to, if there are any
16 questions, certainly answer any of those questions but
17 yield at this time to Susan Ellison because I think she
18 will offer you greater detail with regard to our Domestic
19 Violence Unit, the procedures within the unit, and any
20 questions you might have with regard to those cases on a
21 day-by-day basis because she deals with them on a daily
22 basis.

23 But I would throw that out to the Task Force
24 as a possibility as far as expanding the language to
25 include those individuals who are attempting but have not

1 yet moved out of this abusive household.

2 CHAIRPERSON COHEN: Thank you. Thanks, Mr.
3 Totaro. Ms. Ellison, do you want to make your
4 presentation, and then we can have some time for questions
5 after both of you. While we're doing that, I'd like to
6 welcome Representative Walko from Allegheny County, a
7 member of the Domestic Relations Task Force. Welcome.

8 Yes, proceed any time you're ready, Ms.
9 Ellison.

10 MS. ELLISON: Thank you very much. Good
11 morning, Chairperson Cohen, ladies and gentlemen of the
12 committee. I'd like to thank you for this opportunity to
13 be present this morning. My name is Susan Ellison. I'm an
14 Assistant District Attorney in Lancaster County.

15 I am the Director of the Domestic Violence
16 Unit in our office. The unit in our office tracks
17 approximately 500 criminal cases per year in Lancaster
18 County. In addition, through the District Attorney's
19 Office, we also prosecute approximately 300 cases per year,
20 violations of PFA orders.

21 Within our unit, we try to coordinate these
22 cases so that we are aware not only of the criminal conduct
23 of an offender but continuing violations against a victim
24 to continue to intimidate her as a criminal case is
25 pending.

1 Through my association with the Domestic
2 Violence Unit, which was created with STOP Grant Funds
3 through PCCD in 1996 -- Lancaster County's project was one
4 of the first three recipients in the state of Pennsylvania.
5 Through my association with the Commission on Crime and
6 Delinquency, I have had the very fortunate opportunity to
7 serve on their Technical Assistance Team and to travel to
8 many other counties throughout the state to provide
9 assistance in forming domestic violence units.

10 This has given me an invaluable opportunity to
11 meet with colleagues who are also specialized prosecutors
12 to discuss case management, to discuss concerns about
13 cases. And confidentiality of a victim who is trying to
14 hide from an abuser is something that quite frequently
15 comes up.

16 I'm here today to thank you for proposing
17 House Bill 1436. This would constitute, if enacted,
18 legislative recognition of the need to safeguard victims of
19 domestic violence in their homes. I've contained in my
20 testimony submitted to this Task Force statistics, and they
21 were also cited -- some of them -- by Representative Carn
22 as to the type of violence and the type of people who are
23 subject to separation violence. This legislation would
24 help these people in an instance when they really truly
25 need it.

1 I think this Task Force is aware, but I would
2 like to briefly put forth what a domestic violence victim
3 quite frequently faces right after a violent incident. If
4 an incident is reported and police are called to the scene,
5 it's very common that this is not the first incidence of
6 violence that has occurred.

7 When the police come, they do an
8 investigation. They determine if they have sufficient
9 probable cause. And if they do, they arrest the offender.
10 And essentially, the victim is then left to face the fact
11 that she has been victimized by a loved one, to face the
12 general emotional turmoil that a victim of crime faces.

13 If they have children in common, she's going
14 to have to face her children's questions: Where's Daddy,
15 why isn't Daddy here, when is Daddy coming home? If the
16 defendant has been released on bail, frequently they have
17 bail conditions telling them that they are not to contact
18 the victim.

19 Quite frequently, they don't pay any attention
20 to those conditions. They will call and they will use
21 subtle pressure and say, you know, I'm sorry. I'm begging
22 forgiveness. I'll never do it again. Sometimes they will
23 resort to threatening future violence. The victim has to
24 deal with this.

25 The victim has to deal with the fact that if

1 she wants to get a protection from abuse order, she's
2 probably going to have to take a day off work. She's
3 probably going to have to spend a few hours in the county
4 courthouse or at a domestic violence victim service agency
5 filling out the necessary paperwork.

6 She's going to have to go to a hearing to
7 obtain a permanent PFA order. If the defendant hasn't been
8 served, that hearing will have to be rescheduled to have
9 him served. Quite frequently, even if he has been served,
10 he hasn't had the opportunity to obtain counsel so it's
11 going to have to be rescheduled anyway.

12 And we haven't even yet talked about the
13 scheduling of the criminal case. When an offender is taken
14 out of the home, the financial considerations the victims
15 of domestic violence face are horrible. On top of all of
16 that, they have to take days off work to attend all of
17 these various court proceedings.

18 And many victims end up feeling that they are
19 at the mercy of the civil and criminal justice systems
20 because even though -- in the most victim-friendly court
21 systems, even though they have access to a civil attorney,
22 they have access to the district attorney's office, they
23 have a considerate police department who is giving them
24 information, the bottom line is decisions are made by
25 police, by district magistrates, by prosecutors and by

1 judges.

2 The one thing that a victim of domestic
3 violence can do if she has the ability, if she has the
4 financial resources or if she has the assistance of others
5 is decide that she's going to leave, that she's going to
6 establish a new address and that she's going to get to
7 safety.

8 If she has the financial resources, she can
9 establish her own home or she can go to friends or family
10 or, if necessary, a local domestic violence shelter. So
11 imagine the impact on a victim who is then tracked to that
12 address by an offender.

13 If that victim is lucky, the offender's intent
14 is simply to intimidate and harass. I can find you. The
15 police can't protect you. I don't care what the bail
16 conditions say. I don't care what the PFA says. If she's
17 lucky, that's his intent.

18 But as earlier mentioned, that's the point
19 when abusers become more violent. It escalates in
20 frequency; it escalates in severity. An abuser will
21 recognize that he is losing control, and he will do what he
22 needs to do to continue to influence that victim.

23 That is an extremely dangerous time for
24 victims of domestic violence. And this proposed
25 legislation would help victims, as Mr. Totaro indicated,

1 who have already left the address. We did discuss this
2 yesterday -- and I also echo his concerns. -- that somehow
3 a mechanism be put into place to provide confidentiality to
4 people who indicate perhaps on the application that is
5 mentioned in the legislation that due to domestic violence,
6 it is their intent to relocate and they need help with the
7 confidential address as well.

8 Being a lawyer -- and just technically the one
9 other thing that I want to mention about the legislation
10 that was proposed, under the section which indicates the
11 waiver process, the Secretary can impose limitations and
12 restrictions on the recipient agency who gets the
13 information, limited use and access and things of that
14 nature.

15 I just want to make sure that that is also
16 imposed on the emergency disclosure as well. It didn't
17 seem to be in the same section. Everything else that I
18 would indicate to this panel is included in my written
19 testimony so I won't reiterate that.

20 If you have any questions, I'd be happy to
21 answer them. And I thank you for the opportunity to speak
22 to you this morning.

23 CHAIRPERSON COHEN: Thank you very much. And
24 we certainly appreciate your willingness to answer some
25 questions, and we will ask the panel members. But I just

1 have one question. Obviously, it's too late. In
2 hindsight, it's 20/20 as they say.

3 Mr. Totaro, in the Kurtz incident that you
4 gave us -- and I realize the mental state of victims,
5 having dealt in this area. -- why did this woman give the
6 address and phone number? She was fortunate because many,
7 many victims have no support system at all.

8 This woman was fortunate in that she had
9 parents and others. Why did she give the address, her
10 residence as opposed to her parents' address and phone
11 number?

12 MR. TOTARO: You're right. In fact --

13 CHAIRPERSON COHEN: And actually -- excuse me.
14 The point that I'm making is that none -- the reason that
15 I'm asking is that none of us really likes to see any
16 additional legislation unless it's necessary.

17 MR. TOTARO: Right, right.

18 CHAIRPERSON COHEN: And in the case you gave,
19 this legislation may not have been necessary, unless I'm
20 missing something.

21 MR. TOTARO: Right. I don't know if I need to
22 switch for the microphones or not but --

23 CHAIRPERSON COHEN: If you can just -- why
24 don't you move a little closer.

25 MR. TOTARO: Sure. I think you're right with

1 regard to your comments in this particular case. I cannot
2 answer why Martha Kurtz did not use the address of her
3 parents because they did know of the ongoing problems
4 between their daughter and with regard to the individual
5 that she was living with.

6 And I've thought about this as well. This
7 legislation might not actually benefit her because she
8 chose not to use the address of her parents. However, I
9 would point out that I'm sure there are other cases where
10 the victim -- and I know there are other cases. -- where
11 the victim will not share these problems with their family
12 or with their friends.

13 They do not want to acknowledge that they are
14 in an abusive relationship; and therefore, they are not
15 going to utilize the -- I guess the address of their
16 parents or their friends. They may not even be in an area
17 where they have family or friends.

18 And in that particular case or under those
19 circumstances, then I think that there would be help
20 provided by additional language within the bill.

21 CHAIRPERSON COHEN: My other problem is a
22 practical matter. And again, we have to use the Martha
23 Kurtz situation that you gave us. Assuming this law were
24 in place, again, when we talk about victims who, number
25 one, don't want to tell anyone, again, I think as a very

1 practical matter -- and ignorance of the law is not an
2 excuse. -- when a person presents themselves, himself or
3 herself, to a prospective landlord and is using an address
4 such as this, a confidential address, number one, that's an
5 admission that they're in an abusive relationship. I'm not
6 sure that someone would be willing to do it.

7 And number two, I'm not sure that a
8 landlord -- unless the victim came out and said, Look, I'm
9 the victim. There's House Bill 1436 that's now in law.
10 It's in place, and you have to take this post office box
11 and another number that I'm giving you because I can't give
12 you the address where I am, I think some -- some landlords
13 again would be very reticent.

14 That's not to say that 1436 shouldn't be in
15 place. But as a practical matter, which we again have to
16 deal with, would this work, number one? Would it be out
17 there for victims to know they have an alternative if they
18 haven't sought help, if they haven't had counseling?

19 And number two, trying to find a landlord who
20 knows the risk of taking in a victim, someone who's been
21 abused, knowing the risk and the statistics that abusers
22 pursue. I'm not sure. And again, that's not to say this
23 wouldn't work.

24 MR. TOTARO: Right. No. I've thought of that
25 as well actually. And there is the concern that a landlord

1 might not want to take someone in who would acknowledge
2 that they were in an abusive relationship. On the flip
3 side, if nothing is done, if no effort is made, you're very
4 possibly going to run into additional situations where, in
5 the Martha Kurtz case, violence is brought upon the victim.

6 So I don't know maybe if it's a balancing test
7 here as to which is more important in the end, whether, you
8 know, the individual can fill out an application with a
9 confidential address that she knows will not get back to
10 the abusive partner or whether the -- the apartment
11 manager, the landlord as a result would exclude them as a
12 possibility where I think then she could move on to another
13 location.

14 But again, I think maybe it's a balancing test
15 here. As misses -- Ms. Ellison stated earlier in her
16 comments, I think at that point in time, you're dealing
17 with a situation where the abuser may, if they discover
18 that she is attempting to find a residence elsewhere, feels
19 that the situation is slipping away; they are losing power;
20 they are losing authority.

21 And that's when they may become most violent.
22 So I'm questioning whether that might not be a time when
23 they should have additional protections.

24 CHAIRPERSON COHEN: Thank you. Thank you.

25 MS. ELLISON: I just made a quick

1 consultation. One of our domestic violence legal clinic
2 workers is in the audience today. I don't believe that
3 Martha Kurtz contacted any victim service agencies, and I
4 don't think she had any contact with the police department
5 about the situation before her homicide occurred.

6 And this also, I think, would go to where
7 access to the Secretary's applications would come from,
8 would it be at victim service agencies, or how a domestic
9 violence victim would be made aware that this program is
10 available.

11 Had Ms. Kurtz had some safety planning from a
12 domestic violence counselor, she would have -- somebody
13 probably would have said, Don't use your address. Use
14 somebody else's address. It's a step of a domestic
15 violence victim to seek help. But when they make the step
16 to seek help, it's what access we have available to them
17 and what programs we have available to them.

18 And expanding this legislation in this way
19 would give them that one extra step of protection before
20 they can make the move to a safe place.

21 CHAIRPERSON COHEN: Thank you. Did you
22 achieve a conviction?

23 MR. TOTARO: Yes.

24 CHAIRPERSON COHEN: Oh, okay. Thank you. I'd
25 like to welcome Representative Daley. Thank you for being

1 here. Any questions, Representative True? Do you have a
2 question? Representative Carn.

3 REPRESENTATIVE CARN: Thank you, Madam
4 Chairperson. I have a question in terms of when do victims
5 contact your office? Is there -- or is there a counseling
6 service that victims utilize in Lancaster County? Because
7 the question that I have is when someone's going through
8 this kind of a situation, I was just trying to figure out,
9 is there easy access to any services presently?

10 MS. ELLISON: The way -- under our STOP Grant
11 Program, the way a victim accesses the district attorney's
12 office generally is when the police are called to a
13 criminal incident and charges are filed. Within three to
14 five days, a copy of those charges is sent to the Domestic
15 Violence Unit.

16 Our unit sends out a letter to the victim
17 which basically reiterates the rights in 2711. It tells
18 them how to get in touch with the district attorney's
19 office, how to get in touch with the shelter, how to get a
20 PFA order, things of that nature.

21 We have an excellent victim service office in
22 the district attorney's office. We then send our domestic
23 files up to the victims. And if we have a phone number,
24 they call them and go over the criminal process with them,
25 find out who else they need to be in contact with, where

1 they need to go to get a PFA, if they want someone to
2 accompany them to criminal proceedings, things of that
3 nature.

4 A copy of our letter is also forwarded to the
5 Domestic Violence Legal Clinic so that if somebody goes to
6 their office to access services, they know that that victim
7 is also the victim of a pending criminal charge and that
8 we're in contact with her as well.

9 We've developed a really good relationship
10 with these offices. We work very closely together. We
11 call each other constantly saying, you know, could you
12 look -- they call me saying, Look at this criminal case. I
13 think the victim needs some more information.

14 Or if a victim calls me and it's not a
15 criminal matter that the police can intercede in or that my
16 office can help her with, I can say, You need to contact
17 the Domestic Violence Legal Clinic. They can give you help
18 with civil problems and things of that nature.

19 If a victim chooses not to contact the police
20 or if criminal charges are not filed, victims can go to the
21 Bail Administration Office in the Lancaster County
22 Courthouse. There is an advocate from the Domestic
23 Violence Legal Clinic who is stationed in the courthouse to
24 assist victims fill out PFA orders.

25 She also, in the context of talking with them,

1 quite frequently finds out that there was a criminal
2 incident that wasn't reported. So we catch a lot of them
3 that way. Some people just go to the shelter. They don't
4 want to contact the police.

5 But the way we've set up our program, we're
6 all in contact so that hopefully we are getting to all the
7 people we need to get to.

8 REPRESENTATIVE CARN: So there has to be a
9 criminal matter before contact is made with your office?

10 MS. ELLISON: Yes, usually.

11 REPRESENTATIVE CARN: Okay. Thank you.

12 CHAIRPERSON COHEN: If you could just limit
13 your answers because we're running short of time. We've
14 got lots of questions. Thank you. Representative True.

15 REPRESENTATIVE TRUE: Thank you,
16 Representative Cohen. Ms. Ellison, I just -- I've been
17 asked a lot since this bill has been proposed, What would
18 you think of as far as numbers are concerned? My feeling
19 is that this is going to be a real group of dedicated
20 people that would want to use this confidentiality.

21 Am I wrong on that? Is that something -- I
22 know it will be an inconvenience to some people. Would
23 your feeling be these are going to be people that are very
24 desperate, that very much want to hide that would need to
25 access this?

1 And the second part of that, if I may, this to
2 me is such an emotional issue. Wouldn't knowing that
3 something like this is out there, if we do a good job
4 educating through all the things that you all do, wouldn't
5 this be a comfort and perhaps bring people in to help if
6 they know something like this is out there, that they can
7 truly hide if they need to rather than nobody can help me
8 and I have nowhere to go? That's kind of a long -- I'm
9 sorry about that.

10 MS. ELLISON: I'll try to limit my answer.

11 REPRESENTATIVE TRUE: I'm trying to squeeze
12 everything in here.

13 MS. ELLISON: In response to the first part of
14 your question, my experience with domestic violence victims
15 is that they are much more forgiving than I would hope they
16 would be. It's quite frequent the first time that I work
17 with them to say I want him to get probation; I want him to
18 go to counseling; I want him to get help; it's okay, I want
19 him to see his kids. And then another incident occurs.

20 So by the time somebody would, I think, access
21 legislation like this, they would want to hide. They would
22 want to be away from this person. With regard to the
23 second part of your question, yes, I think that knowing
24 that there is a program there that can provide help is a
25 great support to people in this situation.

1 REPRESENTATIVE TRUE: Thank you. Thank you.

2 CHAIRPERSON COHEN: Representative Walko.

3 REPRESENTATIVE WALKO: Thank you, Madam Chair.

4 I certainly am one of the cosponsors and certainly support
5 the whole concept and approach basically. But I was
6 wondering if you had any concerns about the state
7 administering it versus it being administered on a county
8 level, or is that question sort of meaningless because it
9 can't be administered on a county level?

10 MS. ELLISON: I'm not quite sure. I have
11 thought a little bit about the administration, and I
12 haven't worked it through myself how -- how it would work.
13 I have had thoughts about how access to these applications
14 would be made.

15 Certainly, if it's administered by the state,
16 local domestic violence agencies could make victims aware
17 of the program. Where they would get the applications and
18 how that would work I really haven't processed. I'm sorry.

19 REPRESENTATIVE WALKO: And as far -- I think
20 Representative True answered a concern I was having about
21 the volume because out of the 300 PFAs in Lancaster
22 County -- I guess that's annual. -- perhaps a small
23 percentage of those would participate in this program.

24 MS. ELLISON: That's -- actually, that number
25 is only the violation of PFA orders. We have over 1,000

1 PFAs filed a year. And actually, in the PFA program, the
2 victim can ask for a confidential address as well; but
3 that's only as long as the PFA is in effect.

4 REPRESENTATIVE WALKO: Thank you.

5 CHAIRPERSON COHEN: Ms. Dalton.

6 MS. DALTON: I just want to ask a couple of
7 questions about the bill. How would this legislation
8 change law enforcement's access to information?

9 MR. TOTARO: I know that was a concern that
10 was raised by Chief Bagnoli of the East Hempfield Township
11 Police Department. As I understand, there is a provision
12 for emergency disclosure. His concern was in a situation
13 where they might know that an individual is in their
14 jurisdiction, an abuser who might have a PFA order out
15 against him but they don't know that the abuser or the
16 victim is in their jurisdiction.

17 And at that point in time, I question whether
18 they could, under the bill as written, access with the
19 24-hour access to find out whether -- or where the address
20 is of that individual. As I see it, there is emergency
21 disclosure for law enforcement if they feel the need to
22 determine the location.

23 Whether that is sufficient for law enforcement
24 concerns, I don't know. But I do know -- at least it's my
25 understanding that Chief Bagnoli had submitted testimony to

1 the Task Force on that issue.

2 MS. DALTON: Okay. I have a second question.
3 How will schools, elementary and high schools, be treated
4 under this bill? Children are allowed to get a
5 confidential address. I was just wondering if this bill
6 required school districts and schools not to have the
7 addresses of the children that are in their schools?

8 MS. ELLISON: I think they would probably have
9 to have the address, the actual address for truancy
10 concerns. I think that would be important. But that would
11 probably fall under the limited use and limited access
12 provision. I would think that would be the way that
13 practically it should work.

14 MS. DALTON: Thank you.

15 CHAIRPERSON COHEN: Okay. Thank you both
16 very, very much. We appreciate the information that you've
17 given to us. Any further comments, please feel free to
18 provide us and advise us. Thank you.

19 MR. TOTARO: Thank you.

20 CHAIRPERSON COHEN: The next person to testify
21 is Dr. Susan Atkins from Transitions. Thank you, Dr.
22 Atkins. You may proceed at any time.

23 DR. ATKINS: Good morning. I'm here to
24 basically talk about the psychological aspects of
25 battering, both from a little bit about the victim, a

1 little bit about batterers and where I see the intersection
2 of people's personal lives and government.

3 I've worked professionally with battered women
4 since 1985. During that time, I've listened to hundreds of
5 stories from women as they have attempted to restore safety
6 and sanity to their lives. I've seen women struggle with
7 their own internal constraints.

8 But far more painful to watch is the struggle
9 to obtain the societal support which validates their
10 struggle and increases the potential for safety. In the
11 next few minutes, I would like to share with you what I've
12 learned about domestic violence over the past 15 years.

13 First, battered women themselves minimize and
14 deny the danger. I have frequently said that the single
15 most dangerous thing a woman can do in this culture is to
16 fall in love. According to the Bureau of Justice
17 statistics, more women are injured and killed at the hands
18 of their husbands and lovers than by any other cause.

19 Battering behavior in a relationship generally
20 begins slowly and insidiously. No one gets punched in the
21 nose on a first date. Studies have demonstrated that many
22 of the tactics used in brainwashing are used by batterers
23 in intimate relationships. The effect is even more
24 compelling because the relationship typically begins with
25 love, care and sexual intimacy which reduces interpersonal

1 boundaries and makes one more susceptible to control.

2 The violence is usually noncontingent and
3 unpredictable which produces a constant state of terror and
4 instability. Often, women are financially dependent on
5 their attacker which further complicates their coping
6 responses. In order to survive repeated assaults, denial
7 of the violence is used as the primary defense mechanism.
8 Victims of violence become habituated to terror.

9 Levels of violence and terror which would make
10 many of us in this room run for cover become a routine
11 aspect of daily life. For anyone who lives a violent-free
12 life, it is hard to imagine how victims of domestic
13 violence survive on a day-to-day basis; but they do.

14 Watch the faces of refugees in Bosnia and you
15 can see the same numb ability to copy with daily life in
16 the face of unbelievable terror and the fear of death. To
17 the extent that our society refuses to grasp this reality
18 and to the extent that our government does not provide all
19 possible validation relief, the denial of peril is the only
20 possible strategy for victims.

21 Domestic violence flourishes in a climate of
22 denial. It is not easy to believe that love can turn to
23 violence and sometimes murder. It is not easy to look at
24 the underbelly of family life. It is not easy to know what
25 will help victims to be safe. And I congratulate you for

1 being courageous enough to look.

2 The second thing that I've learned is that men
3 who batter can be extremely dangerous. They're either
4 sociopathic or desperately dependent. It is hard to
5 imagine the man who sits next to you in church or your
6 colleague at work or your fellow committee member could be
7 so emotionally regressed that the very idea of relationship
8 loss constitutes an emotional death.

9 Macho underpinnings, a childhood history of an
10 absent or abusive father, and homophobia in our culture
11 denies many men the opportunity to develop emotionally
12 expressive relationships with other men. Many men can only
13 express their emotional need for support and comfort within
14 an emotional relationship with a woman.

15 For some men, the only expression of this is
16 sexual intimacy. The fear of losing the sole object with
17 whom this intimacy is shared creates the need to control
18 that object, violently if necessary. This is the reason
19 women steal away to hide out in shelters. Unfortunately,
20 few people understand the underlying psychological reason
21 why we need to put fleeing women under lock and key.

22 Additionally, this level of psychological
23 dependency does not remit quickly. While the most
24 dangerous time for a domestic violence victim is
25 immediately after leaving the relationship, this danger can

1 continue unabated for some time.

2 I was glad to see the provisions being made in
3 this bill for providing the service for three years. In
4 some cases, I would suggest that this may need to be
5 extended on a case by case basis.

6 Finally, recent studies indicate it is
7 extremely difficult for providers of psychological services
8 to predict who might react to relationship dissolution with
9 fatal levels of violence. The common wisdom is that the
10 best predictor of future violence is past violence.
11 However, with domestic violence, this is often much more
12 difficult to determine.

13 Women frequently don't tell or don't have the
14 opportunity to tell. Often, nonviolent control is being
15 exerted. And unless providers are well trained in domestic
16 violence, they miss this as a predictor. I believe the
17 best predictor of lethality is the perpetrator's emotional
18 dependence on the victim.

19 Unfortunately, that is often not assessed or
20 considered. I'm constantly amazed at how often mental
21 health providers miss signs of domestic violence and
22 control. Victims will tell but only when asked. Victims
23 will act on their own behalf but only when they feel safe
24 enough to do so. Victims will drop the denial, but they
25 can't do so until others acknowledge the danger and

1 validate their concerns.

2 The single most important thing that society
3 can do to prevent injury and loss of life once a victim
4 leaves an abusive relationship is to acknowledge the
5 potential lethality of the situation. I believe House Bill
6 1436 may serve to save the lives of some victims of
7 domestic violence in the Commonwealth of Pennsylvania.

8 It serves as an acknowledgment that a true
9 danger exists. It provides a mechanism for providing
10 continued safety over time and will grant victims of
11 domestic violence the assurance that the danger is real and
12 at least in Pennsylvania it will not be tolerated. Thank
13 you.

14 CHAIRPERSON COHEN: Thank you, Dr. Atkins. I
15 would like to welcome Representative Maitland from Adams
16 County. Thank you for being here. I believe that
17 Representative Carn has a question.

18 REPRESENTATIVE CARN: Yes, just one question.
19 How is it that mental health providers are missing the
20 signs of domestic violence?

21 DR. ATKINS: I think just like it's hard for
22 anybody to see it unless it's right in your face. We don't
23 want to believe that about families. We don't want to
24 believe, as I had said earlier, that love can turn to
25 violence and possibly death.

1 REPRESENTATIVE CARN: Isn't that one of the
2 instances that they're searching for? I'm just trying to
3 get a sense of what it is.

4 DR. ATKINS: Generally not. Our -- my
5 experience has been, having been in graduate school, that
6 there is very little training actually in domestic
7 violence. The level of denial of violence in our families
8 does not just exist at the personal level, but it exists at
9 the personal and societal level as well. And I believe
10 that's the problem.

11 REPRESENTATIVE CARN: Thank you.

12 CHAIRPERSON COHEN: Representative Daley.

13 REPRESENTATIVE DALEY: Thank you, Madam
14 Chairman. I was briefly looking through 1436. And
15 Representative True maybe can correct me. I think this
16 legislation is neutral -- is gender neutral, is it not?

17 CHAIRPERSON COHEN: It is, yes.

18 DR. ATKINS: Yes.

19 REPRESENTATIVE DALEY: And I'm reading and
20 listening to your comments, Dr. Atkins. It's -- have you
21 dealt with men that have been battered?

22 DR. ATKINS: Yes, I have some. And I thought
23 in writing this to do it in a gender neutral way. However,
24 as we do that, it often begs the question. The primary
25 victims of domestic violence in this culture continue to be

1 female. The whole weight of the culture of violence in
2 this country is particularly male; although, I've worked
3 with male domestic violence victims.

4 There are some differences. We don't tend to
5 need the levels of shelter and protection of men that we do
6 of women in this culture. At least that's my experience,
7 and that's also what most of the studies have also shown.
8 I could have written this from a gender neutral
9 perspective, however.

10 REPRESENTATIVE DALEY: Well, I was amazed by
11 the one line where you said, "I have frequently said that
12 the single most dangerous thing a woman can do in this
13 culture is to fall in love." I mean, I can understand in
14 the context in which you're writing that.

15 Have you seen historically that the number of
16 male battering cases have increased recently or --

17 DR. ATKINS: Violence directed toward men?

18 REPRESENTATIVE DALEY: Yes.

19 DR. ATKINS: There certainly are levels of
20 battering by men in gay relationships, probably much more
21 so in female relationships. I do see it as a differential
22 in power typically in relationships. One of the men that
23 I've worked with who's battered in his relationship
24 suffered from multiple sclerosis and was in a wheelchair.

25 So there usually has to be some differential

1 in power just from in a stance in terms of physicality, the
2 use of violence. If you look statistically, many more
3 female partners are killed by male partners than the other
4 way around so the weight of the evidence still suggests
5 that this is a problem with women.

6 But absolutely, it's a problem for men as well
7 or can be.

8 REPRESENTATIVE DALEY: Thank you. Thank you,
9 Madam Chairman.

10 CHAIRPERSON COHEN: Thank you. Any other
11 members? Well, Dr. Atkins, we want to thank you for being
12 here. And I appreciate the information that you've given
13 to us.

14 DR. ATKINS: Thank you.

15 CHAIRPERSON COHEN: Thank you. The next
16 person that will appear before us is Pamela Grosh, the
17 program director of Victim/Witness Services, Lancaster
18 County District Attorney's Office. And I believe you've
19 brought with you Linda Young. So please feel free to make
20 your presentation at any point, Ms. Grosh.

21 MS. GROSH: Good morning. My name is Pamela
22 Grosh. And for the last ten and a half years, I've worked
23 with crime victims as part of my responsibilities as
24 program director in Victim/Witness Services, which is part
25 of the office of the District Attorney in Lancaster County.

1 In our office, we regularly receive requests
2 to keep my address confidential. At one time, I believe
3 that we could assure a victim that that was possible.
4 However, after failings occasioned by addresses provided to
5 defendants on the police report as part of the discovery
6 process or gathered by defendants through checking the
7 clerk of courts' records for original subpoenas or in
8 restitution statements attached to presentence reports, I
9 came to the reluctant and sad conclusion that it is, while
10 a worthy goal, it's nearly impossible to eliminate a
11 victim's address in every piece of paper that proceeds
12 through the court system.

13 I also sadly acknowledged that it was foolish,
14 misleading and, in some cases, dangerous for me to suggest
15 that it could be done. There was always a way for a
16 defendant to obtain this information. Ironically, the best
17 possible scenario for a victim was a change of address
18 mid-course in the proceedings.

19 All of the official documents carried an old,
20 no longer valid address. And the new address could be
21 better protected. This legislation contemplates a far more
22 sophisticated version of that process.

23 Frequently, in the course of dealing with
24 situations involving long-term stalking and abuse, a victim
25 will share the advice given to her by some concerned

1 person, frequently an individual with some responsibilities
2 in relation to the offender's future actions, a law
3 enforcement officer, a probation or parole officer, "You
4 need to move. Just leave the area before something
5 happens."

6 This advice, generally given with the
7 sincerest motives, fails to acknowledge the complexities of
8 such an action. It is also given without regard for the
9 ties that may legally and legitimately bind the victim and
10 the offender together. Following this advice in its purest
11 forms would, in many cases, create an offender from a
12 victim.

13 The virtues of this bill were immediately
14 obvious to me. While acknowledging the limitations of
15 action by any legislation or program to safeguard victims
16 from all harm, this legislation offers a solution to one
17 part of the puzzle of reclaiming a life in the aftermath of
18 disruptive stalking and violence.

19 It offers an opportunity to get a driver's
20 license or a library card, to give an address for school
21 registration, to resume some of the most ordinary
22 activities that are part of our everyday lives. It offers
23 an opportunity to program participants to shield their
24 addresses while responding to the myriad entanglements that
25 criminal, divorce, custody and protection from abuse

1 actions entail.

2 While I recognize the undesirability of
3 encumbering the legislation with provisions better
4 addressed in regulations, I would suggest that a fuller
5 discussion of the exact mechanisms to be utilized in the
6 implementation of this legislation include a clear
7 understanding of the procedure for service of process.

8 I'm intrigued by the California statute's
9 proactive provision providing for disclosure of existing
10 and active court actions regarding child support, child
11 custody, or child visitation upon application to the
12 program. Further, their statute provides for notice by the
13 address confidentiality program to the other party involved
14 in these actions.

15 This approach removes the concern that some
16 may have that the program provides a shield behind which
17 children can be hidden. When the time arrives to consider
18 implementation, I also encourage you to ensure that there
19 is provision made for assistance with application to the
20 program at the local level by programs with access to and
21 knowledge of victims who may be most helped by this
22 process.

23 Finally, I want to address my greatest concern
24 with the bill as it is currently conceived. A concern lies
25 with the eligibility issue. While acknowledging that most

1 stalking cases do involve domestic partners, many do not.
2 Currently, eligibility for the confidential address program
3 is wholly tied to protection from abuse definitions which
4 limits the class of people eligible for participation to
5 spouses or persons who have been spouses, persons living as
6 spouses or who lived as spouses, parents and children,
7 other persons related by consanguinity or affinity, current
8 or former sexual partners, or persons who share biological
9 parenthood.

10 I believe that it is important for you to
11 consider the addition of victims of stalking in the classes
12 of persons eligible for this program. I recognize that
13 this recommendation may seem to open a floodgate of
14 potential and new participants.

15 However, considering the other major factor
16 this remedy presupposes, the fact that the victim feels
17 strongly enough about the potential danger to move, I do
18 not think I am advocating for an unreasonable addition.
19 Given the same actions by an offender, it is often easier
20 to obtain a protection from abuse order than to have
21 criminal charges brought.

22 Stalking victims who are not eligible for
23 protection from abuse protection have a harder road to
24 justice in many cases. I encourage you to focus on the
25 harm caused by the offender and the perceived need for

1 protection by the victim as a criteria for participation in
2 this program rather than the current limitation of
3 relationship of the parties as an eligibility factor.

4 To illustrate the importance of this point, I
5 invite you to listen to Linda Young's story. Linda is a
6 stalking victim who could greatly benefit by the existence
7 of the address confidentiality program but would not
8 qualify as the legislation is currently written.

9 I commend the hard work envisioned which has
10 brought this House Bill to this point. I ardently support
11 its passage. It provides a significant acknowledgment of
12 the difficulties faced by victims as they attempt to
13 reorder their lives and provides them with a powerful tool
14 to bring a new existence into being.

15 I appreciate the opportunity to address you
16 concerning my concerns and support. Thank you.

17 CHAIRPERSON COHEN: Thank you, Ms. Grosh. I
18 think what we'll do is hear Ms. Young and then open it up
19 for questions if you don't mind.

20 MS. GROSH: Sure. That's fine.

21 MS. YOUNG: Good morning. I'm Linda Young.
22 I'm a victim of a stalker. My stalking situation is very
23 unusual compared to most stalking situations. I was being
24 stalked by a young girl who is 20 years my junior. I met
25 this girl at a restaurant where I had worked.

1 She came into the restaurant one day
2 crying -- she worked there also. -- that her mother had
3 kicked her out of the house; she had nowhere to go; she had
4 no clothes to wear. Several people from the restaurant
5 were taking turns taking this girl home with them for the
6 night, and they'd bring her back to work. They were
7 donating clothes to her. They were feeding her.

8 After a few days of this, I offered this girl
9 to stay in my home for a couple of weeks, as my son was out
10 of town and she could use his room. We would take her to
11 Welfare and see if we could find her shelter somewhere and
12 get her some food stamps.

13 As it ends up, she eventually started stalking
14 me. While she was living in my home, within about a week
15 of her being there, she started. I had switched jobs, gone
16 to another restaurant to work. She quit her job at the
17 restaurant where we originally worked, tried to get a job
18 where I was working.

19 She would follow me to work every day. She
20 would stay in the parking lot where I worked and just
21 circle the building the entire time I was at work during
22 the day. Her behavior became very erratic in my house.
23 She started using drugs. She would follow me constantly.

24 She was going through my dresser drawers. And
25 eventually, it came to the point where she was buying

1 clothes exactly like mine, underwear, socks, brassieres,
2 slips. Anything that I had, she would go out and find the
3 exact same brand, style, color of clothing that I would
4 wear and she would start wearing them. And she was
5 basically just trying to take over my identity.

6 I had gone to the police department. I asked
7 the girl to leave my home, and she would not leave. I was
8 working with an officer in the Manheim Township Police
9 Department. And she said, Well, you know Linda, you're
10 being stalked. And I kind of laughed because I had never
11 heard of a girl stalking a girl.

12 And I always thought of stalking as a man
13 stalking a woman, a woman stalking a man. So this
14 continued. They had her taken out of my house eventually.
15 She was put in a mental health unit. While in the mental
16 health unit, I had her clothing and all her possessions
17 removed from my home.

18 She was told in the mental health unit she was
19 not allowed to have contact with me. She was given a no
20 trespass order. Now, I was not eligible to have a PFA
21 against her because it was not a lesbian affair, it was not
22 a relative or anything that goes under the PFA order.

23 Within one hour of her being released from the
24 mental health unit -- she was in there, I believe, five
25 days. -- she was back at my house banging on the door. And

1 that's when we, working with the Manheim Township Police
2 Department, we started pressing the issue of stalking,
3 which for stalking, you have to go through a lot to have
4 the charges pressed.

5 This girl would be at my house all night long,
6 all day long. She would show up where I worked. This girl
7 did not drive a car. She rode a bicycle. If she could not
8 find me, she would follow my daughter. It got to the point
9 we put security on my daughter at school.

10 My daughter never came home if I was not home
11 in the evening. If I had to work that evening, she went to
12 someone else's house where there was a parent there. Each
13 day, she went to a different home so there would be no way
14 this girl could find her.

15 When I was at work, like I said, the girl
16 would be outside the building continuously circling the
17 building on her bicycle. If I was driving down the street,
18 I stopped at a red light, she would circle my car on her
19 bicycle while I was sitting at the red light.

20 If I went shopping, she would be behind me in
21 the store the whole way through the store. This went on
22 for several months before we had enough charges against her
23 to press the stalking charges. She was put into prison.
24 Actually, what had gotten her into prison was a shoplifting
25 charge.

1 And while she was in prison, my first set of
2 stalking charges went through. She continually, although
3 in prison, contacted me from prison, called me collect from
4 prison. She would call my home 20 or 30 times in an hour.
5 She sent me letters from prison, which while she was in
6 there, she knew she was not allowed to contact me in any
7 way, shape or form.

8 Most of the letters that I had received was, I
9 forgive you for what you have done to me. In her mind, I
10 did all of this to her. Every time -- I had police
11 officers, before she went to prison, at my house
12 constantly. She would hide.

13 Here she was using her cell phone to tap into
14 my cordless phone and was listening to the conversations.
15 So every time I called the police, she knew they were
16 coming; and she would disappear. But while they were
17 there, they would send several cars out looking for her.

18 She would call me up and laugh how they
19 couldn't find her and how smart she was. And several
20 times, the police officer was standing in my house, took
21 the phone from me and would listen to the things she was
22 saying; but they still could not catch her.

23 So what had -- like I said before, what had
24 gotten her in prison was she was caught shoplifting. And
25 while she was in prison, the stalking charges had gone

1 through. She contacted me from prison telling me how much
2 she forgives me for what I did to her, how could you do
3 this to me, I don't know why you did this to me, which was
4 a continual theme from the beginning to the end of this.

5 When she would call me, Why are you doing this
6 to me, Linda? What's wrong with you? She was in prison
7 for four months. She was paroled. In the meantime, I had
8 moved. I split my family up. I received from the police
9 officer, Move out of this area, get jobs out of this area,
10 leave this area.

11 I had a daughter in high school who wanted to
12 finish high school with her friends. She had lived in this
13 area all of her life. So what I had done is sent her to
14 live with a friend that lived in the area. I had a son.
15 He moved to Chester County with my sister.

16 And I basically stayed in hotels for several
17 months till I totally depleted my savings. Then I moved in
18 with my sister that lives up in the same area. I was there
19 about a month, and Tanya was released from prison. And she
20 was paroled. She was allowed no contact with me through a
21 third party, telephone. She was not allowed to write to
22 me.

23 Within three days of being released from
24 prison, she found me. And I had moved. She was picked
25 back up. It took them about a week to find her. And she

1 was picked back up for a parole violation in which a second
2 set of stalking charges were pressed on her, which she
3 pleaded guilty to.

4 She is presently in prison right now. She
5 will be released the end of this year, near the end of this
6 year. But from my moving -- I moved so many times in that
7 month. And for several months, since I was living in
8 hotels -- I would switch hotels every night. Even though
9 she was in prison, they kept telling me that they didn't
10 know the date when she could be released so I did not take
11 a permanent address.

12 I had to go to a hearing for her when the
13 second set of stalking charges went in. At this point, I
14 had moved in with my sister. They read my new address out
15 in the court right in front of her so I moved again. I had
16 to leave because she now had my new address.

17 One of the things -- the problem I'm having
18 now is -- I do have a permanent address now. I have moved
19 so many times, had my mail forwarded so many times. I had
20 mail going to a relative's house. I had mail going -- I
21 left some with my old address so it would get forwarded to
22 a post office box. I had mail going all over the place.

23 I've had a permanent address now since
24 December, and I don't receive my mail half the time. It is
25 gone. I do not receive bank statements. I do not receive

1 telephone bills. I had my car insurance cancelled because
2 I never received the bill.

3 The part that alarms me is some of the bills
4 that are being returned to the companies have my new
5 address label on them. I do not know if Tanya tried to
6 contact me from prison since I've moved to this address.
7 If she sent something to an old address, got the new
8 address label on it and it was still returned to her, she
9 now has my new address, which I have no way of finding out.

10 This -- I think under this bill, if you would
11 include stalking, it would be wonderful to have. Even
12 though I would be moving around, one address for my mail to
13 go to; if I would have to appear in court, my new address
14 is not read out in front of the stalker. It was basically
15 handed to her there.

16 I think that this bill is a wonderful idea,
17 but I would definitely like to see victims of stalkers
18 included under this bill.

19 CHAIRPERSON COHEN: Thank you. Thank you for
20 your very dynamic and certainly poignant testimony. We
21 appreciate it. Any members of the panel have questions?
22 Representative Carn.

23 REPRESENTATIVE CARN: Yes. Can we get a sense
24 of how prevalent stalking is in Lancaster County?

25 MS. GROSH: Stalking cases are in a form --

1 should I switch? Stalking cases alone that do not involve
2 other types of criminal charges and/or the existence of a
3 protection from abuse order are rare. I will say that that
4 is true.

5 Again, it may be more rare because of the
6 difficulty in pursuing this type of charge. It is still
7 somewhat difficult to have that type of a criminal charge
8 brought. And while I can't give you exact numbers, it is
9 not a high number.

10 REPRESENTATIVE CARN: Thank you.

11 CHAIRPERSON COHEN: Thank you. Representative
12 Daley.

13 REPRESENTATIVE DALEY: Thank you, Madam
14 Chairwoman. Couple questions. I'm amazed by your story.
15 It was almost like a made for TV movie when you're
16 explaining it. And first of all, I know we're not
17 getting -- we're getting the Reader's Digest version.

18 And the criminal justice system seems like
19 it's failed you somehow here with criminal trespass, with
20 harassment, some of the things that could have been done by
21 the criminal justice system to get her away from you prior
22 to the shoplifting charge.

23 There seems to be things that could have been
24 done by the local police department or by the district
25 attorney's office or by someone in order to remove her.

1 She was obviously an adult, a young adult. The involuntary
2 commitment, could someone have gotten her an involuntary
3 commitment under the Mental Health Procedures Act? I mean,
4 obviously this woman --

5 MS. YOUNG: That is what happened to her
6 eventually. The problem is for stalking to go through, you
7 must have five -- she had to be detained five times, caught
8 five times at my home by a police officer. And we went
9 through -- she was at my home continuously. But someone
10 had to see her there on my property for them to pick her
11 up.

12 And as much as they tried, I mean, they even
13 put unmarked cars in my neighborhood to watch for her. And
14 we had made these plans over the phone. And apparently,
15 she was listening and didn't show up for two days, that she
16 knew the unmarked cars would be there.

17 They -- I must say with the police department,
18 they just went -- I cannot complain about them. They did
19 everything possible they could. But they had to follow the
20 guidelines for stalking. We -- we would literally -- the
21 police officer would pull out the book of exactly what we
22 had to do to get these stalking charges through, that we
23 did not mess anything up, that it was all done and it was
24 legal, that there would never be a catch that she could get
25 out of prison when she got in.

1 And it took a very long time. I mean, driving
2 down the highway, there is no way a police officer can be
3 right there to follow me every minute of every day. And
4 she was -- although she was said to have a very low IQ, she
5 was very conniving and she was very smart in certain ways.

6 She would hide in the bushes and tell me
7 exactly what the police officers were doing -- she would
8 call me from her cell phone. -- of exactly where they were,
9 how many times they passed her. And she would laugh about
10 it.

11 And they were very diligent in working with
12 me. I can't say that the system failed me. It was --
13 there are so many problems with stalking. You have to have
14 five criminal trespass charges to get the stalking charges
15 through. And for them to catch her five times --

16 REPRESENTATIVE DALEY: Is there a guideline
17 set up, is that in the Crimes Code?

18 MS. GROSH: No. As far as I -- from the
19 Crimes Code, I would say you need a course of conduct. And
20 my guess is that this is what they had believed would
21 establish a course of conduct.

22 REPRESENTATIVE DALEY: Surely the -- the
23 course of conduct, if she came to your house and then she
24 followed you with a bicycle to work and rode around work,
25 when you stopped at a stop sign and then rode around you on

1 a bicycle, I mean, the course of conduct in any harassment
2 charges I've ever been involved with before a district
3 justice, I mean, that was pretty much right there. That's
4 the threshold.

5 MS. YOUNG: But see, part of the issue was
6 with her, she would -- I would stop at a red light. She
7 would be sitting on that corner, and she would circle my
8 car. And she would try to press charges against me that I
9 was harassing her and following her.

10 So we always had this issue of she -- at the
11 same time, she was trying to press charges on me that I was
12 stalking her because she knew what way I went to work. I
13 would change the way I went to work. I would go a
14 different way all the time.

15 And somewhere along the way, I would pass her.
16 And she would call the police and try to have charges
17 pressed on me that I was following her. See, it was a --

18 REPRESENTATIVE DALEY: She received treatment;
19 she is out?

20 MS. YOUNG: She's not out yet. She gets out
21 in November.

22 REPRESENTATIVE DALEY: She's still in the --

23 MS. YOUNG: She's still in prison, yes.

24 CHAIRPERSON COHEN: Thank you. Okay.

25 REPRESENTATIVE DALEY: Yes, ma'am.

1 CHAIRPERSON COHEN: Thank you, Ms. Young and
2 Ms. Grosh. We appreciate you being here. And now we want
3 to welcome back Dr. Wanda Filer representing the
4 Pennsylvania Academy of Family Physicians. It's good to
5 see you again. We're certainly glad to have you here to
6 address us today.

7 DR. FILER: It's my pleasure.

8 CHAIRPERSON COHEN: Any time you're ready.

9 DR. FILER: Okay. Thank you. Good morning.
10 Familiar faces. I am here on behalf of the Pennsylvania
11 Academy of Family Physicians. I actually chair their
12 Public Policy Commission. And I am here to speak in
13 support of House Bill 1436.

14 I became involved in the issues of domestic
15 violence education and awareness in the health care
16 community about nine years ago when I was on call one
17 weekend, and I got a call from the answering service to
18 come in and please evaluate this newborn.

19 The mother was a patient in my practice. I
20 went in and saw this beautiful new baby and then went and
21 spoke to the mother. I spoke to the mother about all those
22 things I had been trained to talk to new moms about, car
23 seats, immunizations, breast-feeding, and basically the
24 general health of her baby.

25 I did not know to talk to her about safety. I

1 had never been trained in the issues of domestic violence.
2 When that baby was several months old, the mother, all of
3 that baby's siblings, the grandmother, and a toddler who
4 was the uncle of this newborn were murdered by the father
5 of the newborn, the mother's husband. This gentleman now
6 sits on death row in Pennsylvania.

7 That was quite an experience for me. And what
8 I vividly remember is watching my partner, who was the
9 primary care physician for this family, sobbing into her
10 Dictaphone as she dictated all of the closing paragraphs in
11 these particular charts.

12 Right about that same time, I had begun doing
13 some television broadcasting here in Lancaster County. And
14 we did a call-in show. We did a two-part series on
15 domestic violence. I had read something in a throwaway
16 journal, and I had never been trained on this. And I
17 really was struggling with this whole concept.

18 Could this issue be as prevalent as what I was
19 reading and what I was beginning to hear? During that
20 seven minutes of the call-in show on a Tuesday morning at
21 10:30 in the morning, we had more than 200 phone calls.
22 One woman called in and talked about how she -- we did not
23 obviously ask her name. -- but talked about how just a
24 couple of days before that, on a Friday, her husband had
25 broken her leg.

1 She had gone to the emergency department. No
2 one asked her directly how this happened. She told them
3 she had fallen down the stairs. She told us on the phone
4 that she had fallen down the stairs quite a few times and
5 been to the emergency room quite a few times, in fact to
6 several emergency departments to hide some of the patterns.

7 No one bothered to acknowledge that she had
8 been in that same emergency department for bouts of
9 suicidal thought, with depression, migraine headaches,
10 black eyes and head trauma. That really raised internal
11 worry for me. And I began to wonder how many of the people
12 that I was seeing were being afflicted this way, were
13 suffering in these kinds of family relationships? How many
14 black eyes had I seen and not recognized?

15 And so I began for myself an internal course
16 of professional and personal education. Since that time,
17 I've learned a lot, in great part from the Pennsylvania
18 Academy -- or Pennsylvania Coalition Against Domestic
19 Violence. And what this woman exemplified was a very
20 classically recognizable pattern of violence, the cycle of
21 family violence.

22 She fit this profile unbelievably well. I
23 have become very familiar with that profile now. I use it
24 not only to identify the patients at risk, but also as a
25 patient education tool. I began to ask myself as a family

1 physician if truly 50 percent of women in their lifetime
2 were battered at the hands of a partner.

3 Was there something that I could do to
4 acknowledge this to hopefully prevent future deaths in
5 patients? I learned about the RADAR tool, and I use that
6 at this -- all over. I travel all over Pennsylvania in a
7 variety of my professional capacities.

8 I've traveled all over Pennsylvania and
9 several other states. And I educate health care providers
10 to do a screening tool called the RADAR tool. And it
11 really gives them, if you will, a template by which they
12 can identify, counsel, and refer patients on domestic
13 violence issues.

14 I have in my testimony here a couple of
15 statements I wanted to share with you. Battery by a spouse
16 is more common than injury by motor vehicle accidents,
17 muggings and rape combined. Domestic violence is the
18 leading cause of injury to women.

19 It is in fact an issue that the Center For
20 Disease Control has taken on great importance. They have
21 an office down there as well. I and many of my colleagues
22 have never been trained in this unbelievably large public
23 health issue. I now do routine screenings on patients in
24 my office. Are you safe at home? Does anyone hurt you?
25 What happens when you argue?

1 Every single day that I see patients, I
2 identify multiple people who are in battering
3 relationships. Sometimes they don't identify themselves
4 right off the bat, but they'll often tell me. They'll tell
5 me later on because they don't know me, they're not going
6 to share this intimate risky part of their life until they
7 get a better sense that maybe I will be respectful and be
8 able to know how to handle this information.

9 There was a recent -- in fact, I believe it
10 was last month's issue of the Journal of Family Practice
11 that not only spoke about the human toll of domestic
12 violence, but also talked about the financial burden. In a
13 California managed care company, they did a survey. And
14 they had patients who were identified as having been
15 victims of domestic violence.

16 What they found is that those women had 92
17 percent higher health care costs to that plan than did
18 those people who were not afflicted with domestic violence
19 in their home relationships. These people -- I will tell
20 you because I see them regularly. I have heard absolutely
21 heart wrenching stories of how women and frequently their
22 children are being battered.

23 We know there is a 70 percent concordance rate
24 from many studies between domestic violence and child
25 abuse. These people are living with patterns and cycles of

1 violence that are absolutely unbelievable, physical
2 violence, physical control, emotional control, financial
3 control, sexual control, any insidious way to be able to
4 pull away the identity and to control that individual.

5 I have the opportunity to live in York County.
6 And what I have found -- and I'm very proud of York County
7 because we've done a lot of work in our county in terms of
8 trying to bring together multi-disciplinary groups of
9 people. And we now have, through our Health of York County
10 Coalition, task forces set up for health care, media, law
11 enforcement, school, business, many kinds of ways that the
12 community has come together across usual disciplinary
13 lines.

14 We've broken out of our silos. And we've
15 begun to say, What can we as a community do? As of 1995,
16 all health care delivery systems that are certified by the
17 Joint Commission on a federal level -- and basically,
18 that's all of them. If they want Medicare funding, they
19 better be certified by the Joint Commission.

20 We're required to have standing protocols in
21 place. I chaired the group that did those in York at York
22 Health System. And I have moved all over -- I was in Iowa
23 in October working at the University Hospital there helping
24 them look at their protocols.

25 These protocols, though, required a tremendous

1 amount of that interdisciplinary effort. They require
2 health care delivery systems to have ongoing conversations
3 with law enforcement, with the advocacy community and so
4 forth. Because of a lot of the issues of violence in
5 communities, the business community -- and because of the
6 cost -- the business community has really had -- has taken
7 a step up.

8 In York, I sit on the Fatality Review Team.
9 There are not a lot of these in this state. There is one
10 in Pennsylvania. And I worked with Philadelphia through
11 their district attorney's office for several years. They
12 have a Fatality Review Team. And we, unfortunately from
13 about two weeks ago, have three more fatalities to review
14 in York County at our next review meeting.

15 But what this has done -- I sit next to the
16 district attorney, one of our judges, people from the
17 advocacy community, the whole groups of people on
18 batterers' treatment program looking at fatalities. And I
19 believe fully that House Bill 1436 would make the safety
20 planning that I try to begin to engage my -- my patients in
21 and also when I refer them to the advocates, to the
22 shelters and so forth, it would make that much more
23 feasible.

24 It would give them one more protective device
25 that they could use to try to protect their safety. I also

1 know that the majority of the people that I see at greatest
2 danger are at the time that they are getting ready to
3 leave. Those people who died in York County, one was a
4 murder, the other a murder/suicide.

5 My patient and her family who were murdered,
6 she was getting ready to leave. We know that at the time
7 that they leave and for the first year thereafter, the risk
8 of serious injury and death is greatest. And I believe
9 that this bill could really make a difference.

10 It's estimated -- and this is an old
11 study. -- but it's estimated that there are at least
12 800,000 women in Pennsylvania that are being battered every
13 year. And I would ask you as a family physician who only
14 sees a fraction of those people, but with my colleagues, to
15 please consider passing this bill.

16 CHAIRPERSON COHEN: Well, as usual, you've
17 made an extraordinary presentation. And we're always happy
18 to see you.

19 DR. FILER: Thank you.

20 CHAIRPERSON COHEN: Representative Walko, do
21 you have a question?

22 REPRESENTATIVE WALKO: Thank you, Madam Chair.
23 Dr. Filer, I don't know that you could answer this. But I
24 know you've had extensive experience in state government.
25 The administration of this program, I'm trying -- I'm a

1 little confused about how the administration of this
2 program by the Department of State relates to other
3 agencies that have addresses like the federal government,
4 the various agencies of the federal government and all of
5 those different agencies.

6 And my mailbox is so full of mail every day.
7 I'm just trying to understand how those entities will be
8 stopped from using or learning. Would you actually be
9 designating the Secretary of State to make you have an
10 address?

11 DR. FILER: Well, I'm going to defer part of
12 that answer, I think, to the Pennsylvania Coalition folks
13 who are coming up. And I've worked with them for years.
14 This bill, as I understand it, is modeled after some
15 legislation in Washington State that has been working quite
16 effectively.

17 And the catch-22, I guess, is how everyone
18 will communicate. I think of it as, from a family
19 physician perspective, if I have a patient that I need to
20 get in touch with, perhaps with a mammogram report or
21 whatever it might be, how can I contact that person under
22 this bill? It can be done.

23 From my perspective in terms of the medical
24 care arena -- and sometimes in the medical care arena, we
25 need to contact people immediately. -- I think there are

1 provisos in here from what I have seen, protections for
2 that kind of information that the Secretary of State
3 can -- can override that, can contact, give that
4 information of the address but also at the same time,
5 notify the person that that has been done, that there was
6 this -- I hate to say breach. -- but this need to give out
7 that information for protection.

8 You know, I do have some experience. I can
9 tell you that from state government perspective, I think it
10 would not be a problematic thing to default to the
11 Secretary of State in terms of he or she and their -- their
12 whole system in place as long as it's recognizable.

13 I am, frankly, a little bit concerned about
14 the facet in there -- and I realize it has to stand. -- but
15 the facet in there that says that there are certain people
16 who can order that the address be given out. Some of the
17 previous testimony and some of the experiences that I have
18 with patients is while I think sometimes other
19 members -- more in the judiciary branch and more local
20 governments -- are well-intentioned, they sometimes do not
21 recognize the danger with which these people -- under which
22 these people are living.

23 And giving out that address or ordering it to
24 be given out freely could be a risk. And frankly, from my
25 perspective as a physician, death is the greatest risk.

1 REPRESENTATIVE WALKO: Thank you.

2 CHAIRPERSON COHEN: Counsel Dalton has a
3 question.

4 MS. DALTON: I just want to follow up on what
5 Representative Walko started to raise. And Dr. Filer, if
6 you don't have the answer, that's okay because I don't
7 either. But I know the folks that do are coming up after
8 you.

9 DR. FILER: Right.

10 MS. DALTON: I'm just reading here regarding
11 the waiver process. And it says, An agency that requests
12 disclosure shall provide in writing to the Secretary. So
13 I'm wondering -- I don't see any language here that speaks
14 to private -- private folks like yourself.

15 If you saw a victim of domestic violence and
16 that person gave you a confidential address, I'm wondering
17 under the bill how you would get the actual address if in
18 fact you did not meet the criteria on page 9 --

19 DR. FILER: As an agency.

20 MS. DALTON: -- which says, Failure to
21 disclose a participant's actual address may result in
22 physical harm to the program participant or family. And
23 the other criteria is for law enforcement. So I just kind
24 of raise a question there.

25 DR. FILER: I think that's a legitimate

1 question. I don't have the answer to that. Clearly, for
2 me, it would be at times critical. Hopefully, it would not
3 be -- the bar would still be kept very high. But there
4 will be times that it would be critical to contact an
5 individual.

6 If that can be done and the agent to do that
7 is the Secretary of State or one of their designees, that
8 would probably be very appropriate. There are times when,
9 if we have a critical value, we may need to reach that
10 person with some expediency.

11 CHAIRPERSON COHEN: Representative Daley.

12 REPRESENTATIVE DALEY: Thank you. Dr. Filer,
13 could you repeat what Medicare eligible facilities must do
14 with respect to training physicians?

15 DR. FILER: There is an organization called
16 the Joint Commission on Accreditation of Health Care
17 Organizations, also affectionately known as JCAHO,
18 J-C-A-H-O. And basically, they are -- they are inspected,
19 these health care facilities are inspected on a regular
20 basis by the Joint Commission.

21 They receive accreditation. They look not so
22 much at the physical plant, but they look at policies and
23 procedures. They look at really the nitty-gritty of the
24 operations and whether they meet basic standards. It's a
25 very cumbersome process, and yet it's designed to ensure

1 quality.

2 In this country, if you are to receive
3 Medicare payments from the federal government, you need to
4 be Joint Commission certified and -- or I'm sorry. --
5 accredited; and that occurs every couple of years. The
6 Joint Commission, when it comes through, determines when
7 they need to come back.

8 And I believe it's five years is the maximum,
9 but I may not -- that may be a little long. But there are
10 some facilities which are deemed to be a little more
11 precarious in their -- in their care. And they may be
12 given a one-year. And they'll have to -- have to do some
13 remedial work and be reevaluated again in a year if they do
14 not meet Joint Commission standards and a whole series of
15 standards that was written actually by a friend of mine
16 who's an emergency room physician in Baltimore who sits on
17 the Joint Commission. She also does a lot of domestic
18 violence work. She wrote these -- the facets of this
19 regulation.

20 And there are frankly many, many health care
21 delivery systems in this state who are not yet fully
22 operational. And it's not only this state. And yet I will
23 tell you that from my experiences in traveling around the
24 country, this state is way ahead of many others.

25 REPRESENTATIVE DALEY: Thank you.

1 CHAIRPERSON COHEN: Thank you. Dr. Filer,
2 again --

3 DR. FILER: Thank you.

4 CHAIRPERSON COHEN: -- our thanks, our
5 personal thanks to you for taking the time and being here.

6 DR. FILER: Thank you very much.

7 CHAIRPERSON COHEN: We appreciate it. Thank
8 you. The next person to make a presentation to us is
9 Travis Tu, who is the Assistant to the Executive Director
10 of the American Civil Liberties Union. Mr. Tu, welcome.

11 (Discussion off the record.)

12 CHAIRPERSON COHEN: Thank you again. And you
13 may begin to either read from your written testimony or
14 just make a presentation because we will certainly read
15 what you've brought before us.

16 MR. TU: Thanks so much. And thanks for
17 inviting us today. Good morning. My name is Travis Tu,
18 and I am here today on behalf of the over 10,000 members of
19 the American Civil Liberties Union of Pennsylvania to
20 express our support of House Bill 1436, a bill that would
21 create a system of confidential addresses for people
22 escaping domestic violence.

23 The ACLU has consistently advocated for
24 citizens' constitutional rights to privacy. But perhaps
25 the importance of ensuring a person's confidentiality is

1 never greater than in the case of survivors of domestic
2 abuse who are attempting to conceal their whereabouts from
3 their abusers.

4 Article 1, Section 1 of the Pennsylvania
5 Constitution provides for certain inherent and infeasible
6 rights, among which are those of enjoying and defending
7 life and liberty; of acquiring, possessing and protecting
8 property and reputation; and in pursuing their own
9 happiness.

10 The Pennsylvania Supreme Court has interpreted
11 the constitutional protection of property and reputation to
12 be an explicit guarantee of Pennsylvanians' rights to
13 privacy. Tragically, victims of domestic abuse are
14 commonly deprived of each of the enumerated inherent and
15 infeasible rights through physical violence, emotional
16 abuse, and intimidation.

17 The ACLU believes that assisting a victim and
18 maintaining confidentiality is one of the surest ways to
19 adequately protect that person's constitutionally guarded
20 rights and liberties.

21 With the proliferation of Caller ID phone
22 services, the privacy rights of people fleeing abuse have
23 been on the ACLU agenda nationally throughout this decade.
24 In 1990, the ACLU was involved in a legal challenge to the
25 implementation of Caller ID here in Pennsylvania.

1 We, along with the Pennsylvania Coalition
2 Against Domestic Violence, feared that perpetrators of
3 domestic violence could use Caller ID to discover where a
4 victim was taking refuge and with whom. The plaintiffs
5 asserted that potential breaches in confidentiality could
6 put victims of domestic violence as well as their shelters
7 and care providers at risk of retribution and increased
8 violence.

9 The Commonwealth Court agreed, upholding an
10 Administrative Law Judge's finding that Caller ID erodes an
11 individual's privacy and thus presents a threat to battered
12 women and those attempting to assist battered women.

13 Maintaining battered people's confidentiality
14 not only serves to protect them from their abusers.
15 According to a newspaper report earlier this year, a
16 fathers' advocacy group in Boston lawfully copied from
17 court documents the addresses and phone numbers of all of
18 the women who sought protection from abuse orders in that
19 state in the last two years.

20 The group contacted a number of the women and
21 questioned them about the validity of their charges. The
22 group thought it could somehow substantiate its belief that
23 charges of domestic violence are often falsified in order
24 to secure sole custody of children. Because these court
25 documents are public record, this or any group have the

1 ability to create lists of domestic abuse victims for
2 solicitation.

3 This incident in Boston prompted Massachusetts
4 Attorney General Thomas Reilly to support legislative
5 measures to further protect victims' confidentiality. In
6 March, he told reporters, quote, A victim should not have
7 to forfeit the right to privacy simply because she has
8 sought court-ordered protection to domestic violence.

9 The ACLU urges the Pennsylvania General
10 Assembly to take the initiative to protect victims'
11 confidentiality before such invasions of privacy occur here
12 in Pennsylvania.

13 The ACLU recognizes and often advocates for
14 people's right to information. The Pittsburgh Chapter of
15 the ACLU concluded a case just this year that involved more
16 than ten years of legal wrangling to obtain information
17 from withheld FBI documents.

18 However, in our civil society, it commonly
19 arises that full exercise of people's liberties creates
20 conflict; and the courts are called upon to decide to what
21 extent one person's liberty must be curtailed to ensure the
22 more vital liberty of another.

23 We believe that the privacy interests of a
24 person escaping domestic violence would far outweigh
25 society's interest in having unfettered access to a

1 victim's personal information that is contained in the
2 public record.

3 The growth of information technologies has
4 dramatically affected ways in which the government and
5 private agencies collect, store, and disseminate
6 information. And the ACLU believes that easier access and
7 exchange of information must be accompanied by more
8 stringent privacy protections.

9 We are actively lobbying on both state and
10 federal levels for measures that would guarantee the
11 confidentiality of people's medical records and social
12 security numbers. The erosion of people's privacy rights
13 has most certainly infringed upon their pursuit of liberty
14 and happiness. And we know too well that for domestic
15 violence victims, disclosure of private information can
16 sadly become a matter of life and death.

17 Confidentiality is not only a protective
18 measure but also a necessary component in the process of
19 psychological and emotional recovery from abuse. In 1980,
20 the Pittsburgh Chapter of the ACLU was an amicus in a case
21 that ultimately kept private some of the records of women
22 recovering from sexual assault.

23 In its opinion in the case, the Pennsylvania
24 Supreme Court stated that there is, quote, An undoubtable
25 public interest in helping victims as well as an equally

1 compelling public interest in encouraging victims of
2 violent crime to come forward. One justice wrote in a
3 concurring opinion that the guarantee of confidentiality is
4 critical to fulfilling this public interest and essential
5 to achieve the maximum benefit from therapy.

6 State legislatures throughout the country have
7 recognized a public interest in providing for the safety of
8 victims. In all 50 states, civil protection order statutes
9 have been enacted providing victims relief ranging from
10 injunctions against future violence, exclusion from the
11 family domicile, relinquishment of weapons, and payment of
12 losses and attorneys' fees.

13 The federal government has also recognized the
14 importance of ensuring the privacy of battered women.
15 Federal grant money is withheld from support service
16 programs that fail to provide documentation that procedures
17 have been developed to assure the confidentiality of
18 records pertaining to any individual provided family
19 violence prevention or treatment services.

20 One of the provisions of the Violence Against
21 Women Act of 1994 called upon the US Postal Service to put
22 in place new regulations to secure the confidentiality of
23 domestic violence shelters and abused persons' addresses.
24 Only five states, however, have gone so far as to adopt a
25 system of protecting battered women by offering

1 state-monitored mailboxes.

2 In the state of Washington, hundreds of women
3 have utilized that state's pioneering address
4 confidentiality program. We are glad to report that the
5 ACLU of Washington State has not received a single civil
6 liberties complaint related to the program.

7 Numerous states are recognizing the benefits
8 of such a program, and legislation similar to
9 Pennsylvania's House Bill 1436 has been introduced this
10 session in California and Massachusetts.

11 The ACLU of Pennsylvania believes that the
12 Pennsylvania General Assembly should recognize the state's
13 interest in providing for the privacy of victims of
14 domestic violence. House Bill 1436 would go a long way
15 toward fulfilling this obligation and thereby benefit the
16 hundreds of Pennsylvanians who have been terrorized in
17 their own homes.

18 Section 2 of Article 1 of the Pennsylvania
19 Constitution reads: "All power is inherent in the people.
20 And all free governments are founded on their authority and
21 instituted for their peace, safety and happiness." It,
22 therefore, seems appropriate that where this Commonwealth
23 has an opportunity to procure the peace and safety of the
24 all too common victims of domestic violence, it should do
25 so.

1 Thank you for your consideration. And I would
2 be glad to take any comments or questions you have at this
3 time.

4 CHAIRPERSON COHEN: Thank you, Mr. Tu. I
5 appreciate you being here. I believe that Counsel Dalton
6 has a question.

7 MR. TU: Sure.

8 MS. DALTON: Thanks for coming. Have you
9 taken a look at the other five states' statutes?

10 MR. TU: I haven't.

11 MS. DALTON: Okay. Well, then I'm going to
12 pass.

13 CHAIRPERSON COHEN: Representative Daley.

14 REPRESENTATIVE DALEY: Yes. Are there any
15 steps that probably you recommend that the local courts
16 could take immediately in terms of adopting local court
17 rules to better protect the privacy of domestic abuse
18 victims?

19 MR. TU: I recognize that -- the issue there.
20 And unfortunately, since I'm not an attorney -- I'm just a
21 spokesperson for the ACLU. -- maybe that's a better
22 question to take back to the lawyers in our office and
23 provide you some recommendations in writing.

24 REPRESENTATIVE DALEY: Could you do that for
25 us?

1 MR. TU: Sure.

2 REPRESENTATIVE DALEY: And give that to the
3 Chairwoman.

4 CHAIRPERSON COHEN: Anything else?

5 REPRESENTATIVE DALEY: No. Thank you.

6 CHAIRPERSON COHEN: Well, again, we thank you
7 for your presentation and look forward to receiving the
8 additional information from you.

9 MR. TU: Thanks so much.

10 CHAIRPERSON COHEN: Thank you very much.

11 MR. TU: Good luck to you.

12 CHAIRPERSON COHEN: Thank you. The next
13 person to make a presentation before the committee is John
14 Capowski who is the Associate Professor of Law at Widener
15 University School of Law. I believe that is the --
16 Representative Daley's alma mater.

17 REPRESENTATIVE DALEY: Yes. That's the
18 Harvard on the Susquehanna.

19 CHAIRPERSON COHEN: We want to thank you for
20 being here, and you may proceed any time.

21 MR. CAPOWSKI: As has already been mentioned,
22 I'm John Capowski, an Associate Professor of Law at
23 Widener's Harrisburg Campus, the Harvard on the
24 Susquehanna.

25 CHAIRPERSON COHEN: We want to ask you what

1 kind of student Representative Daley was?

2 MR. CAPOWSKI: I was not there at the time,
3 but I'm sure he was excellent.

4 CHAIRPERSON COHEN: But you've heard. Okay.

5 MR. CAPOWSKI: I very much appreciate the
6 opportunity to be here today really for two reasons. First
7 is I believe strongly that victims of domestic violence in
8 Pennsylvania very much need an address confidentiality
9 program. Others have spoke eloquently to the need, and
10 others will so I will not address that issue.

11 The other reason I'm very pleased to be here
12 is that I and my students actually drafted the bill upon
13 which 1436 is based. You people know better than I the
14 often pace -- slow pace of the legislative process. And
15 those students have since graduated, passed the bar and are
16 practicing law as assistant district attorneys, as domestic
17 violence victims' advocates, and in private practice in
18 Pennsylvania but also in Colorado, Arizona and Florida.

19 I do have this semester a group of students
20 who are going to be working with me on public interest
21 legislation. So if you have any questions that I can't
22 answer, they will stand ready to assist the committee. And
23 we can provide you with written answers, I hope, in a
24 relatively short time. They may not know yet that they
25 stand ready since our first day of classes was just

1 yesterday.

2 The legislation, as I see it, is actually
3 quite modest in its scope. The draft that my students and
4 I initially produced would actually have been much wider
5 and protected a much wider class of individuals, including
6 really any person who felt that he or she would be in
7 physical danger because of the release of an actual
8 address.

9 The initial legislation we drafted included
10 mental health workers who are in fact in the most
11 dangerous profession in this country, as well as
12 prosecutors, judges, and simply others who might fear a
13 level of physical harm. I mention this not to denigrate
14 the current legislation -- I think it's very good, very
15 much needed. -- but simply to suggest that it is rather
16 modest in scope. And one should not have great
17 reservations about enacting a program of this -- this
18 nature.

19 Because the legislation has been pared down,
20 there should be one minor change made, assuming it stays in
21 its current form, to line 7 on page 1 of the bill. It
22 mentions "and others in physical danger." And in fact, if
23 that's omitted, domestic violence victims are the only
24 persons currently covered and would be the only persons
25 mentioned in paragraph 1.

1 One question that comes up with any new piece
2 of legislation is whether it will work. This legislation
3 is working very well in the state of Washington, and 1436
4 is patterned after that Washington legislation. The
5 Washington program is administered as this one would be, by
6 the Secretary of State.

7 And the Secretary of State there is a very
8 strong advocate of the address confidentiality program and
9 has worked to support the establishment of these programs
10 in other states. Our former Secretary of State, Yvette
11 Kane, who is now a US District Court Judge for the Middle
12 District of Pennsylvania, has been very supportive of the
13 establishment of an address confidentiality program as
14 well.

15 And there are at this point six states that in
16 fact have address confidentiality programs and several
17 states that are considering establishing it. Pennsylvania,
18 because of the Legislature, because in large measure the
19 work of the Pennsylvania Coalition Against Domestic
20 Violence and others, is really a leader in the area of
21 protecting victims of domestic violence. And I believe
22 House Bill 1436 would be a very helpful addition to the
23 package of legislation in Pennsylvania that does protect --
24 protect victims.

25 I have been told that someone's mentioned the

1 concern that this bill would make it easier for victims of
2 domestic violence to hide from court orders, from
3 enforcement of custody and visitation orders and from other
4 obligations. That simply is not the case.

5 First, the Secretary of State will have the
6 actual address of the program participants. And second,
7 the legislation actually makes it easier to get
8 jurisdiction over a member or a person involved in the
9 program since the legislation requires that all program
10 participants designate the Secretary of State as a -- an
11 agent for service of process.

12 So in fact, suing a person in the program will
13 in fact be easier than suing an individual who is not in
14 terms of jurisdiction. Now, anyone can attempt to hide,
15 can attempt to skirt obligations. And this legislation
16 doesn't stop a victim of domestic violence from doing that
17 any more so than anyone else is stopped. But jurisdiction
18 is easy to get these people, I think will be easier to find
19 in many ways than others.

20 Whenever a program is established, some have a
21 concern that people will avail themselves of the program
22 who are not eligible. And I believe Representative True's
23 earlier question alluded to that possibility. I don't
24 think that's going to happen for two reasons.

25 I personally would dislike the idea of having

1 my mail delayed at the Secretary of State's office for
2 several days until I received it, my first-class mail.
3 Bills perhaps I could do without immediately. But there
4 are various magazines, correspondence from friends, et
5 cetera, that I like to have as soon as it's available.

6 Second, I would probably loathe even more
7 paying for the delivery of my nonfirst-class mail. And
8 persons involved in this program will have to do that for
9 mail other than first class. They'll have to pay the cost
10 of delivery from the Office of the Secretary of State.

11 So I don't think there will be people jumping
12 to be involved in this program who do not need the
13 protections of the program. In addition, there is a
14 criminal penalty and misdemeanor for anyone giving a false
15 statement on an application. I think that's unlikely
16 regardless of the addition there in the legislation of the
17 penalty.

18 Now, some will criticize the bill as not going
19 far enough. And as I mentioned, I personally wanted to see
20 a more expansive bill. But I think this is a very
21 excellent step and perhaps will become more expansive at
22 some time in the future.

23 Now, it is not a panacea by any means for
24 victims of domestic violence in keeping their residences,
25 their addresses, their whereabouts confidential. A

1 creative diligent stalker could certainly -- abuser --
2 could certainly with diligence eventually find the
3 potential victim.

4 But it goes a long, long ways towards helping
5 these people establish -- these people -- victims
6 establish their confidentiality in staying away
7 from -- from their abusers. And now I'd welcome questions
8 that you have.

9 CHAIRPERSON COHEN: Thank you, Professor
10 Capowski. We appreciate it. And thanks for getting the
11 ball rolling with drafting this legislation. I believe
12 Representative True has a question.

13 REPRESENTATIVE TRUE: Yes. Thank you.
14 Professor, just to clarify something in my mind, I had
15 read so many things and I've watched the video that was
16 made when Washington State was putting this together.
17 And I thought -- and maybe that was some older
18 information. -- that magazines and that type of thing were
19 not to be forwarded.

20 So you're saying that they can be, all your
21 first-class mail can be forwarded but you have to pay for
22 certain things?

23 MR. CAPOWSKI: That's right. What I guess was
24 formally called second or third-class mail, a recipient --
25 or a program participant can arrange at his or her expense

1 to have those materials forwarded by the Office of
2 Secretary of State.

3 REPRESENTATIVE TRUE: So truly then, you could
4 get almost any kind of -- any kind of mail at all so you're
5 not limited then to --

6 MR. CAPOWSKI: One is not limited. It will
7 simply cost the individual to be able to receive that mail.

8 REPRESENTATIVE TRUE: Thank you.

9 CHAIRPERSON COHEN: Representative Maitland.

10 REPRESENTATIVE MAITLAND: Yes. Professor,
11 thanks for your testimony today. In addition to asking
12 will it work, we also like to ask what's it cost. Do you
13 have any idea what the program cost is in other states?

14 MR. CAPOWSKI: I have some figures, have some
15 figures that are outdated from Washington; and I can
16 certainly update those. What my students and I did when we
17 were first working on the legislation is we found out what
18 the cost was in Washington State. We got the number of
19 participants.

20 We compared the populations of Pennsylvania
21 with those in Washington State and came up with a figure in
22 that way. And I'd certainly be glad to provide the
23 committee with information on the cost in Washington, and I
24 hope we can get it from some other states as well.

25 REPRESENTATIVE MAITLAND: Thank you. Thank

1 you, Madam Chairman.

2 CHAIRPERSON COHEN: Representative Carn.

3 REPRESENTATIVE CARN: Thank you, Madam
4 Chairperson. I want to thank you, Professor, for being a
5 part of this effort and your students. You mentioned that
6 initially the legislation included more than just victims
7 of domestic violence.

8 Have that aspect of the proposal been
9 instituted in any other state?

10 MR. CAPOWSKI: Actually, I'm not aware of
11 other states that have as expansive a bill as the one we
12 initially drafted.

13 REPRESENTATIVE CARN: What was your reasoning
14 for the expansion?

15 MR. CAPOWSKI: My reasoning was that there are
16 other people in our society who are very much in danger in
17 one way or another. And I believe it was Ms. Young who
18 testified about her concerns, her experiences in
19 stalking -- with stalking.

20 In addition, I know there are mental health
21 workers who have the same problem that she faced. For
22 example, I know judges who have been threatened and had
23 their families threatened in similar circumstances. So my
24 thinking was that these persons also deserve protection.

25 Now, the legislation, as one increases the

1 number of persons who are eligible for the program, the
2 cost of the legislation increases as well. And I believe
3 there was some concern about the cost, that in part -- and
4 administrative costs -- that was the reason for the
5 legislation being pared down from what it was initially
6 drafted as.

7 REPRESENTATIVE CARN: Have you -- do you have
8 any documents or statistics that would suggest that we need
9 to expand?

10 MR. CAPOWSKI: I have no statistical
11 information that would support that. I have a good deal of
12 anecdotal information but not statistical. And I think the
13 number of additional participants would not be that large.
14 But the ones -- and therefore, the cost perhaps not that
15 great of including them.

16 At the same time, I think the protections for
17 those individuals would be very, very important.

18 REPRESENTATIVE CARN: Thank you. Thank you,
19 Madam Chairperson.

20 CHAIRPERSON COHEN: Thank you. Counsel
21 Dalton, I believe, has a question.

22 MS. DALTON: Professor, thanks for coming
23 today. I'm going to give you a chance to do what law
24 professors do best, which is to teach us all about this
25 bill. I have a couple of questions. For starters, can you

1 tell me, is the intent of this legislation to cover access
2 by private entities like businesses and doctors' offices
3 and the like as well as access by state and local
4 governmental agencies?

5 MR. CAPOWSKI: After looking at the Washington
6 State experience, we decided to really confine the
7 legislation to state government agencies. In Washington,
8 the experience had been that private businesses, for
9 example, were very willing to accept the substitute
10 address. And it had not become a problem for persons
11 involved in the program.

12 In addition, we had some questions about
13 actually enforcing the requirements of the act upon private
14 entities, where it was very easy to do it upon state
15 agencies.

16 MS. DALTON: Okay. So I guess what you're
17 saying -- and correct me if I'm wrong. -- is that private
18 businesses do not have to accept the confidential address
19 then?

20 MR. CAPOWSKI: They would not have to under
21 the legislation. But as I mentioned, the Washington
22 experience is that they do.

23 MS. DALTON: Okay. Now I'm going to ask you
24 the same question that I asked Dr. Filer. And that is,
25 say, for example, a patient of hers came in and gave a

1 confidential address and she needed to get the real address
2 but did not meet the waiver -- emergency requirements under
3 the bill.

4 And the waiver requirements, as I read them,
5 only pertain to state and local agencies. How would they
6 go about getting access to the real address?

7 MR. CAPOWSKI: I think without knowing the
8 circumstances in which the address was needed, it's a
9 difficult question to answer. The bill needs to -- the
10 legislation needs to protect the addresses as much as
11 possible. Now, it seems to me, if it's an emergency
12 situation, Dr. Filer's office could contact the police, who
13 could then arrange to receive the address.

14 Outside an emergency situation, a situation of
15 danger, I don't quite see or I don't at the moment have in
16 mind situations where someone would truly need the address.
17 Now, other than, for example, a state agency, there may be
18 nonemergency situations concerning, for example, school
19 registration.

20 MS. DALTON: Okay. That's my next question.
21 And I asked this of our first witnesses. Is it envisioned
22 under the bill that elementary and high schools would be
23 required to accept the confidential address on behalf of a
24 child who had a PFA filed for them and the parents go ahead
25 and get a confidential address?

1 MR. CAPOWSKI: Actually, at the moment, I
2 think it's unclear under the bill whether that would be
3 required. And as with any legislation affecting a state
4 agency, it strikes me the Secretary of State will probably
5 promulgate various regulations that will deal with the
6 specific workings of the legislation.

7 And it strikes me the Secretary of State's
8 office will do that after talking with the school systems
9 about what their need is for an actual address and whether
10 the Secretary of State, for example, might simply certify
11 that a student is within a district, which I see as perhaps
12 the school's greatest need, certification within a
13 district.

14 So I think that that detail, for example,
15 still needs to be worked out but will be by the regulations
16 with input from the school systems.

17 MS. DALTON: Okay. I just have one last
18 question. And this actually goes to the wording of the
19 bill. I'm trying to discern what you folks were -- intend
20 us to do. It's on page 4 at lines 26 to 29. And here
21 we're talking about who can become a program participant.

22 And you mentioned victims of domestic
23 violence. And that of course --

24 MR. CAPOWSKI: Actually, I was grabbing my
25 glasses first. You said page 4, line --

1 MS. DALTON: I'm sorry. Page 4, lines 26
2 through 29. And of course, victims of domestic violence
3 have a definition as under the PFA Act so we know what that
4 is.

5 MR. CAPOWSKI: Right.

6 MS. DALTON: But the first is that you file a
7 protection from abuse order. That is very clear. I always
8 confuse this when I don't have those little lists in front
9 of me about whether that's a subparagraph or a paragraph or
10 a clause so please forgive me.

11 The two little "i" there under -- two little
12 "i" at 26, what does this mean, "Are eligible to file
13 for a protection from abuse order pursuant to Chapter
14 61" -- that's in Title 23. -- "and file an affidavit
15 stating their belief that the affiant fears further violent
16 acts by the affiant's assailant"? What were you trying to
17 get at there?

18 MR. CAPOWSKI: We were trying to get at -- are
19 getting at situations where a person has not and may not
20 file for a protection from abuse order but would certainly
21 have the grounds for filing for a protection from abuse
22 order.

23 And I -- I know that earlier testimony, there
24 were comments that the initial period of separation is one
25 of great danger. The initial period of service, after a

1 service of a subpoena to -- to appear pursuant to a
2 protection from abuse hearing is also a period of high
3 danger. And there may be people who decide not to file for
4 that very reason.

5 MS. DALTON: Okay. So what you're envisioning
6 is that the folks are eligible to file under the act but
7 they don't and instead file an affidavit?

8 MR. CAPOWSKI: Essentially saying they have
9 the same problem as if they, you know, that they would be
10 eligible to file.

11 MS. DALTON: Okay. And where would you
12 envision filing the affidavit, with the Secretary of State?

13 MR. CAPOWSKI: Secretary of State's office.

14 MS. DALTON: Thank you very much, Professor.

15 CHAIRPERSON COHEN: Thank you. Oh,
16 Representative Daley has a question.

17 REPRESENTATIVE DALEY: I'm sorry, Madam
18 Chairwoman. His answer stimulated a question in my mind.
19 The whole issue about PFAs -- and I know this Bill 1436 is
20 dealing with one aspect of it. But by and large, I know
21 the people I deal with, I had a situation in my legislative
22 district where a woman was very fearful of her husband.

23 And she decided to get a PFA. She served the
24 PFA on him. He came right to the house, killed her, killed
25 her aunt, killed the kids. Now, that's the period of high

1 danger that you're talking about. There needs to be -- and
2 I'm almost helpless when I talk to clients that say I want
3 to file a PFA and I explain to them the inherent risks of
4 doing that, that there needs to be a threshold that can be
5 demonstrated to the court when you have that emergency
6 hearing to get the preliminary order that can get these
7 types of very high risk individual off the street
8 completely and keep that person away from really hurting
9 someone.

10 I know there's a whole host of constitutional
11 questions regarding that. But maybe your students need to
12 pursue that next level with making a PFA safer and much
13 more workable in terms of protecting individuals from the
14 death that they can perceive just by filing the PFA.

15 MR. CAPOWSKI: Yeah. We'd be glad to look at
16 that. And I'm sure we'd be glad to work in conjunction
17 with the people at the Pennsylvania Coalition Against
18 Domestic Violence, seeing what additional protections might
19 be afforded.

20 REPRESENTATIVE DALEY: Thank you.

21 CHAIRPERSON COHEN: We appreciate your
22 willingness to continue to work with us. And as we make
23 revisions to this, you can be sure we will contact you. We
24 have a little bit of work to do concerning refining some of
25 the language in the bill. And we appreciate the

1 cooperation that you've given us. Thanks, Professor.

2 MR. CAPOWSKI: Well, we'd be very pleased to
3 remain involved. Thank you very much.

4 CHAIRPERSON COHEN: You will be. Thank you.
5 The last two people scheduled today, Judy Yupcavage, who
6 has appeared before us, the Public Policy Manager, as well
7 as Vicki Cuscino, the Communications and Publications
8 Specialist, Pennsylvania Coalition Against Domestic
9 Violence. Welcome again, and you may proceed any time
10 you're ready.

11 MS. YUPCAVAGE: Good morning. It's nice to
12 see so many familiar faces here. I wanted to actually,
13 before we start, put in a plug for Representative Cohen's
14 bill that would require training for judges, which gets to
15 Representative Daley's issue.

16 We can work really hard on providing
17 information and guidelines on doing appropriate validity
18 assessments in PFA proceedings. But if you don't have the
19 audience, the judges to, you know, to teach and to preach
20 to, it's pretty impossible to get at and to eliminate some
21 of the homicides and the tragedies that -- that occurred in
22 this community.

23 And so I'd like to say we are strongly
24 supportive of your bill that would require training for the
25 Judiciary in Pennsylvania and we'd do whatever we can to

1 see that that's enacted.

2 CHAIRPERSON COHEN: Thank you. I'm sorry.

3 Mr. Lane has -- who is a representative of the court, he
4 walked out. I don't know if he --

5 MS. YUPCAVAGE: I'll say it again if he comes
6 back.

7 CHAIRPERSON COHEN: Say it again if Mr. Lane
8 comes back.

9 MS. YUPCAVAGE: I'd be happy to.

10 CHAIRPERSON COHEN: Thank you. We will be
11 pursuing that because you are correct, that is a critical
12 cog in this entire wheel. Thank you.

13 MS. YUPCAVAGE: Okay. Before I turn the mike
14 over to Vicki, who's going to talk about why we worked with
15 Widener on developing this legislation and why it's so
16 important, I just wanted to point out that we've included
17 today our homicide report that is for 1998 that lists 136
18 deaths in Pennsylvania.

19 And we know how the victims died. They were
20 shot, stabbed, beaten, strangled, burned, suffocated,
21 crushed and run over. We know how they died, but we don't
22 know how they lived or tried to live before they died. And
23 we don't know how many fled, relocated, hid, fled,
24 relocated, hid over and over and over again until they were
25 hunted down and killed.

1 Trying to stay in hiding and maintain your
2 privacy is incredibly hard, even for someone who's not in
3 crisis. It's a difficult thing to do in this age of
4 invasive technology. I practically started pandemonium in
5 the Service Merchandise when I would not disclose my phone
6 number when I was buying a pack of batteries, paying cash.

7 And the cashier said, I can't go any further
8 until I have your phone number. The machine, you know, the
9 transaction couldn't be completed until -- and they had to
10 get the manager. I said, Just put in a fake number. Well,
11 we can't do that because it throws out fake numbers. I
12 mean, it is so hard even under the simplest circumstances.

13 I couldn't get a refund at K-Mart for 10.99 or
14 something without giving my driver's license to them. I
15 mean, everywhere you go, people want personal information
16 about you. It is so hard. Imagine how hard it is to be in
17 hiding, to be a battered woman, to be running for your
18 life, to try to protect your children.

19 And everywhere you go, people are looking for
20 personal, private information about you. Anything that the
21 Legislature can do to increase protections and safeguards
22 is so critical. And House Bill 1436 goes way beyond just a
23 minor improvement. And so that's why we are so supportive
24 of -- of the efforts of you all in getting this enacted.

25 So now I'm going to turn it over to Vicki,

1 who's going to talk about the need for the bill.

2 MS. CUSCINO: Thank you. If you've never had
3 to endure a beating, to ensure your children have a home,
4 consider yourself lucky. If you've never had to submit to
5 torture or rape to save your life, consider yourself lucky
6 again. That's just a sampling of the maddening choices
7 battered women are forced to make each day. Yet the
8 inevitable question asked by outsiders is, Why doesn't she
9 leave?

10 Domestic violence is an insidious crime with
11 complex dynamics that make each situation different. But
12 fear of lethal retaliation is a very real barrier.
13 Unfortunately, further violence upon separation from a
14 batterer is possible and in some cases probable.

15 The Pennsylvania Coalition Against Domestic
16 Violence is seeking your support of an address
17 confidentiality program in Pennsylvania because far too
18 many of these cases end in tragedy, tragedies that could
19 have been prevented.

20 Mary Ellen was a 39-year-old woman who sought
21 refuge at one of our Pennsylvania domestic violence
22 shelters. She feared that she could not remain safe in her
23 home state, however, and fled to Florida to escape her
24 husband's tyranny.

25 Despite her attempts, however, to escape the

1 violence and regain control over her own life, her husband
2 tracked her down and killed her. Yet we dare ask, Why
3 doesn't she leave? Clearly, escaping an abusive
4 relationship is not as easy as the words suggest. Leaving
5 is a process, and it can be perilous.

6 Batterers can be relentless and use innovative
7 methods to track down their victims so even relocation is
8 not fail-safe. Often, the fewer people who know where a
9 victim is, the safer she will be. That is the premise upon
10 which the address confidentiality program was established
11 in the state of Washington and that we hope to implement
12 here in Pennsylvania.

13 This innovative legislative proposal
14 recognizes that some battered women are forced to flee
15 their homes, assume new names, change their social security
16 numbers, and take myriad other precautions to keep their
17 location a secret. In such cases, making their addresses
18 public places them in imminent danger.

19 Think for a minute about all of the things we
20 do in our daily lives that we take for granted such as
21 voting, driving, using credit cards, making telephone
22 calls. These are all things that battered women often must
23 give up after escaping an abusive relationship to prevent
24 further violence.

25 Pennsylvania, therefore, needs to accommodate

1 these citizens in establishing and maintaining confidential
2 addresses to prevent their batterers from finding them
3 through public records such as motor vehicles and voter
4 registrations.

5 Although this legislation does not purport to
6 protect the disclosure of the victim's address under all
7 circumstances, it does -- excuse me. -- it does provide a
8 significant step toward freedom and safety for those
9 battered women who are forced to flee their batterers and
10 their homes. A confidential address would comprise a
11 critical component of safety planning for these women who
12 fear further victimization or even lethal retaliation.

13 As you can see in our homicide report, the
14 Pennsylvania Coalition Against Domestic Violence tracks
15 homicides through Pennsylvania newspaper clippings. And
16 we've been doing that for about the past eight years. And
17 what we've been able to tell is that on an average, an
18 adult or child dies every three days in this Commonwealth
19 as a result of domestic violence.

20 Also, in 1992, a US Department of Justice
21 study found that divorced or separated women are at greater
22 risk of violence and experience the highest rate of violent
23 crimes by relatives including spouses and ex-spouses.
24 Consider also that most stalking occurs in the context of
25 domestic violence, and as many as 90 percent of women

1 murdered by former or current male partners are stalked
2 prior to their deaths.

3 An advocate at one of our local domestic
4 violence programs in Pennsylvania was a battered woman who
5 escaped after 36 years of abuse. Her abusive husband had
6 threatened to kill her, their two children and himself if
7 she ever left. However, one night when she was sure that
8 he would kill her regardless, she fled and successfully
9 obtained a protection order.

10 Upon being served with a protection order,
11 this woman's husband purchased four cemetery plots.
12 Throughout a divorce process that took several years, she
13 continued living in fear that he could still carry out his
14 promise.

15 Leaving such abusive relationships requires
16 strategic planning and comprehensive interventions to
17 safeguard victims and their children. Battered women
18 simply cannot escape the violence in their lives without
19 the support, safety, resources and justice they desperately
20 need and deserve.

21 We live in a society that asks why doesn't she
22 leave instead of why is he violent. So we need to make
23 leaving safe and possible. Your endorsement of an address
24 confidentiality program in Pennsylvania would help battered
25 women reestablish their physical, social, and economic

1 independence and it would represent a significant
2 commitment to the prevention of domestic violence homicides
3 in this Commonwealth.

4 On behalf of the Pennsylvania Coalition
5 Against Domestic Violence, I'd also like to thank
6 Representatives True and Carn and the other members of this
7 committee for your leadership in trying to protect battered
8 women and their children.

9 CHAIRPERSON COHEN: Thank you.

10 MS. CUSCINO: Thanks. And Judy and I will
11 take questions.

12 CHAIRPERSON COHEN: We shall. But Mr. Lane
13 has reappeared. And I was hoping on the record you could
14 just make your statement again, please.

15 MS. YUPCAVAGE: I would be more than happy to.
16 I would like to say that the Pennsylvania Coalition Against
17 Domestic Violence strongly supports legislation initiated
18 and sponsored by Representative Lita Cohen that would
19 mandate training for the Judiciary in Pennsylvania on
20 issues of domestic violence.

21 CHAIRPERSON COHEN: Thank you.

22 MS. YUPCAVAGE: And we would be more than
23 happy to help in the development of the curriculum. In
24 fact, we already have it. So anyway, we could save that
25 step.

1 CHAIRPERSON COHEN: Thank you. Any questions
2 from any members of the panel? Representative Daley.

3 REPRESENTATIVE DALEY: One question. It's not
4 really a question. Good to see you, Judy, after all the
5 years of working on many issues together. I find it
6 remarkable that 35 percent of the people who were killed in
7 this domestic violence homicide report were men.

8 Now, maybe it's my naivete, but I would assume
9 that it would have been less. How do you react to that, if
10 you heard my question earlier?

11 MS. YUPCAVAGE: Sure. Twenty-seven of those
12 men were perpetrators -- or now wait. Let me see.
13 Twenty-seven were perpetrators who committed suicide. So
14 of that number -- and most of the other men were boyfriends
15 of the battered women who were killed by her -- by, you
16 know, her ex-partner.

17 So they weren't actually killed by women.
18 Eighty-two of the perpetrators were men of the 136
19 homicides. Thirteen of the perpetrators were women. So a
20 number of the deaths were caused by the men themselves who
21 committed suicide.

22 MS. CUSCINO: If I can add to that, out of
23 those 136, we found that at least 42 of those deaths
24 occurred when battered women had left or were in the
25 process of leaving their batterers.

1 And a breakdown of that: Twenty-five of the
2 victims were women killed by former intimate partners, ten
3 were men killed by their current girlfriend's former male
4 partners, six were children slain by their fathers, and one
5 was the mother of a battered woman who had left her
6 husband. And in that incident, the batterer also kidnapped
7 his estranged wife and shot her brother.

8 REPRESENTATIVE DALEY: You heard my other
9 question concerning that next level of the PFA process
10 where we realize that PFAs fundamentally -- really they
11 don't stop anyone from doing anything unless they lock them
12 up in jail unless there's some confidentiality protecting
13 the whereabouts of the person.

14 At some point, Judy, maybe we could discuss
15 with the Chairwoman and the committee about that next level
16 that may have to be undertaken.

17 MS. YUPCAVAGE: We'd be happy to. I would
18 like to say that as part of our public policy agenda of the
19 Coalition, we're looking at omnibus amendments to the
20 Protection from Abuse Act. And we'd be happy to strategize
21 on what we can do to ensure some additional levels of
22 protection.

23 And I still want to say, you know, training
24 the Judiciary on lethality assessment is critical to that
25 and identifying high risk offenders.

1 CHAIRPERSON COHEN: Again, our thanks to both
2 of you for making your presentation today. My thanks to
3 everyone who's been here, those of you who have presented
4 written and/or oral testimony. I will repeat that we will
5 take any written testimony that anyone desires to give us,
6 and we'll incorporate it in the record.

7 This Domestic Relations Task Force has been in
8 effect officially as the Domestic Relations Task Force,
9 this is our fourth year. Two years prior to that, we dealt
10 with a small portion of the issue. So we're really in our
11 third term, sixth year concerning domestic issues.

12 We've had many hearings across the state
13 during the last six years. We have heard from thousands of
14 people either by letter, by telephone, in person, visit,
15 testimony, et cetera. Before we go into each hearing, we
16 always think we've heard it all before; we're just running
17 these hearings as a courtesy; but we've heard everything
18 and there's nothing new under the sun.

19 After we walk out of each hearing, we realize
20 there's a lot that we didn't know. And I think this
21 particular morning has demonstrated to us that domestic
22 violence is far more pervasive, far greater a problem than
23 we laypersons have realized.

24 It is a devastating issue that affects not
25 just the victim and the perpetrator, but entire

1 communities, entire families. This particular bill, 1436,
2 is of critical importance. And I think the legislators
3 have recognized it, as we have 73 cosponsors of this bill,
4 which is an extraordinary number of people to sign up for a
5 bill just getting started off and running.

6 So this is an issue that we will certainly
7 delve into, examine thoroughly and critically because it is
8 such a vital issue and certainly one that is incumbent upon
9 us as legislators. One of our jobs is to protect our
10 citizenry, and this is certainly an area.

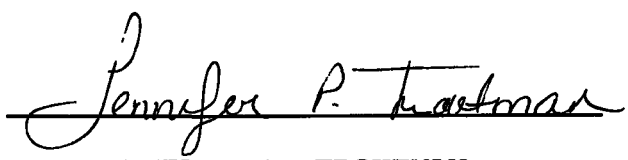
11 So I thank all of you for, certainly today, a
12 rude awakening and letting us know how incredibly pervasive
13 the area of domestic abuse is. I want to thank the members
14 and certainly staff and a special thanks to Representatives
15 Carn and True for introducing us to this issue.

16 And again, as always, my thanks to Karen
17 Dalton, not only counsel to the committee but my right arm.
18 To video, to our court reporter, thank you very much. This
19 hearing is adjourned.

20 (Whereupon, at 11:20 a.m., the hearing
21 adjourned.)
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.



JENNIFER P. TROUTMAN

Registered Professional Reporter

My Commission Expires:
April 30, 2001

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