

ORIGINAL

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
JUDICIARY COMMITTEE
SUBCOMMITTEE ON CRIME AND CORRECTIONS

HEARING ON HOUSE BILL 106

ABINGTON TOWNSHIP BUILDING
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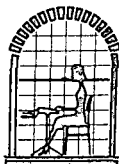
BEFORE:

HON. JERRY BIRMELIN, CHAIRMAN
HON. ELLEN BARD
HON. KATHLEEN MANDERINO
HON. PETER DALEY, II

ALSO PRESENT:

DAVE BLOOMER, RESEARCH ANALYST
BERYL KUHR, ESQUIRE
LEE ALBRIGHT, RESEARCH ANALYST

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1 CHAIRMAN BIRMELIN: We'd like to get started if
2 we could. I'm Representative Jerry Birmelin. I represent
3 Wayne and Pike Counties. I'm the Chairman of the Judiciary
4 Subcommittee on Crime and Corrections. I'll be conducting
5 this hearing this morning.

6 In a moment I will introduce those seated here
7 with me or ask them to introduce themselves. We are here
8 today to hold a public hearing on House Bill 106. The crime
9 sponsor is Ellen Bard seated to my left. She will have some
10 opening remarks here for us in just a minute.

11 The agenda and the copies of legislation and some
12 of the testimony are on this table to my left and to your
13 right. Those of you who are being called to testify will
14 please be seated at one of the chairs here in front to my
15 right, your left. And try to use the microphone. We are
16 recording today's testimony.

17 We have a stenographer here who is going to take
18 down your every word, and it will be part of the transcript
19 that will then be recorded into the record. It will be
20 presented to the members of the Judiciary Committee who are
21 not able to be here with us today so that everybody on the
22 committee will have a copy of that testimony from all of you
23 who testified.

24 And there are also some letters that will be
25 entered into the record and there is some supporting

1 evidence that some of those who are testifying will be
2 presenting as well. And we will make sure that all of them
3 are entered into the record on this particular occasion.

4 With that having been said, let me ask the
5 members of the panel to introduce themselves. I'll start
6 with my immediate right.

7 MR. BLOOMER: Dave Bloomer, research analyst for
8 the committee.

9 REPRESENTATIVE BARD: Representative Ellen Bard.
10 I represent Abington Township right here in Southeastern
11 Montgomery County.

12 MS. KUHR: My name is Beryl Kuhr. I'm legal
13 counsel to the minority chair of the committee.

14 MS. ALBRIGHT: My name is Lee Albright. I'm a
15 research analyst for the minority chair.

16 CHAIRMAN BIRMELIN: If other members of the
17 committee join us at a later time, I'll do my best to
18 remember to introduce them. And I'll start the hearing
19 today by giving the opportunity to Representative Bard to
20 make an opening statement. Representative Bard.

21 REPRESENTATIVE BARD: Thank you, Mr. Chairman,
22 members of the committee. I appreciate your organizing this
23 hearing today to take testimony on this important
24 legislation.

25 I introduced House Bill 106 in an effort to help

1 protect innocent people like my constituent Mr. Gallagher
2 who will testify today about the devastating effects of
3 false accusations of rape.

4 Also it is the intent of this legislation to help
5 true rape victims like Jan Marino who will appear before you
6 today as well. Because of those who falsely accuse or
7 falsely report criminal activity, true victims are viewed
8 with greater suspicion and thus these true victims are
9 caused to suffer more.

10 Pennsylvania has some of the best statutes on the
11 books for victims of rapes including a date rape drug law
12 that I sponsored. But now it is clearly evident that we
13 need better laws to deal with those who are falsely accused
14 and those who are victimized by false charges.

15 At a recommendation of District Attorney Bruce
16 Castor, I had drafted legislation that amends the crimes
17 code and upgrades the crime of false accusation and
18 fictitious reporting to a felony in cases where the alleged
19 crime is a felony crime.

20 By this upgrading from a misdemeanor to felony
21 status, falsely incriminating another with a felony would
22 now carry a maximum penalty of seven years incarceration
23 with a potential for \$15,000 fine. Fictitious reports of a
24 felony would carry a similar penalty.

25 Currently the penalties are two years

1 incarceration and \$5,000 fine for false reporting and one
2 year and \$2,500 fine for fictitious reporting of information
3 relating to an incident.

4 Mr. Chairman, I hope that these hearings will
5 help to speed this legislation through the legislative
6 process and into law.

7 And I would like to thank our witnesses today,
8 particularly Mr. Gallagher and Jan Marino and Mr. Bolus who
9 are testifying regarding circumstances which have caused
10 them great personal pain and anguish. And their efforts on
11 behalf of this legislation are greatly appreciated. Thank
12 you very much.

13 CHAIRMAN BIRMELIN: Before we call our first
14 witness, I also want to make mention for the record that we
15 have a letter that we've received from the American Civil
16 Liberties Union that is entered as part of their testimony.
17 They were not able to testify today even though they were
18 asked to send a representative.

19 For all of you who are here who are scheduled to
20 testify today, you should have a copy of the agenda. And
21 what we have done is essentially given each person or each
22 set of testifiers a 20-minute time period.

23 We will try to do our best to hold to that
24 20-minute time period. That may include you giving
25 testimony but also answering some questions as well. If

1 members of our staff or Representative Bard or myself have
2 questions, we will do so at the end of each person's
3 testimony.

4 So with all of that having been said, I will call
5 our first witness. Mr. Michael Gallagher, if you would,
6 come forward. Mr. Gallagher has his testimony in writing
7 for those of you who are here with me at the desk. Mr.
8 Gallagher, welcome and you may proceed to give your
9 testimony whenever you are ready to do so.

10 MR. GALLAGHER: Okay. In December of 1997 I was
11 questioned without an attorney about sexually molesting at
12 that time a student I had taught in fifth grade 12 years
13 ago. I denied to the police any wrongdoing. I even
14 permitted them to search our house for alleged pornographic
15 pictures of her.

16 Of course, they found nothing. A month later I
17 was arrested. I later found the reason. My accuser's story
18 was so detailed that the authorities sincerely believed her.
19 They had no witnesses, no evidence, and had done very little
20 investigation.

21 From that January day until the following
22 October, my family, all my relatives, and I suffered
23 immensely from this false accusation. My arrest with me in
24 handcuffs was shown on the evening news of all the Delaware
25 Valley television stations and in all the morning

1 newspapers.

2 During the following nine nightmarish months,
3 daily living was a struggle. I felt as if I had no future.
4 Two days after my well-publicized arrest, I remember finally
5 going outside.

6 I was nervous but I knew that I had to face the
7 world. With courage I managed to do so. It was not easy
8 for my family or me to go to the local supermarket, our
9 church, or to walk in our neighborhood. People would stare
10 at us but say nothing. I felt so ashamed even though I knew
11 in my heart that I had done nothing wrong.

12 I went into teaching to help children, not to
13 hurt them. Imagine, working with children was my career and
14 now I was allowed no contact with them. I even had to ask
15 my lawyers if I could visit my grandchildren.

16 During these nine months of pure hell, my
17 attorney would tell the District Attorney's office that we
18 had "bombshell" evidence against my accuser which we did.
19 The prosecutor called her in again in October and her story
20 literally fell apart.

21 A polygraph was given. The operator admitted it
22 was the worst in the county all year. A press conference
23 was held by the District Attorney. This time media coverage
24 of my innocence and subsequent exoneration was exceptional.

25 In December of 1998 Dateline, NBC ran the story

1 of my false accusation. Many people after my vindication
2 asked me how I could have dealt with this nightmare and
3 still have my sanity. I believe it was my faith in God and
4 unending support of my family and friends that took us
5 through. It showed me there are many, many wonderful people
6 in the world. It taught me a lesson, never again will I
7 just stand by when a friend is suffering in mind or body.

8 I had a son in the eleventh grade at the high
9 school at the time right here in Abington. He bravely went
10 through that year unharmed in spirit and yet I knew he
11 worried.

12 I have a son with a top secret clearance. I was
13 concerned about him, but it never affected his job. I have
14 a son though who had to be treated as a patient in Abington
15 Hospital partially because of my ordeal. Thank God today he
16 enjoys good health and a good job.

17 I believe I was very fortunate to have a wife
18 that stood by me during my entire false accusation. I could
19 never have traveled that rocky road without her.

20 The story of my exoneration ran in the NEA Today,
21 a national newspaper of the teachers' association. As a
22 result, I received over 40 e-mail messages from education
23 employees across the country who had also been falsely
24 accused.

25 Presently there are two teachers in the

1 Pittsburgh area being prosecuted for sexual molestation of
2 students. One goes on trial tomorrow after a yearlong wait.
3 He has 32 years experience as an award-winning teacher. He
4 is a good, good family man with a supportive wife and two
5 grown daughters. Now he goes through the nightmare I once
6 had to endure.

7 It is difficult enough to recruit teachers with
8 excellent credentials to teach our state's most precious
9 resource, our children. Male teachers for elementary
10 education are a rare commodity and are especially sought.
11 Cases such as mine and other such cases in our state hinder
12 that recruitment. Who wants to go into such a vulnerable
13 profession?

14 My accuser to this day has never been charged for
15 perjuring herself in a court of law. I hope that will soon
16 change. My total defense bill amount was over \$43,000. And
17 because of a technicality, the liability insurer only paid
18 \$25,000 instead of the current \$35,000.

19 They stated that since this alleged incident
20 happened in 1985, that is the rate they would pay. And they
21 did. Through the generosity of the national and state
22 teachers' association I was given \$12,500 to make up the
23 difference. I had to pay over \$4,000 of that gift in state
24 and federal taxes. I still have an outstanding legal bill
25 of \$5,700. The school district has refused to pay anything

1 toward my defense.

2 Had I been convicted of this whole thing, my
3 accuser could have sued them for millions. So here I am a
4 law-abiding citizen of our Commonwealth and because of a
5 false accusation, I have lost almost \$10,000.

6 I would like to respectfully suggest two
7 implementations to this Bill. One, those convicted of false
8 accusations should be made to pay the legal bills of the
9 falsely accused; and, two, if an accused agrees to take a
10 polygraph and passes, then the accuser should have to take
11 one.

12 It is my feeling that this Bill protects those
13 who truly accuse another of a felony offense. Because if
14 such individuals are forthright and honest, then that threat
15 of false reporting being a felony would have little impact
16 on them.

17 Now, I realize that implementation of this Bill
18 will not stop all false accusations. It will certainly
19 though act as a powerful deterrent for those that do so. It
20 would also save the taxpayers of the state money. I know
21 much investigative time and effort went into pursuing the
22 truth in my case by the county and the township.

23 So I plead with you to think seriously about
24 bringing this measure to the House floor. There are so many
25 who, as I, have had to bear the stigma of a false

1 accusation, a pain that will never really heal. Many
2 professions such as education, medicine, law enforcement,
3 and sports could benefit by this legislation.

4 Just remember, any of us can be accused falsely
5 and have our entire career and family ruined by one devious
6 individual.

7 Finally, I would like to read to you a short poem
8 I wrote during one of those dark days in February of 1998.
9 It summed up my feelings as I went through this horrible
10 ordeal.

11 I look upon the squirrels as they scurry up our
12 tree.

13 Oh, if only I were them, how free I would be!

14 The world goes on without me; they hawk the same
15 old thing.

16 If my mind would just be silent, what peace that
17 it would bring.

18 But life is changed, yet only in my mind.

19 The friends they write; my sisters are so kind.

20 My wife and sons, brave souls, are supportive
21 through it all.

22 Their hearts are crushed but still they're
23 standing tall.

24 Yet here I am awaiting hope that seems to be
25 elusive.

1 And every now and then dark thoughts become
2 obtrusive.

3 I think of being punished for a crime I've never
4 done.

5 Let's hope the jury will believe me and my case
6 will soon be won.

7 Ah, yes, sunlight comes in early as I face
8 another day.

9 A day with new hope dawning. Keep me strong,
10 Oh God, I pray.

11 Thank you.

12 CHAIRMAN BIRMELIN: Representative Bard.

13 REPRESENTATIVE BARD: I know that this has been a
14 very long ordeal for you and it is difficult to go through
15 repeated remembrances of what you have suffered.

16 Perhaps you could tell us a little bit about some
17 of the support that you have gotten from the teachers and so
18 on and so forth and support for the legislation.

19 MR. GALLAGHER: Yeah. When I was first arrested,
20 the president of our local association called me and she
21 said she was going to raise some money because I was
22 suspended without pay. I didn't know where I was going to
23 get the money.

24 So she went not only to Abington teachers but she
25 went to the region. She went to the state and then national

1 conventions. She went there to raise money for us. And the
2 teachers at the high school even collected canned goods. I
3 think I still have some that I don't like. But we had one
4 man -- my one sister gave me \$10,000 and my one sister gave
5 me five. And a man named Stewart Rubinson gave me \$10,000.
6 He said that was a loan.

7 And there were so many people that supported us.
8 It made me feel so good. I even had support from the
9 Monsignor Ken Beallo out in Chicago. If you recall,
10 Cardinal Bernadette was falsely accused out there. And he
11 heard of my story and he contacted me and we're still in
12 contact. So I had lots and lots of support. But, you know,
13 this thing is never -- it will never go away. It is a shame
14 that it ever happened.

15 CHAIRMAN BIRMELIN: Mr. Gallagher, I do have an
16 interest in this legislation and have somewhat of a history.
17 And I would like to relay that to you briefly. I've already
18 done that with Representative Bard. A few years ago I was
19 approached by a constituent who was a father who had custody
20 of -- or excuse me, who had visitation rights and his
21 ex-wife had custody of the children.

22 And she falsely accused him of molesting the
23 children on the father's visitation day which I guess is a
24 fairly common practice from what I hear. And as a result of
25 that, I drafted legislation similar to what we have here

1 today but not nearly identical.

2 But my legislation dealt specifically with the
3 child abuse reporting law in that because of the anger and
4 attempts to get even with an ex-spouse is frequently abused.
5 And we had a public hearing on that Bill. And I can tell
6 you that there is a body of people and organizations in this
7 State that are very adamantly opposed to this type of
8 legislation.

9 And what it boiled down to was they told me and
10 they said that in no uncertain terms if my legislation had
11 become law, that children would die in Pennsylvania.
12 Because people would be afraid to report child abuse because
13 they would be afraid that they would be breaking the law and
14 they would be in trouble. So they wouldn't make phone calls
15 for children who were being abused. And I thought that was
16 absolutely ludicrous, that was irrational, and that was a
17 very below-the-belt type of response. And I indicated that
18 to the people that testified at the time to no avail.

19 But I say that to you because we are in the same
20 area here, you know. We're -- you have this certain segment
21 of society that thinks that we can't do anything to -- do
22 anything that might cut back on the number of complaints
23 about children being abused.

24 Now, I support Representative Bard's legislation.
25 As I said earlier, I drafted similar legislation about four

1 or five years ago. And I will do what I can to help her,
2 but I want you to be aware that's the uphill battle that
3 we're facing with legislation of this type. You have people
4 who think if you do anything to diminish the number of child
5 abuse reports, and children are going to die out there. And
6 it is a really emotional argument but it is not a valid one.

7 MR. GALLAGHER: Right.

8 CHAIRMAN BIRMELIN: But that is the sort of thing
9 that happens. And quite frankly those sort of people would
10 say it is better to have a few Mike Gallaghers in life than
11 have children dying at the end of the spectrum. I know it
12 is not right. I know it is not rational. But I'm telling
13 you that from my experience that's what I have seen happen.

14 MR. GALLAGHER: Thank you for saying that. It
15 was just my feeling everybody would be for something like
16 this. You know, I went through so much pain. And I know
17 this man tomorrow in his trial is going through a year's
18 worth of pain for those false accusations. And teachers in
19 Abington have sort of changed their method of teaching
20 because they are so worried and concerned.

21 And I have three sons. Thank God none of them
22 are going into teaching. I just can't see it especially for
23 a male. Because you don't even have to have your door open
24 or shut or be alone with a child, because perhaps maybe 12
25 years later this girl came forward with this highly

1 believable story so detailed according to the police and I
2 was arrested, you know. That's just what happened.

3 CHAIRMAN BIRMELIN: I understand. I appreciate
4 your story. Thank you very much for being here.

5 MR. GALLAGHER: Okay.

6 CHAIRMAN BIRMELIN: Is District Attorney Bruce
7 Castor here? He's not here yet. He is scheduled next.
8 Also I would like to introduce in the second seat to my left
9 is Representative Kathleen Manderino from Philadelphia.

10 REPRESENTATIVE MANDERINO: Good morning.

11 CHAIRMAN BIRMELIN: We will skip over Mr. Castor
12 and then put him in at a later time when he arrives. Our
13 next testifier is Jan Marino. Is she here? Is it Ms. or
14 Mrs. Marino?

15 MRS. MARINO: Mrs. Marino.

16 CHAIRMAN BIRMELIN: Mrs. Marino, I want to
17 welcome you. Mrs. Marino has written testimony for those on
18 the panel here if you wish to follow along with her. And
19 whenever you are ready to proceed, Mrs. Marino, you may.

20 MRS. MARINO: Good morning and thank you for the
21 opportunity to speak and express my concerns on this very
22 important issue. In August 1993, a stranger broke into my
23 house and raped me.

24 I can stand here today only seven years later and
25 remember it like it was yesterday. More than remembering

1 the physical attack, I can remember clear as a bell how I
2 was feeling and what I was thinking. I remembered thinking
3 I am going to die.

4 I could not take my eyes off the knife he was
5 holding in front of my face as he raped me. In my mind the
6 fact that he was looking at me and I could see him, he was
7 talking to me, meant he was going to have to kill me.

8 He raped me in different rooms in my home. And
9 when it was over, he told me to go into my bedroom and lock
10 myself in it. He would retrieve his knife and then go. I
11 ran to my room and closed the door. I leaned against the
12 door waiting for him to barge in and kill me.

13 I got myself dressed but could not come out of my
14 room. I was sure he was hiding in the house waiting to
15 finish me off. I left my home through a window and ran to a
16 neighbor's home.

17 As I sat there feeling safe, it dawned on me that
18 maybe no one would believe me. I looked at myself, no stab
19 wounds, no bruises. Who was going to believe my story? Why
20 would I ever think such a thing? Why? Because society had
21 told me so. Every movie produced told me so. Every evening
22 television drama told me so. The daytime soap operas had
23 told me so.

24 If I was crying rape, it had to be a lie. False
25 reports to law enforcement agencies are harmful. And one of

1 the most devastating reports being that of sexual assault.

2 Can we understand or know what it is like to be
3 accused, interrogated, and arrested for a heinous crime we
4 did not commit? I believe we can empathize, but we truly
5 cannot know it. After all, we have not experienced it.

6 And when the truth comes out, are we not glad?
7 Don't we say things like that poor man, at least now it is
8 over? But is it? He becomes the victim now. He will
9 forever live with the devastation, humiliation, and the loss
10 of control over his life.

11 The one accused is not the only victim. Let us
12 not forget the true rape victim. False reporting hurts
13 them. I know because I experienced it. It is very
14 frustrating telling the truth and not knowing whether or not
15 you're being believed.

16 I remember during the trial telling my story, my
17 rapist lying, denying it was him. I hoped and prayed the
18 judge would believe my story. I was so angry and so
19 frustrated. The truth never changes. The truth is the same
20 story over and over. What more did they want me to say?

21 I can imagine the frustration in being accused
22 falsely when you're telling the truth and no one believing
23 you.

24 One of the first books I bought after my rape was
25 Linda Fairstein's Sexual Violence, Our War Against Rape.

1 She has directed the sex crimes prosecution unit within the
2 Manhattan DA's office for more than 15 years. In it she
3 devotes a chapter to this very issue, chapter 18. "False
4 reporting -- A Terrible Foe of the Rape Victim." She ends
5 this chapter with three main points I'd like to read to you
6 now.

7 In it she writes, "First, these fabrications
8 (which are themselves criminal acts) waste the time and
9 resources of an already overtaxed justice system. Most
10 municipalities do not have the manpower to respond to and
11 fully investigate many real crimes; and, therefore, for each
12 false alarm that is sounded some legitimate victim goes
13 unaided."

14 "Second, for each false report that results in an
15 arrest, a man is imprisoned -- whether for hours, days, or
16 months when he has committed no offense."

17 "And most important, to me, is that these
18 falsehoods degrade and trivialize the experience of every
19 legitimate rape survivor who will ever tell her story to a
20 police officer or jury. They encourage the ignorance and
21 callousness of people who still fail to see the extent and
22 significance of the problems of rape. Each false accusation
23 makes too many skeptics think that every accusation is a
24 false one which is a danger that cannot be overstated.
25 False reporters are among the worst foes of real rape

1 victims and the deadliest enemies of legal protection for
2 women everywhere."

3 I now ask you to take this Bill very seriously
4 with great consequences. House Bill 106 is a critical Bill
5 not only for the accused nor the true rape victim but for
6 all of society. Thank you for listening to my experience.

7 CHAIRMAN BIRMELIN: Thank you, Mrs. Marino.
8 Representative Bard.

9 REPRESENTATIVE BARD: Thank you very much.

10 MRS. MARINO: If you have any questions.

11 REPRESENTATIVE BARD: It is so helpful that
12 you're willing to come forward and share your experiences
13 and your thoughts providing the legislation. I think
14 oftentimes it is thought that anything that might stiffen
15 penalties or increase penalties like this for false
16 reporting would deter somehow victims from coming forward.

17 And I think that your testimony is so critical,
18 absolutely critical in this regard. And so I just want to
19 confirm that your feeling is that -- and certainly you are
20 in contact with other survivors -- this will be helpful --

21 MRS. MARINO: Yes, absolutely.

22 REPRESENTATIVE BARD: -- if this legislation is
23 enacted?

24 MRS. MARINO: Yes. I think we have to tell
25 society. We have to say that this is wrong. It is very

1 wrong. Because what society does tell us is that, you know,
2 if you're crying rape, it is a lie. Or if you are crying
3 rape, you deserved it. We have to educate society here.

4 One way of doing this is by saying no more. No
5 more getting off with a slap on the wrist or no charges or
6 no anything, that there is a penalty if you are going to
7 accuse falsely. Because I'm afraid of these women that are
8 raped and don't come forward.

9 I didn't call the police. My neighbor called the
10 police. I was like wait a minute, you know. I have -- I
11 have to -- I have to think about this. What just happened
12 here? And the reality was when I saw that he didn't stab me
13 and he didn't even hit me, I really didn't think anyone was
14 going to believe my story. And that's all because that's
15 what I was programmed to believe.

16 So I believe that with stiffer penalties, with it
17 being a felony charge on an accusation of a felony offense
18 that it would be a deterrent of false reporting, yes.

19 REPRESENTATIVE BARD: Thank you.

20 CHAIRMAN BIRMELIN: Mr. Bloomer has a question
21 for you.

22 MRS. MARINO: Certainly.

23 MR. BLOOMER: I apologize if I didn't see this in
24 your testimony or if you didn't say, what was the result of
25 your trial?

1 MRS. MARINO: Well, I was raped by a 16-year-old.
2 So I dealt with the juvenile system. So every nine months
3 he was reviewed. He did stay until he maxed out at 21 where
4 the State no longer has any jurisdiction. So he was
5 released at 21.

6 MR. BLOOMER: Thank you.

7 CHAIRMAN BIRMELIN: Mrs. Marino, you were here
8 when I made the comments to Mr. Gallagher after his
9 testimony. The public hearing at which we had regarding the
10 Bill that I had introduced a few years ago, we had the DA's
11 association testifying.

12 And I said to the DA's association
13 representative, how many people do you know of in
14 Pennsylvania who were prosecuted for falsely testifying to a
15 public official last year? His answer was none.

16 I said, do you remember the last time anybody in
17 Pennsylvania was prosecuted for falsely testifying before a
18 public official? They had no idea. Now that doesn't mean
19 it didn't happen. It is rare.

20 MRS. MARINO: Well, false accusations being
21 similar to perjury, I know that was one of my things. I
22 couldn't believe in a court of law and when you have taken
23 an oath and been sworn in and people were getting up
24 there -- my -- I took it very personally what I was saying
25 was the truth.

1 And I only prayed and hoped that they would
2 believe me. And then after the fact, you know, I even said
3 to the officers like can you charge them with perjury or
4 what can we do. And the truth is it is something that I
5 don't know whether we don't want to spend the manpower or
6 the tax dollars or whatever in doing it, but it needs to be
7 done because it is out of control.

8 CHAIRMAN BIRMELIN: And I agree with you. And
9 hopefully legislation like this or something similar can be
10 done. It reminds me of when I was a young lad. I actually
11 spent some of my childhood years in New York City. And
12 being in a city, you have on every corner fire alarms where
13 you had the pull-down system of some sort.

14 And I remember when I was about 7 or 8 years old,
15 one of the neighborhood kids falsely pulled down the fire
16 alarm and had the fire trucks there. And it was a big, big
17 deal because they -- I don't know what they did to this
18 fellow who did that. I don't recall. I was too young to
19 remember.

20 But I know the word went out that you don't do
21 those things. Falsely reporting is not much different than
22 falsely reporting a fire or calling an ambulance out or
23 police or whatever.

24 It detracts from everything else that those
25 people are supposed to be doing that they are very well

1 prepared to do. But it over burdens them when they have to
2 respond to false reports, not to mention the devastation
3 that happens to people that are being falsely reported like
4 Mr. Gallagher.

5 MRS. MARINO: Correct.

6 CHAIRMAN BIRMELIN: So I agree with you.
7 Sometimes we need to look beyond the immediate problems of
8 false reporting and that is people who really are needing
9 the court system and services and law enforcement not being
10 able to provide it.

11 Even if you look at the child abuse reporting
12 laws which legislators get a copy of every year, it usually
13 varies but it is somewhere around 70 percent are unfounded
14 reports. And that's incredible, 70 percent of child abuse
15 reports are unfounded. There is no substance whatsoever.

16 So that's the burden that we put on society. And
17 I think we need to start telling people that if you're going
18 to make false accusations, you're going to pay a price.

19 MRS. MARINO: Exactly. That's what I'm asking
20 you to do now. There has to be. We have to say no more.
21 And I think with this Bill that will definitely help.

22 CHAIRMAN BIRMELIN: I want to thank you for your
23 testimony. The next testifier is Bruce Castor, the District
24 Attorney of Montgomery County. And I see that he has
25 entered. Mr. Castor, I thank you for coming. If you would,

1 please take a seat. And when you are prepared, you may give
2 your testimony.

3 MR. CASTOR: Thank you, Mr. Chairman, and members
4 of the committee. Before I read my prepared remarks, I knew
5 that you would be hearing from Mr. Gallagher. So I tailored
6 my testimony in another direction knowing full well that
7 Representative Bard and I have discussed at length the
8 situation which brings this Bill or helps bring this Bill
9 before the House.

10 So I'm going to tailor my remarks in a different
11 direction. Then I would be prepared to answer some of the
12 questions raised by the Chair in questioning the previous
13 witness.

14 On February 19th, just several days ago, The
15 Times Herald headline read: Woman Pleads Guilty to Falsely
16 Accusing Police of Sexual Assault. The woman had been
17 arrested for public drunkenness by Criminal Code Section
18 5505, a summary offense with the maximum penalty of 90 days
19 imprisonment and/or a \$300 fine. That occurred on September
20 5th, 1999.

21 The next day at a Philadelphia hospital, she
22 reported she had been sexually assaulted by three Norristown
23 police officers. The Montgomery County District Attorney's
24 office investigated the alleged assault since the woman
25 reported that she had been assaulted in Montgomery County,

1 in fact in a police station in Norristown Borough. The 16
2 video cameras at the Norristown police station however told
3 a different story. Nothing had happened.

4 In 1991 the same woman had charged her boyfriend
5 with raping her which was another baseless charge. She
6 pleaded no contest and was placed on probation. Thus since
7 this was her second offense, she faces a maximum of four
8 years imprisonment and fines totaling \$10,000. Under the
9 current law her crime is a misdemeanor.

10 Under the proposed changes to 18 Pa.C.S.A.
11 Section 4906, since the false information related to a
12 felony such as rape, robbery, kidnapping, et cetera, the
13 crime would be graded as a Felony 3 with a maximum penalty
14 of three and a half to seven years imprisonment and a
15 \$15,000 fine.

16 This is an important change because felonies are
17 serious crimes and this was a serious case of false reports.
18 Look at the consequences of these false allegations. Three
19 police officers were defamed and the entire department
20 placed under a cloud of suspicion.

21 Shakespeare said it best in Othello, Act II,
22 Scene III, line 264. "I have lost my reputation. I have
23 lost the immortal part of myself."

24 The Montgomery County District Attorney
25 detectives have spent endless hours which could have been

1 devoted to real, serious, unsolved crimes instead of chasing
2 windmills.

3 Since the reports were made in Philadelphia, the
4 Philadelphia police department and Philadelphia District
5 Attorney's office became involved in the investigation;
6 again hours were spent in useless, pointless investigation.

7 About 10 years ago two young men and a young
8 woman reported the theft of a gun, third degree felony, to a
9 local police department. They named the thief and an
10 investigation ensued. Charges were brought, a jury
11 selected, and trial held in which three friends who reported
12 the crime testified. A verdict of guilty was returned by
13 the jury. Bail was revoked. And the thief was remanded to
14 Montgomery County Prison. Then, days later, the three
15 friends confessed that it was all a joke. They went to
16 prison as perjurers.

17 This is an extreme case but illustrates the
18 waste, the cynicism, the personal harm that can result from
19 false reports.

20 At the heart of the Christian, Jewish, and
21 Islamic traditions is the command thou shalt not bear false
22 witness against thy neighbor. This proposed legislation
23 recognizes the practical, the emotional, and long-term
24 consequences of false reports.

25 If police officers are responding to the false

1 report of a robbery, they cannot at the same time respond to
2 the report of a kidnapping of a young child.

3 A series of false reports cannot help but make
4 officers cynical and potentially demoralized. And for all
5 of us, there is the immense amount of money frittered away
6 on fictional rather than real crime.

7 As District Attorney of Montgomery County, I
8 enthusiastically support this change and salute those
9 responsible for recognizing the need for an increased
10 penalty for this serious crime.

11 CHAIRMAN BIRMELIN: Thank you. Representative
12 Bard.

13 REPRESENTATIVE BARD: Thank you very much
14 District Attorney for being with us today. I appreciate
15 your taking the time to discuss this important legislation
16 with us and supporting the issue.

17 Now as I understood -- you'll have to help me
18 here a little bit. Basically the local police department
19 screen cases and false reports out for the most part before
20 they would reach your level; is that right, or are you
21 involved from the very first --

22 MR. CASTOR: Well, it would depend if it was a
23 case that came in through our office or not. I mean the
24 case involving the Norristown police officers was, in fact,
25 investigated by us. But run of the mill cases, most of the

1 cases that come to Montgomery County Court start with the
2 police department and then are transferred to county court
3 after the preliminary hearing.

4 And what will frequently happen is it reaches the
5 point where the local police officer is angry enough having
6 been inconvenienced or the victim is angry enough having
7 been falsely accused that then they will file a false
8 reports charge or come to us and ask for approval for such a
9 charge if they think it might be close.

10 One of the difficult areas is demonstrating it is
11 in fact false. See, in a criminal context, we have to prove
12 the Defendant is guilty beyond a reasonable doubt. What
13 that means is there could be -- we could have reached a
14 point where we were not absolutely positive that the report
15 is true. We suspect it may be false but it is hard to
16 demonstrate that it is false. That's the sort of dilemma
17 you're dealing with in this area.

18 When you have oath against oath, sometimes we are
19 able to resolve a dispute with a polygraph. Sometimes that
20 would confirm suspicions that we might have. I mean we are
21 trained in picking up clues, recognizing inconsistencies.
22 But it might demonstrate to us that the report is false as a
23 matter of intuition, as a matter of our experience is not
24 enough to prove it beyond a reasonable doubt. So while it
25 might result in the exoneration of the accused, it may or

1 may not be enough to arrest the accuser.

2 REPRESENTATIVE BARD: I guess what would be
3 helpful is in terms of speaking to the legislation directly
4 which involves an increase in penalty and upgrading of the
5 offense to a felony. Is this more likely to deter false
6 accusers? And then secondly, does it make it more or less
7 likely that the false accuser will be prosecuted do you
8 think and actually end up as an example to others that would
9 then deter?

10 MR. CASTOR: I'll answer the second part first.
11 I don't think this increases the likelihood that people
12 would be prosecuted in Montgomery County. If we have any
13 instance in which we think we can demonstrate that a false
14 report occurred and prove it beyond a reasonable doubt, we
15 will go ahead regardless of what the grade is.

16 I personally think this is a very, very serious
17 matter because the entire system is grounded upon people
18 telling the truth. And we can't operate if they don't tell
19 the truth.

20 If this legislation passes, there is going to
21 have to be companion work done increasing sentencing
22 guidelines for this type of offense as commensurate with a
23 felony grading as opposed to a misdemeanor grading which
24 call for a jail sentence. Now if people start going to jail
25 over it and it becomes publicized for that reason, then I

1 think it will deter crime.

2 Again in the extreme case, some investigation
3 we're all familiar with is the killing of James Wayne who
4 was the owner of the General Wayne Inn. I see some heads
5 nodding up and down. The important part of that is when
6 someone lies to the grand jury and we convict him of that,
7 he's going to jail for three years.

8 That does get the word out that we're serious
9 when we can prove somebody is lying before the grand jury.
10 But again, the way we were able to prove that case was we
11 got him on a wire. The witness told the grand jury.
12 Sometimes it is very difficult.

13 One of the biggest problems in law enforcement
14 and the most frustrating thing in law enforcement -- I've
15 been at it for 15 years -- is I can tell when somebody is
16 lying and I can tell when there is something not right. But
17 knowing it and proving it are different things.

18 REPRESENTATIVE BARD: Just one follow-up
19 question. Can you make an estimate of the number of cases
20 or in some way quantify how many false reports initially
21 come in to law enforcement agencies?

22 MR. CASTOR: Well, I can't do that because I
23 don't know how many come into the police department that
24 they don't move forward on for one reason or another.
25 Again, a police detective might suspect something is false

1 but not being able to demonstrate it.

2 But I would say our office probably prosecutes
3 about a half dozen cases like this a year. We investigate a
4 number of others that we can't proceed on. And then there
5 are companion cases like the situation the Chairman was
6 talking about somebody calling in the ambulance or fire
7 department, those kinds of things which are similar and also
8 flat perjury cases.

9 REPRESENTATIVE BARD: Just to clarify, you say
10 you investigate about half a dozen to a dozen cases a year
11 where you're considering filing false accusation charges?

12 MR. CASTOR: Yeah. I would -- yeah, I would say
13 probably about a half dozen and we probably investigate
14 another half dozen more. So a total of 12 probably just
15 taking a rough guess. But I think back over the years cases
16 that I handled, sometimes they are not felony-type cases
17 either. But when someone is accused of rape or robbery or
18 burglary, these kinds of things, that's a very, very serious
19 thing and we take it very seriously.

20 REPRESENTATIVE BARD: Thank you very much.

21 CHAIRMAN BIRMELIN: District Attorney Castor, how
22 long have you been in the District Attorney's office as the
23 DA or I gather from what you just said you were an assistant
24 at some time or may have been associated with the DA's?

25 MR. CASTOR: That's right. I've been associated

1 with the DA's office for 15 years.

2 CHAIRMAN BIRMELIN: And during that period of
3 time, how many false accusers or false reporting incidents
4 in the area of child abuse have you investigated or has your
5 office investigated?

6 MR. CASTOR: Well, dozens. I mean when we get
7 those forms about suspected child abuse, our detective has
8 to investigate them. You had mentioned when questioning the
9 previous witness a percentage of cases that were determined
10 to be unfounded. And unfounded means what it says. It
11 means that there was no evidence to support. It doesn't
12 mean that it didn't happen. The detectives -- again, this
13 is the United States where people are innocent until proven
14 guilty. And us thinking someone is guilty and knowing it
15 are different.

16 CHAIRMAN BIRMELIN: I guess my question is more
17 towards how many people do you think made false accusations
18 knowing there was no substance to the accusation? Did you
19 prosecute or follow-up on any of those? You said you did
20 about six a year. But they weren't all child abuse. They
21 may have been other situations. I was wondering how many of
22 those six per year were related to false child abuse
23 reports?

24 MR. CASTOR: I would say that between false
25 sexual complaints, child, adult, and false beating

1 complaints, that would comprise most of them. But I can't
2 quantify better than that.

3 CHAIRMAN BIRMELIN: Do you in the reports that
4 you do each year -- I'm not sure who gets those reports.
5 Somebody in the State does because we get it every year, the
6 legislature gets a compendium of all criminal cases that
7 have been handled throughout the year.

8 Do you report those as false accusation reports?
9 Are they broken down to that level where you look at the
10 reports and say here there were X number of people who were
11 prosecuted for making -- for knowingly making false
12 accusations in certain areas?

13 MR. CASTOR: I do not believe that we do as the
14 DA's office. I believe the Office of Children and Youth
15 probably does that. But I don't know the answer to that.

16 CHAIRMAN BIRMELIN: Thank you very much. Did you
17 have any questions?

18 REPRESENTATIVE MANDERINO: Thank you, District
19 Attorney Castor, for your testimony. I have a couple of
20 questions. My understanding of the legislation we're
21 considering is that it deals primarily with how we grade the
22 offense of false reporting but it doesn't change the
23 standard or the burden of proof of the Commonwealth.

24 You will still have a burden of proving a knowing
25 intent with regard to the false reporting; is that your

1 understanding as well?

2 MR. CASTOR: Yes, it is.

3 REPRESENTATIVE MANDERINO: So, for example, in
4 the General Wayne case that you mentioned that you were able
5 to proceed on because you had hard evidence so to speak in
6 terms of a tape recording and in the case that you cited in
7 your testimony where you had literally the three "friends"
8 coming forward and saying it was a joke, you had something
9 to proceed on.

10 Is it -- am I correct in assuming that you didn't
11 have a level of factual evidence that you felt you could
12 have proceeded on, for example in the case of the false
13 accuser of Mr. Gallagher, and that's why that -- I'm
14 assuming nothing went forward because no one said anything
15 about it.

16 MR. CASTOR: Well, don't assume that because
17 there may be things that are going on that I'm not at
18 liberty to discuss. But that does not mean anything will
19 result from that. But that case is not over.

20 REPRESENTATIVE MANDERINO: So, therefore, whether
21 the case proceeds is not something that is going to be
22 addressed by this Bill but what the penalty would be if
23 you're able to proceed is something that would be addressed
24 by this Bill?

25 MR. CASTOR: The potential penalty, as I said

1 earlier, there would have to be companion work done on the
2 sentencing guidelines if it is the intent of the legislature
3 that a jail sentence resulted from this which is my
4 impression and what I would support. But, yes, the
5 potential penalty would increase.

6 REPRESENTATIVE MANDERINO: Another kind of line
7 of questioning that I want to touch on -- and if it is
8 beyond the scope of your knowledge I'll understand. I was
9 kind of getting that indication that maybe it was from the
10 last line of questioning.

11 But I'm a little uncomfortable with some of the
12 questions so far this morning not as regards the witnesses
13 who have testified in their particular instances but I feel
14 like we're mixing apples and oranges a little bit from the
15 panel with regard to child abuse reporting laws which allow
16 anonymous suspected reporting of child abuse from everyone
17 from doctors to teachers to other adults in authority versus
18 false accusations of a criminal act.

19 So my question to you is that my understanding of
20 reports to the child abuse hot line is that those are then
21 investigated by Children and Youth at the county level
22 before they even get to a prosecutor's office. Is that a
23 correct assumption or do you get everything that is called
24 in on the anonymous hot line?

25 MR. CASTOR: No. The Office of Children and

1 Youth is the initial screening agency as it were.

2 REPRESENTATIVE MANDERINO: So if they screen and
3 determine that a third of the calls that have come in are
4 what they would at least classify as founded, then it is
5 those cases that make it to your detectives?

6 MR. CASTOR: Yes.

7 REPRESENTATIVE MANDERINO: So you don't get the
8 66 percent or whatever the percentage is that they have
9 screened and decided that we don't see anything founded here
10 to pass on to the law enforcement authorities?

11 MR. CASTOR: I believe that that is true.

12 REPRESENTATIVE MANDERINO: Thank you.

13 CHAIRMAN BIRMELIN: We've been joined by
14 Representative Daley of Washington and Fayette Counties as
15 well.

16 REPRESENTATIVE DALEY: Good morning.

17 CHAIRMAN BIRMELIN: I want to thank you, District
18 Attorney Castor, for your testimony today. Our next
19 testifiers are Carol Pallis and Wayne Jones. If you two
20 would please come forward.

21 MS. PALLIS: Did you people get copies of our
22 papers?

23 CHAIRMAN BIRMELIN: Yes, it has been circulated.

24 MS. PALLIS: My name is Carol Pallis. I'm Wayne
25 Jones' mother-in-law. Wayne was accused -- falsely accused

1 of raping a 14-year-old girl in August of 1993.

2 I wish to thank the members of this committee for
3 the opportunity to speak to you today and urge all of you to
4 pass House Bill 106.

5 Perhaps when you hear the story I'm about to tell
6 you of how the false accusation of rape against my
7 son-in-law, Wayne Jones, almost sent him to jail for 20
8 years, ruined his reputation, cost him over \$30,000 in legal
9 fees which he had to borrow, put him in a mental hospital,
10 took away his ability to earn a living, you will understand
11 why it is important to pass this Bill.

12 Wayne is married to my daughter Carol. They have
13 a child. He never had any prior convictions or arrests,
14 worked at a steady job for over ten years delivering produce
15 for a local produce company. He had the same delivery route
16 without any incident for ten years.

17 August 16th, 1993, he was told to make a delivery
18 to a customer in Newfoundland, Pennsylvania, who operated a
19 small roadside stand which was located near a busy mini-mall
20 and a highway.

21 Wayne arrived there at 9:30 a.m. and unloaded his
22 order and left at 10 a.m. Instead of being checked in by
23 the older woman who generally worked there, he was checked
24 in by the woman's teenage 14-year-old daughter who stated
25 she was there because her mother was ill.

1 About 1:00 in the afternoon the same day while
2 Wayne was making another delivery, a State Police officer
3 approached him and asked him if he had raped a young girl in
4 Newfoundland who worked at the produce stand where Wayne had
5 made a delivery. Wayne told him he did not rape this girl.
6 The Trooper told Wayne he could proceed to make his
7 deliveries, and he would call him if necessary.

8 At that point the State Police officer had
9 probable cause -- see Exhibit A -- to hold Wayne as a
10 suspect because the girl made a positive ID. Wayne then
11 could have requested to be tested and proven innocent.

12 By letting Wayne go, this ruined Wayne's chances
13 of preserving vital evidence and made it harder for Wayne to
14 prove his innocence. Wayne returned to his place of
15 employment and told his employer what had happened. Then he
16 came home.

17 When he arrived home, he had a phone call from
18 the Bloomingrove State Police barracks to come up there,
19 that he was going to be charged with rape. I had just
20 gotten home from work and Wayne told me what happened.

21 It was 5 p.m. that same day, and I called a
22 well-known Scranton attorney to represent Wayne. He knew me
23 by name and he asked me if the rape occurred in Newfoundland
24 that morning.

25 I became excited and asked him, how did he know

1 that; was it broadcast on the news. And he said, no. He
2 said he had a phone call from the girl's parents to sue
3 Wayne's employer for \$1 million. He said he received this
4 call between 10:00 and 11:00 that morning.

5 He told them he could not sue Wayne's employer
6 because Wayne would have to be proven guilty first. He did
7 not take our case because it was a conflict of interest.
8 And I never could use what he told me in court because he
9 blurted out something he shouldn't have told me.

10 Immediately I called another lawyer and he took
11 Wayne's case. We arrived at Bloomingrove barracks and Wayne
12 had a hearing before a magistrate. Bail was set at \$25,000.
13 He was handcuffed, put in jail for about three days until I
14 could arrange to put my home up for bail bond.

15 Then I had to take the money I had put away for
16 retirement to give it to Wayne for his defense. I am a
17 widow who took care of a sick husband for 18 years. I
18 worked all of my life and now must put retirement off as the
19 legal system put a large dent in my assets.

20 Wayne was arrested because there was a second
21 Trooper from Dunmore barracks who met the alleged victim at
22 the hospital and wrote in his report -- see Exhibit A, page
23 2 -- that the examining doctor told him the girl had
24 ripping, tearing, swelling, and discoloration of the vaginal
25 area. This report was untrue.

1 See Exhibit B, the doctor's testimony. The
2 doctor said he did not say that in his report. This Trooper
3 also took the rape test kit, put it in the trunk of his car
4 in 90 degree heat, left it there for a day. This kit was
5 supposed to be preserved on ice, sent to a laboratory for
6 testing.

7 The Trooper also sent the alleged victim a
8 T-shirt the next day after the alleged rape because as she
9 said in her deposition he felt sorry for me.

10 Could it be that he had known the alleged victim
11 as her parents lived across the street from his former
12 sister-in-law at the time and he also lives in that area.
13 He was also in the newspaper -- see Exhibit C -- because his
14 firearm fell out of the holster and shot the desk sergeant.

15 A third Trooper took over the case. The girl
16 changed her story of how she was raped and he never did
17 anything about it. Wayne was never tested until nine months
18 later at our insistence.

19 The first test was sent to the Wyoming
20 Laboratory. They said sperm heads were found. Yet they
21 failed to do an acid phosphate test to see if they really
22 were sperm heads. Also a chemist at this lab was arrested
23 for falsifying reports. See Exhibit D. I don't know if he
24 was involved in our case at the time.

25 The CMC Hospital found no sperm heads. See

1 Exhibit E. Wyoming Valley police lab found no match to
2 Wayne. See Exhibit F. Cellmark Lab found no match to
3 Wayne. See Exhibit G.

4 Greenburg Lab found no match. See Exhibit H.
5 Yet Wayne was brought to trial and found innocent in March
6 of 1995.

7 Enclosed is a letter from a man who served on
8 that jury to Judge Thompson saying it was a shame Wayne was
9 brought to trial. See Exhibit I.

10 The lawyer who won Wayne's case said he was going
11 to sue these people. He took \$2,000 more from Wayne and
12 never did anything with the case. And he is judgment proof
13 having many other judgments against him already.

14 Wayne then hired a group of lawyers from
15 Philadelphia to sue the State Police, the girl, and others
16 in federal court because his civil rights were violated.

17 The lawyers admitted in the middle of the case
18 before it came to trial that they failed to do their job and
19 the federal court judge left them off the case.

20 Now Wayne had to find another lawyer to try to
21 finish this case. The other lawyer failed to bring people
22 in for questioning who were subpoenaed and failed to get a
23 default judgment against the girl who is now 20 years old
24 and working.

25 She wrote the federal court judge a letter

1 stating she could not afford an attorney and thought the
2 Pennsylvania State Police was going to represent her. It
3 would have been easy for Wayne's lawyer to get a default
4 judgment against her but did not do it.

5 The case is now closed. Every one of the
6 Defendants scot-free. Wayne is marked for the rest of his
7 life and left in debt. He was afraid to drive truck anymore
8 and Wayne took a job inside the produce warehouse where
9 heavy lifting was required.

10 He hurt his back which required surgery at Temple
11 Hospital in Philadelphia, both knees had to be operated on,
12 and his SI joint is still torn. Wayne is only 44 years old
13 and ruined for life.

14 He sent a letter to the Pennsylvania victim's
15 compensation fund because he is truly the victim and a
16 letter to Governor Ridge asking for help in getting the
17 funds to compensate him for his losses.

18 Enclosed in your packets you will find the form
19 letter Wayne has sent to the fund asking for your help to
20 please intercede for him in getting compensation for all his
21 legal expenses, Exhibit J.

22 Our family has been tormented by harassing phone
23 calls, damage to our property, tire slashed on my car, a
24 rock thrown through the door of Wayne's truck for which we
25 filed police reports and no one was ever found who did the

1 damage.

2 I know it wasn't my neighbors because I was born
3 and raised in the house I live in and have been there for 61
4 years and my family and me are respected in our community.

5 In your packet, Exhibit K, you will see the
6 girl's mother and stepfather's home was being Sheriff saled
7 on August 19th of 1993. The alleged rape was August the
8 16th, '93. I believe they needed money.

9 The stepfather also had a criminal record. See
10 Exhibit L. He was prosecuted -- or not prosecuted but he
11 was brought up on many charges. The girl was a runaway.
12 See Exhibit M. The girl also was in counseling for being
13 unable to tell the truth. See Exhibit N, part 1 and 2.

14 The case also has an ironic twist to it because
15 the girl's stepfather was a witness in 1990 for the man who
16 owned the roadside stand where they worked because he was
17 arrested for indecent assault of his niece.

18 The case was similar to Wayne's because it was
19 handled by the same State Police barracks, the same District
20 Attorney, and they went before the same judge.

21 I mentioned this to the State Trooper who was
22 handling Wayne's case that I thought a pattern was set
23 between the cases and he did nothing. You see these people
24 went through the system of rape. They knew how it worked.

25 Enclosed is a newspaper article of the State

1 police officer from the Bloominggrove barracks who admitted
2 he raped a lady while on duty. Yet he wasn't prosecuted.
3 Exhibit P, part 1 and 2.

4 I believe some housecleaning needs to be done in
5 some of the State Police barracks as internal investigations
6 sweeps things under the rug. God help the person who has no
7 funds to defend themselves from lies or false accusation as a
8 system sometimes fails the innocent.

9 It was our faith in God that Wayne is free.
10 Additional Exhibits Q and R shows the dysfunctional
11 background of the girl's mother and stepfather which this
12 young girl was exposed to.

13 You will see that the mother drank heavily and
14 that the stepfather took a gun and held it to the mother's
15 head, beat her up, put her in the hospital. She had to have
16 facial surgery and he broke her ribs. This kid was
17 subjected to that.

18 Exhibits S and T show Wayne was found innocent
19 and was granted an expungement. Also is the story of Wayne
20 and Carol Jones and how they fought the rape charges.
21 Exhibit V is newspaper articles of the actual trial because
22 I had the Scranton Times newspaper come to Pike County and
23 do the trial so that nothing would be left out of the case.
24 I thank you. Are there any questions?

25 CHAIRMAN BIRMELIN: Representative Bard.

1 REPRESENTATIVE BARD: Thank you very much for
2 offering your testimony today and taking the time and effort
3 to be with us. Obviously this case is extremely involved.

4 MS. PALLIS: Yes, it is.

5 REPRESENTATIVE BARD: It is heart wrenching. And
6 at this time having not studied any of this material, I
7 don't have any questions presently.

8 MS. PALLIS: He is ruined. He is ruined for
9 life. And even to have a child come over and play with his
10 child anymore, he can't do it unless one of us is there.

11 Because what is not to say that he wouldn't be
12 accused a second time. His child is a little girl. And if
13 she brought a little girl in the house and one of us isn't
14 there, what is saying if he even touched another child he
15 wouldn't be bought up on these charges again?

16 He's ruined. I myself had a nervous breakdown.
17 I had to go to the hospital myself. When this happened, his
18 wife had to go to the hospital. I was left by myself to try
19 and gather material. I walked through Newfoundland. I
20 knocked on the doors. I went to the neighborhood.

21 I introduced Wayne and myself to the people of
22 Newfoundland. I said this is the man who is accused of
23 raping a girl down the street at the roadside stand. I
24 said, Can you tell me anything about these people? We don't
25 know anything about these people.

1 And then the stories started coming out. I went
2 to the courthouse myself -- and I still hold a full-time
3 job. I looked through records. I found what they did.
4 Everything in those papers, that's not my doing. That's
5 from the courthouse. That's their doing.

6 And they can prove how they did one case after
7 another. And it is ironic -- I guess Representative
8 Birmelin is your name. And you're from Pike County, are you
9 not?

10 CHAIRMAN BIRMELIN: Wayne County.

11 MS. PALLIS: Well, then if you look in your
12 records, you will see that the man who owned that produce
13 stand was brought up on charges of raping his niece or
14 assaulting his niece. The girl's stepfather was his witness
15 to get him off in 1990.

16 And the man who owned the produce stand got mad
17 at his father-in-law because his father-in-law testified
18 against him. He turned around and accused his father-in-law
19 of molesting his daughter but they left him off.

20 Now, do you mean to tell me they don't know about
21 the system of rape? Yes, they did. He had a sitting duck
22 over here. They thought this boy didn't know anything and
23 they were just going to collect a million dollars and they
24 were going to pay all of their debts off.

25 And the District Attorney had no mercy for him.

1 He would not listen to reason. I begged and I told him and
2 I called that one Trooper. I told that Trooper, please
3 check. There is a pattern here. Watch it:

4 I had to have this man tested. I said I'll give
5 you the \$3,000 to test him at Cellmark. They didn't want to
6 do it. They didn't want to test that man. A red flag
7 should have went up.

8 I got this man out of jail. Three days after
9 that the stepmother -- the mother was so clever, she knew
10 when he got out of jail. She called the District Attorney
11 up and told the District Attorney he's trying to break into
12 my house. It is 5:00 in the morning. He's at my door
13 breaking the lock trying to get in. Go and arrest him and
14 put him back.

15 Fortunately his boss took him back to work. He
16 was punched in at work working in the warehouse at 5:00. I
17 took him, my sister and the whole family went to Dunmore
18 barracks and said you're looking for this man. Because the
19 lawyer called us and said they are going to come and get
20 him. I went up to the Dunmore barracks. I said, Here, do
21 you want his timecard? He was at work. He wasn't breaking
22 in her house.

23 Why didn't the District Attorney then pick up the
24 red flag and say, whoa, something is wrong here. This is
25 another lie. They didn't. They didn't. I had that man

1 tested when he got out.

2 The day he got out of jail, I took him to a
3 private hospital and had a rape test kit done unannounced to
4 them. I didn't tell them because I didn't want to let them
5 switch anything, blood, nothing. That kit they never found
6 a hair. That kit they never found dirt on that kit. This
7 girl was supposed to be rolling on the ground. They found
8 no dirt.

9 And then they send her brother down to where
10 Wayne worked posing as Wayne's brother-in-law because Wayne
11 was sick in a mental hospital and he wanted to know where he
12 was. And we got alerted to that. They tipped us off and
13 said, whoa, Wayne doesn't have a brother-in-law.

14 I have all of these documents. I have every bit
15 of documents. They have put me through hell. I have faced
16 death. I have faced my husband's death. I have faced
17 terrible illnesses in my life. Nothing was worse than when
18 I seen that man being taken out in handcuffs after going to
19 do a day's worth of work and not hurting nobody.

20 I faced a lot of things in my life but I can't
21 face that. I could never face that. And as long as I live
22 and breathe if I got to come to Harrisburg and walk in front
23 of Harrisburg with signs, come to every one of you
24 legislators and say why this Bill has got to be, I will.
25 They won't shut my mouth because I've got nothing to be

1 afraid of. But I'm not judgment proof like the rest of the
2 trash who do this to you. They are judgment proof.

3 CHAIRMAN BIRMELIN: Please stay seated. We may
4 have some questions for you. Representative Daley.

5 REPRESENTATIVE DALEY: I just want to say,
6 Carol -- is that right? --

7 MS. PALLIS: Yes.

8 REPRESENTATIVE DALEY: -- that you're a
9 remarkable lady and Wayne ought to consider himself very
10 lucky to have a mother-in-law that would fight for his
11 name --

12 MS. PALLIS: Thank you.

13 REPRESENTATIVE DALEY: -- and his family's name
14 like you have. I mean I have seen cases which are very
15 similar where peoples lives were ruined by false accusations
16 by people that really had so much to gain and nothing to
17 lose as this situation is.

18 MS. PALLIS: I could have lost everything.
19 Because when I went out searching in the town and knocking
20 at the door, I went to the post office. And I checked the
21 post office. And I got to know I think it was Karen Zane
22 and a couple of girls. Stories didn't jive.

23 Like they were supposed to have drove to the post
24 office got a -- like a man was supposed to have run to the
25 post office and called it in. And Karen said that wasn't

1 the time. It was a different time.

2 And different elements didn't come up. But I'm
3 going to investigate yet. I'm not done. Because supposedly
4 this lady who stopped in at the open roadside stand,
5 supposedly the girl was crying and supposedly she said to
6 the girl what is wrong. The girl said, well, I've been
7 raped.

8 I'm going to check and see if she's not related
9 to somebody up there. A million dollars is a lot of money
10 to split a lot of ways. And that State Trooper should be
11 looked at too more carefully.

12 I understand there was a few cases up there. I
13 think you have a murder up there that was unsolved. It was
14 a camp counselor a long, long time ago. I could be off the
15 wall on this but --

16 CHAIRMAN BIRMELIN: We should send you up there
17 to investigate.

18 MS. PALLIS: I understand he might have been one
19 of the first ones on the scene and a lot of stuff was
20 missing like the vital evidence needed. I think a State
21 Trooper from Trooper R barracks needs an overhaul.

22 CHAIRMAN BIRMELIN: Excuse me. Representative
23 Mandarino, do you have any questions?

24 REPRESENTATIVE MANDERINO: No questions.

25 CHAIRMAN BIRMELIN: I want to thank you folks for

1 coming.

2 MS. PALLIS: Thank you for having us. I hope
3 that we can do something with this because I'll never stop.
4 I want to get on a program or have the story written in a
5 book. That is how --

6 CHAIRMAN BIRMELIN: Representative Bard will help
7 you do that. Our next testifier is Joan Kubrick. If you
8 would, please come forward. You are Mrs. Kubrick?

9 MRS. KUBRICK: Yes, Mr. Birmelin.

10 CHAIRMAN BIRMELIN: Thank you for coming here
11 today and when you're ready.

12 MRS. KUBRICK: I thank you, Mr. Birmelin, and all
13 of the panel for having us and looking into all of this and
14 listening to this. It is heart breaking. But mine is a bit
15 different but a lie is a lie and what it can do to a person.

16 We've heard all of these lies from kind of street
17 people and what they have done. But to me -- and this is
18 horrible. But to me it is very -- my lie that I'm going to
19 talk about is very faith shattering when we look to our
20 officials who are sworn to uphold the law and actually to
21 protect us. And when we find them to lie and especially in
22 lies about the estate of dead people, this is also
23 devastating.

24 I'm from Lackawanna County and I'm just a mother.
25 I'm a mother who experienced what probably every parent is

1 their most dreaded thought is having a policeman knock at
2 the door and tell you that your son is dead.

3 There is just after -- this is what happened to
4 me. And after I talked to Tim 15 to 20 minutes and then --
5 on the phone and then a policeman is there to knock on the
6 door and tell me that my son is dead.

7 I know that you'll understand all of you when I
8 try to relate to you what happens when you face something as
9 this. I was actually numb, maybe I could say paralyzed,
10 whatever, you can't think.

11 In short, like you are prey to anybody that
12 really wants to take advantage of you to whatever or
13 whomever. The most that you can do -- the most that I could
14 do is for years is I just tried to handle my own grief.

15 An investigation took place by the State Farm
16 Insurance Company. They asked me if I had an attorney. And
17 I said, no, no. No one expects anything like this. You
18 don't plan and you don't have attorneys. And she did
19 suggest to me that it was -- I had best to have an attorney.
20 An attorney was suggested from a very prestigious law firm.
21 I took their advice and gave -- put all of these matters in
22 the hands of this law firm.

23 All that I did ask, I didn't want -- I couldn't
24 handle this. All that I did ask was because of so many
25 untruths, so many inconsistencies, and lack of remorse from

1 people who were involved into this death, I just sought -- I
2 said I want a court hearing.

3 No one can just knock on a parent's door and say
4 your son is dead. I want to know why, how, when. I want to
5 know all of the details about this. I'm his mother. I had
6 him for 29 years. I have to know this. So I asked that we
7 would go have a court hearing and that I have all of these
8 inconsistencies and so forth before a jury.

9 My son's name was Timothy. He was 29 years old,
10 educated, he was a hard worker. And he was holding a very
11 responsible job and he did earn a decent salary.

12 Due to all of this, they did take a financial
13 study I believe they called it to determine what a person's
14 life is worth. It was estimated that Tim's life was valued
15 at somewhere near \$2 million.

16 I did not know it until just probably very, very
17 recently the amount of insurance that was available which
18 was far exceeding that amount of money. And it is hard to
19 talk about money because I was never interested in the
20 money. And years past and finally I was summoned to appear
21 before the courts.

22 And when I got there, I was told that there was a
23 settlement for me; and that this money was available for us.
24 I said I was not interested in this settlement and that I
25 was promised this. The only thing that I had asked for was

1 my day in court to put this all before a jury and have all
2 of these facts come out.

3 I was told that I couldn't have this because I
4 had already signed a release and a settlement agreement and
5 my attorney presented this to the judge and that indeed
6 there was a release with my husband's and my name on it.

7 I looked at it. The judge said to me, is this
8 your name, is this your signature. Yes, judge, it certainly
9 looks like my signature and that of my husband. But yet I
10 had known that I had never and would never and he would
11 never sign anything like that. And yet that did exist.

12 The settlement was for \$125,000 which I wouldn't
13 accept that. They had to take me to court and the money is
14 still standing in court somewhere. I was guaranteed my day
15 in court and I hadn't gotten this.

16 And what I really wanted, I wanted the people
17 that were responsible -- I wanted them to be made
18 accountable and receive the appropriate punishment. Too
19 often these people if they know this one or that one they
20 get off with this. But what happens the following time when
21 they go down the road, whose life may they take then?

22 When we know something is wrong, I think it is
23 our duty to correct it. When we see something, so many
24 times people, they look the other way. Oh, well, it didn't
25 happen to me so I don't really care about it.

1 I don't feel that God has that plan. I think if
2 I see something wrong, I am -- I'm not going to say, oh, I
3 didn't see it. We see this many times in court. People
4 don't want to come forward. I'm just as guilty as the one
5 who did.

6 After much investigation and much denials -- I
7 worked very hard -- it was proven. I had proved and it is
8 now acknowledged -- they have acknowledged that the two
9 signatures on that were not my husband's and mine. They had
10 taken documents -- I think it was my marriage license -- got
11 copies of our signatures and photocopied it on this
12 document. Which amounts --

13 CHAIRMAN BIRMELIN: May I interrupt for a second?

14 MRS. KUBRICK: Yes.

15 CHAIRMAN BIRMELIN: Who did this?

16 MRS. KUBRICK: The attorneys.

17 CHAIRMAN BIRMELIN: Okay. Go ahead.

18 MRS. KUBRICK: And in the documents I haven't
19 mentioned their name. But you will see who the law firm
20 is -- in fact, if you look in your telephone book, you'll
21 surely know. On the back end, on the back page, they
22 advertise I think in ten back covers of phone books which is
23 a very, very costly thing to do.

24 It was hard for me to understand. Even at this
25 point I'm trying to understand this. Why after I found out

1 like the insurances that were -- I was never concerned about
2 that. I didn't know about that. But now I'm concerned.

3 They have all of this money on the table,
4 millions of dollars. They have a young person who was 29
5 years old, educated, productive, and they are coming up
6 taking this \$125,000 settlement. I just couldn't
7 understand it.

8 And could any of you, could you understand why
9 someone -- and you have to remember that these people were
10 going to get a third of whatever they collected. So why
11 would they if there were million dollars on the table,
12 wouldn't they want to take their just fair share of this?
13 And I couldn't understand it.

14 So more time past and it is very hard to get
15 people to do things for you or what. But when I was -- I
16 was 62 years old when I enrolled in paralegal school. I
17 should have been home praying for a happy death. But here I
18 am going to school with a bunch of kids and lawyers' wives
19 sitting in a classroom and going through this.

20 But I did learn how to research and some legal
21 procedures. What I did find is my prestigious law firm
22 before I went to them while they were handling my son's
23 estate and up until I think two years ago were the chief
24 defense attorneys for State Farm. Now how could they defend
25 my dead son against State Farm when they were doing all

1 State Farm's work? That told me something.

2 I can't help -- I don't know. I can't prove
3 this. But I have to -- I'm trying to rationalize what has
4 happened there. What they did is I think they were loyal.
5 My law firm were loyal employees of their employer. They
6 were faithful to their employer of many years. They save
7 insurance companies an awful, awful lot of money.

8 And this I don't feel is unique. There are so
9 many mothers, so many people out there. I have gone through
10 hell. I've gone places asking questions, doing these things
11 and they can't do it.

12 But I think our problem is most of us are
13 undereducated and we're unaware. We all know a little
14 medical thing. You know, we can doctor ourself up with some
15 herbs and teas and liniment and all of this stuff. Most of
16 us know, especially the men, even women, how to change the
17 oil in the car and we can help, you know, and know when
18 we're getting ripped off by a mechanic. We know a little
19 bit about this.

20 But what do we know about the law? Even educated
21 people -- I am uneducated. I'm just a mother. And I prided
22 myself to raise my children properly and with God in mind
23 and teach them right from wrong and make bread and clean the
24 house and that's all I knew.

25 But how many of our people even our young people

1 today do not know anything about this? And I think it is
2 wrong. I wish when I was in high school instead of studying
3 geometry that I had had a course in law. Not because I ever
4 wanted to be a lawyer because I think the most important
5 thing that I ever have done -- and I thank God for my Tim
6 because I had him for 29 years. And I thank God I had him
7 for those 29 years -- that being a mom was the best job I
8 ever had. And I wouldn't give that up to be any doggone
9 lawyer.

10 But I do think that we need someone to look over
11 their backs. My daughter is a school teacher today. She
12 teaches gifted. She is the only one -- of course, they
13 don't like her -- not the children, the children like her.
14 But she takes her students to the courthouse, shows them how
15 to read a brief and look up a docket and all of this stuff.

16 And they will say, why do we have to do that?
17 We're not going to become lawyers. I think that her thought
18 is I hope that none of you ever have to do what my mother
19 has had to do. But just in case you do -- because I would
20 like to tell everyone out in that world that none of you
21 will ever face the loss of a child. But that's not true.

22 Because I don't know which one of you out there
23 is going to have grandchildren or children is going to face
24 this. When that comes and if it comes, I would not want
25 anyone to be further victimized. That's bad enough.

1 But then I just kind of feel it is being like
2 raped by the system. It really is. It is so, so wrong. I
3 couldn't understand why Tim died. I was very, very upset,
4 very bitter. But I think I know now.

5 I think his life had a great deal of meaning to a
6 lot of people. I still have the kids come over and we keep
7 in touch and that. I want his -- I think he died because
8 his death needs to take meaning that no other parent shall
9 ever have to go through this. That when these tragedies
10 happen, that they won't be taken advantage of.

11 And I know this is a different kind of lie and it
12 probably doesn't fit in with what we're doing today, but I
13 think that there has to be -- I look at it. I think we have
14 to have stern laws for these people.

15 And I know there is a tremendous amount of great
16 people who really respect the law that are on our bench and
17 at our bar. Well, I think politics many times controls
18 them. And they daren't speak up.

19 If you have a grievance against an attorney, do
20 you think in especially in our counties, Mr. Birmelin -- do
21 you think that Wayne, Lackawanna, Monroe you could find an
22 attorney to represent you in malpractice? I don't think so.

23 I called one time the board to -- the
24 recommending board. And I asked them and the phone went
25 dead. I said, are you there, are you there. No answer.

1 She said, no, ma'am we don't have anyone to recommend.

2 I think even if you go into as far as
3 Philadelphia it is even difficult to get representation
4 there. I don't know for sure. But is it mandatory -- is it
5 mandatory -- it is mandatory for each one of you and
6 everyone sitting in the audience and for me, we cannot sit
7 behind even the wheel of our automobile to drive if we don't
8 have the proper credentials, the proper license. Yet we
9 have an attorney in our Lackawanna County, he doesn't have a
10 license and he practices. And they let him get away with
11 it. He's doing it right now as a matter of fact. He skis
12 well too.

13 Do they have to have malpractice insurance? Is
14 it mandatory that an attorney has to have it?

15 CHAIRMAN BIRMELIN: Is it, Representative
16 Manderino?

17 REPRESENTATIVE MANDERINO: Yeah.

18 CHAIRMAN BIRMELIN: She says yes. She is an
19 attorney. That's why I looked to her for an answer.

20 MRS. KUBRICK: Well, thank you. My thought was
21 if they didn't, I thought perhaps it would be a good
22 deterrent to make them have it. But since they do, well
23 that answers one of my questions.

24 And also if an attorney is found to violate --
25 and these are the keepers of our law. If they are found to

1 do something of this nature, shouldn't they suffer some
2 repercussions? And I don't want to hear the disciplinary
3 board. This is a self-disciplining thing. Just like if
4 we're a family and I do something wrong, well, okay. I'll
5 come to you people and you slap me on the wrist and cover it
6 over.

7 And besides when you go to the disciplinary
8 board, one of the things that you have to do is you have to
9 sign your name to this and you are not allowed to speak
10 about this out in the open. That seals it. This is wrong.

11 CHAIRMAN BIRMELIN: Well, I'm going to let
12 Representative Manderino who is our resident expert on
13 lawyers and legal affairs answer some of your questions.

14 MRS. KUBRICK: If I may just interject something
15 here, my last thought this was just in the last month. The
16 insurance company is sending me another check which I'm not
17 going to cash because I would really have to give this some
18 serious thought knowing what I know, how these operations
19 work. Why are they sending me a check for \$50,000 now?

20 And then they go on to say, well, I know there
21 was other money sent to you but you didn't get it and you're
22 going to have to take it up with your attorney and the
23 courts because we don't know where that money went. I'm
24 confused.

25 CHAIRMAN BIRMELIN: Mrs. Kubrick, why don't I

1 just make a couple comments. Number one, most of the
2 testimony that you've presented today is probably not in
3 connection with the legislation that is before us and you
4 stated that yourself.

5 MRS. KUBRICK: Yes, correct.

6 CHAIRMAN BIRMELIN: I don't want to belabor the
7 point or spend a lot of time on the issue. It is not that
8 we are not concerned, but it is not something that we're
9 here to solve for you today.

10 MRS. KUBRICK: No. But it is lies.

11 CHAIRMAN BIRMELIN: Representative Manderino is
12 going to briefly respond a little bit to some of the
13 comments that you made as a courtesy to you.

14 REPRESENTATIVE MANDERINO: First of all, I just
15 gave you a wrong answer. I don't know -- from a practical
16 point of view, I don't know many attorneys who will practice
17 law without carrying liability insurance. But when I
18 re-thought my answer, I don't believe that it is mandatory
19 that one carry malpractice insurance.

20 However, when I was practicing law in the City of
21 Philadelphia, one of the main things that I did was legal
22 malpractice, defense for the insurer for legal malpractice.
23 I can tell you there was no lack of attorneys in the
24 Philadelphia region that were willing to bring malpractice
25 charges against a fellow attorney. I can't speak to how it

1 is up in your county.

2 But all I can tell you is we had a whole caseload
3 of malpractice claims against attorneys. So again I can't
4 address what happens up in your county. I just can tell you
5 it is alive and well down in southeastern Pennsylvania.

6 MRS. KUBRICK: We're in a different area.
7 Northeastern Pennsylvania, there is none other in the world
8 like it. It is called the good old boy system. I think the
9 one attorney -- yes, it would be foolish for an attorney to
10 practice law without having that.

11 CHAIRMAN BIRMELIN: It would be very foolish.

12 MRS. KUBRICK: However, there are certain
13 attorneys and that's why I question that. I believe he is
14 judgment proof and they have all of their assets tied up in
15 other people and so forth. So if he commits a wrong, what
16 does he have to lose?

17 REPRESENTATIVE MANDERINO: Well, in addition to
18 monetary loss, he has -- I'm telling you an answer you
19 already said you didn't want to hear. But he can lose his
20 license.

21 MRS. KUBRICK: He did for something but he is
22 still practicing law. And the courts up there which has the
23 responsibility -- the president judge has a responsibility
24 to stop this and he has not.

25 REPRESENTATIVE MANDERINO: I can't address that.

1 MRS. KUBRICK: I know. I thank you very much for
2 this opportunity and I just hope that I can go on so this
3 cannot happen to any other mother. It was horrible.

4 CHAIRMAN BIRMELIN: Thank you, Mrs. Kubrick. Our
5 next testifier is Mr. Robert Bolus. Mr. Bolus, please come
6 forward. Do you have your testimony in writing today?

7 MR. BOLUS: Yes, I do.

8 CHAIRMAN BIRMELIN: If you would give it to my
9 assistant David here so he can give that to us. I think
10 everyone has a copy at this point if you would like to
11 proceed.

12 MR. BOLUS: My name is Robert Bolus, Sr., 922
13 Sanderson Street, Throop, Pennsylvania 18512. And if I may,
14 I'd like to read the letter that I have written into the
15 record and then --

16 CHAIRMAN BIRMELIN: That's fine.

17 MR. BOLUS: -- explain the exhibits as needed.
18 This is to the attention of the House Judiciary Committee,
19 Subcommittee on Crimes and Corrections. Re: Public
20 Hearing, House Bill 106.

21 Dear Representatives, I appear before you today
22 in regards to the destructive action and subsequent
23 consequences that were inflicted upon myself and my family
24 when a person or persons deliberately and knowingly
25 perpetrated the heinous crime of lying and providing false

1 information as represented in Section 4906 of Title 18.

2 Beginning on October 30th, 1990, false
3 information (refer to Case No. 91-CR-127, Commonwealth of
4 Pennsylvania versus Robert Bolus, Sr.) was provided to
5 Sergeant Thomas Scales of the Pennsylvania State Police by
6 informants who chose to remain anonymous (referred to as A-1
7 and A-2) regarding stolen truck parts. The details of this
8 testimony can be referred to on pages 27a through 35a on the
9 search warrant that is before you.

10 If I may, I would now like to explain the history
11 of the criminal actions taken against me. I was convicted
12 of the following: Two counts of receiving stolen property;
13 one on a Caterpillar front-end loader, the second on an
14 Autocar Tractor/Rogers low-boy trailer. One count of
15 tampering with evidence, one count of criminal solicitation.

16 On September 19th, 1991, on each receiving
17 charge, I was sentenced to two months to one year, both
18 charges to run consecutively therefore spending four months
19 in the Lackawanna County Work Release Program with the
20 remaining time on probation, plus a \$1,000 fine for each
21 charge.

22 On tampering with evidence and criminal
23 solicitation, fines assessed were \$500 each on each count.
24 These fines were paid and the sentences were served
25 satisfactorily.

1 To this day I maintain my innocence. This
2 statement, I'm sure, has been made by many convicted of a
3 crime. However, in my particular case, information has
4 surfaced as to the true value of the Caterpillar front-end
5 loader with the alleged perjured sworn testimony which could
6 possibly clear the felony charges from my record.

7 And as any lawyer knows, value is the whole basis
8 of receiving stolen property. In my trial, values were
9 hypothetical and far exceeded the true value of the
10 Caterpillar front-end loader.

11 Now that my sentence has been completed, the laws
12 as they stand today prevent me from presenting any of this
13 information in a court of law to clear my name.

14 Only if I were still incarcerated would I have
15 appeal rights. I no longer have rights of appeal regarding
16 new information. Unless the law is changed, I must live
17 with the felony convictions for the rest of my life.

18 Moving forward I will now explain the second set
19 of charges precipitated by A-1 and A-2 and Sergeant Scales
20 (refer to Case No. 93-CR-1512, Commonwealth of Pennsylvania
21 versus Robert C. Bolus, Sr.)

22 This second set of charges stemmed from the same
23 search warrant executed in 1991, Case No. 91-CR-127.
24 Wherein all of my places of business located in Throop,
25 Dunmore, and Bartonsville, all in Pennsylvania which is

1 Lackawanna County, were raided by Sergeant Scales and the
2 Pennsylvania State Police, the Internal Revenue Service,
3 Department of Revenue, National Theft Auto Bureau and
4 Lackawanna County District Attorney.

5 All my records, tractors, truck parts, trailer,
6 and allegedly stolen vehicles and parts were confiscated in
7 this action.

8 On June 18th, 1993, based on information of the
9 1991 search warrant, I was arrested on numerous criminal
10 charges including a charge under corrupt organizations,
11 herein referred to as Exhibit 12A.

12 Rather than all of the charges being tried in one
13 trial since all information was obtained out of the same
14 search warrant, Sergeant Scales and the District Attorney's
15 office were determined to deliberately separate them
16 extending the length of the trials extensively causing
17 without concern unnecessary burden of the court system at
18 the expense of the taxpayers and in addition adding the
19 burden on to myself and my family financially, emotionally,
20 and physically.

21 This action unquestionably aided in the
22 deliberate and malicious destruction of my business, my
23 reputation, and my credibility which took a lifetime to
24 build.

25 After securing an appointment to review the

1 records along with my attorney and an accountant, upon
2 arrival we were denied any rights by Sergeant Scales to
3 review my records.

4 Sergeant Scales indicted the only way to obtain
5 any of the information from the records would be through him
6 only, denying me my constitutional right of confidentiality
7 and self-incrimination. To this date I have never been
8 allowed to review my records.

9 From June 18th, 1993, to March 20th, 1997, I was
10 never brought to trial by the District Attorney's office.
11 After an omnibus pretrial motion and hearing before the
12 Honorable Judge Donald D. Dolbin on March 20th, 1997, in the
13 Court of Common Pleas of Lackawanna County, an Order of
14 Court was entered on the 3rd day of April, 1997.

15 Wherein Judge Dolbin stated, "It appearing that
16 Defendant's constitutional rights (state and federal) have
17 been violated, it is hereby ordered that the charges in the
18 within case are dismissed with prejudice." See Exhibit
19 A-Bolus.

20 The District Attorney and Sergeant Scales
21 dissatisfied with Judge Dolbin's decision followed by filing
22 an appeal from the Order April, 3rd, 1997, in the Court of
23 Common Pleas of Lackawanna County to the Superior Court of
24 Pennsylvania, Case No. 1560 Philadelphia 1997, continuing
25 their efforts to curtail my life from returning to normal.

1 My finances would be depleted in ongoing court
2 costs and personal strains would continue to take physical
3 and emotional toll on myself and my family.

4 On July 17, 1998, the Superior Court of
5 Pennsylvania entered an Order affirming Judge Dolbin's
6 decision to dismiss the charges.

7 Again dissatisfied with the Superior Court's
8 decision, the District Attorney and Sergeant Scales filed a
9 Petition for Allowance of Appeal from the Superior Court to
10 the Supreme Court of Pennsylvania continuing with their
11 agenda to destroy my personal and professional life.

12 However, the end to their malicious prosecution
13 of me came to an end on February 22nd, 1999. The Supreme
14 Court of Pennsylvania denied their petition for allowance of
15 appeal.

16 But the story does not end here. Sergeant Scales
17 and the District Attorney following the three court
18 decisions dismissing my case refused to return all of the
19 confiscated property to me. Again the vindictive
20 prosecution at the hands of Sergeant Scales and the District
21 Attorney continue.

22 From the final order on February 22nd, 1999, and
23 after a hearing before Judge Corbet where a verbal agreement
24 was reached and was to have been committed to writing by the
25 District Attorney's office to return my property.

1 The agreement was never submitted. Subsequently
2 a second hearing was to be held before Judge Nealon but was
3 continued due to his trial schedule.

4 Finally, a third hearing was held before
5 President Judge Walsh whereby he issued an order on January
6 23rd, 2000, ordering the return of all properties seized
7 from me during the 91-CR-127 case which included return of
8 the Caterpillar front-end loader and all property in the
9 93-CR-1512 cases forthwith. Said order is attached as
10 Exhibit D-Bolus.

11 If I may add, this order to date has not been
12 adhered to by the Commonwealth of Pennsylvania. In
13 summation, I believe the law should be changed as stated
14 under House Bill 106.

15 I also believe additional laws should be changed
16 to give all individuals an equal right to prove their
17 innocence, face their accuser such as unnamed informants A-1
18 and A-2, to be able to be proven right or wrong.

19 Instill stiffer penalties for law enforcement
20 members of all offices when it is proven they have lied and
21 abused their power and abused the legal system for their own
22 personal goals.

23 In addition that they be made to personally pay
24 restitution both to the Commonwealth and to the individual
25 they have unjustly acted against which in most cases they do

1 under the cloak of immunity. Let this immunity be removed.

2 I quote Sergeant Scales, "The law is the law and
3 it's for everyone." Yet this is not so. Sergeant Scales
4 has been recently charged with a DWI involving a crash and
5 rolling over a State Police cruiser while intoxicated and
6 off duty.

7 In addition he has been charged with assaulting
8 his wife. He was involved in another accident in the
9 private development where he lives. Yet no charges were
10 filed.

11 While Sergeant Scales is under suspension, he is
12 still a member of the Pennsylvania State Police and entitled
13 to all of its benefits.

14 The District Attorney became a Lackawanna County
15 judge and his Assistant District Attorney Jack Brier as well
16 as others have and continue to enjoy their status and secure
17 positions of power assuming they will never be called upon
18 to be made accountable for any of their actions perpetrated
19 against myself and my family and possibly countless others.

20 And I ask you members of this committee, if the
21 law is the law, is it really for everyone? Respectfully
22 submitted, Robert C. Bolus, Sr.

23 CHAIRMAN BIRMELIN: Mr. Bolus, in relationship to
24 the legislation that this hearing is being conducted on, is
25 it your contention that the two unnamed informants, A-1 and

1 A-2, were lying about you and what had occurred?

2 MR. BOLUS: Yes, I am.

3 CHAIRMAN BIRMELIN: And that you did not have the
4 opportunity to know who they were or to confront them?

5 MR. BOLUS: That is correct. There was testimony
6 before a grand jury which I have a lot of the documentation
7 here. I don't want to burden you with so much paperwork. I
8 probably could have filled the room here.

9 Testimony was given before a grand jury in
10 Lackawanna County which naturally for all intent and purpose
11 that testimony is supposedly secret. The informants never
12 came forward. They were never even going to be brought into
13 the courtroom to face me as I guess they were accusing me.

14 There were statements made that there were
15 trailer loads of stolen engines and transmissions and cabs
16 and all this. Yet when the State Police raided our
17 properties, they found no such equipment or motors or parts
18 or anything of this nature. What were taken were allegedly
19 stolen vehicles that if I may add in the four or five years
20 they never brought me to a trial on any of the charges and
21 that was what the dismissal was.

22 So just based on an assumed accusation by
23 informants who have the capability to remain unknown and
24 never suffer the penalties, people like myself and many
25 others suffer the destruction of their lives, their

1 businesses, and everything else.

2 And it is my feeling that the legislation should
3 not only be as recommended in House Bill 106 but it should
4 also make them accountable to the individual. There should
5 be no unnamed informant. If someone wants to point the
6 finger, they should be allowed to face their accusers or
7 vice versa. In this case it has never happened.

8 To this day we never received anything back. And
9 Judge Walsh's order that is before you, the final order, as
10 you can see anything and everything seized from our property
11 allegedly stolen, whatever it may have been, to the date
12 that this order was signed, the District Attorney's office
13 and State Police could not sit before Judge Walsh in the
14 hearing and factually say this is definitely a stolen piece
15 after nine years.

16 That equipment has deteriorated. Our trucks that
17 they took have just literally rotted away. Trailers that
18 were loaded with brand new inventory truck parts have been
19 pilfered through where there is absolutely nothing left.
20 And they were parked in a PennDOT salt station outside of
21 Scranton.

22 The individual on the Caterpillar loader that
23 Judge Walsh signed that order was before a federal court
24 hearing last week. He's a prominent businessman in the
25 city. He owns the landfill and everything, Mr. Denaples.

1 And he took this loader under the auspice of a
2 sworn statement that he had bought it from the insurance
3 company after it was seized from us. And what he paid for
4 it was no one's business.

5 When our attorney asked him what was the value
6 you paid for this loader in an omnibus hearing, his
7 statement was it is nobody's business what I paid for it.
8 When we asked Judge Walsh to order him to answer the
9 question and Judge Walsh's response was, is it important.
10 And the attorney I had, Mr. Martino, said not at this time,
11 Your Honor. It may be in the future. From there my life
12 went downhill.

13 Not knowing the criminal system, I became a
14 victim. Because as everyone knows, value is the whole
15 aspect of what receiving stolen property is. In this case
16 the value never came out until this day. And this all
17 started with the lies created by A-1, A-2, and the
18 contributing factor of Sergeant Scales not looking for the
19 truth but looking for the vindictive nature to get us.

20 Because I had sued the Pennsylvania State Police
21 over our heavy-duty towing service which I had been in for
22 almost 30 years whereby we were the nearest available heavy
23 wrecker service on the interstate system having seven
24 locations in the Poconos, Lackawanna County, and up.

25 And because they played games and didn't follow

1 the list to call who they should have called, they just
2 called who they felt like calling. When challenged because
3 it is thousands and thousands of dollars that you lose in
4 your business when a Trooper calls someone who shouldn't be
5 called and forces you out of business -- because I stood up
6 for my rights, you can now see the consequences I've paid
7 and the prejudice that was enacted against me.

8 Whether A-1, A-2 even exist, whether there is a
9 validity to who these individuals are where they could have
10 any knowledge of my personal business, I have never had that
11 opportunity to question them.

12 Yet Sergeant Scales has reaped the benefits of
13 his labor and yet he broke all of the laws and he still
14 takes a free ride. And it is all based on the informants.
15 So that's why I came here today on the House Bill because
16 there should be no secretive testimony on anyone.

17 Because a law enforcement officer doesn't really
18 care. His problem is only one thing. I want to win. They
19 don't want to lose. And they will do whatever it is to win.
20 And I'm a perfect example of what that is.

21 It was just that I had the stamina to stand for
22 what I believed is right and that's why I'm here before you
23 today. I survived, many can't.

24 And I'm here today to hope that this legislative
25 body takes a very hard look to change the laws that A-1

1 helped create and A-2 helped create by giving false
2 information.

3 Because that information that they gave never
4 sufficed to the point of a conviction in a trial. The case
5 was dismissed again not on its merits, just because they
6 never took me to a trial. And we were well prepared to go
7 there.

8 CHAIRMAN BIRMELIN: You said you never had a
9 trial but you mentioned in the first page of your testimony
10 that you were convicted of a felony?

11 MR. BOLUS: That's correct. First there were two
12 separate charges filed against me. In the first case I was
13 convicted on the front-end loader, receiving stolen
14 property, only because testimony that now has come out now
15 was never presented in my original trial.

16 After I served the sentence and the probation and
17 all and work release and I just went back running my life,
18 through whatever appeals they were doing, no one ever knew
19 the true value. I subsequently purchased this front-end
20 loader from the insurance company that had possession of it.

21 It is presently stored at Mr. Denaples' property
22 who has used this loader for over two years, destroyed it,
23 and now wanted to charge storage for it. I own the loader.
24 I paid \$14,000 for it the second time around. The original
25 time was \$25,000.

1 However, had Mr. Denaples or had the judge who
2 was in charge of that judicial hearing ordered Mr. Denaples
3 to testify and tell the truth as to the value he paid, I
4 wouldn't be sitting here before you telling you I have a
5 conviction. Because the value he claimed he paid later on
6 was \$25,000. I, by purchasing it from the insurance
7 company, established the actual cash value, the realistic
8 value, not what A-1 says or A-2 or Sergeant Scales or
9 someone who wants it appraised, the actual cash value.

10 I cannot clear my name today because I'm not
11 incarcerated. I'm not sitting in a prison. I don't have
12 some of the rights that criminals in jails do. Therefore, I
13 can't clear my name and this is all precipitated by the lies
14 created by A-1 and A-2.

15 We can today clear our name without question to
16 this machine and the theft charges filed against me, but I
17 have no more rights.

18 CHAIRMAN BIRMELIN: Any questions, Representative
19 Bard?

20 REPRESENTATIVE BARD: No.

21 CHAIRMAN BIRMELIN: I guess Representative Daley
22 is not here to ask any questions. I guess in closing the
23 only thing I would say is we want to thank you for coming
24 and sharing this testimony. I'm not sure how it will fit
25 into the legislation should it be passed.

1 You don't know the informers. I don't think this
2 legislation would force them to tell who they were. But if
3 you know who they were, then this would certainly apply in
4 your case.

5 MR. BOLUS: What I would ask this body to do is
6 just what you said, to be able to force these individuals to
7 be made available since in fact the cases were dismissed
8 against me. So that unquestionably determines that the
9 District Attorney's office and the State Police knew full
10 well they did not have the horse, so to speak, to take me to
11 trial and suffice.

12 And in view of the testimony these individuals
13 gave, it was definitely an absolute lie. And they ran with
14 the lie to use that testimony. And I believe legislation
15 should be changed in this House Bill not only for penalties
16 that are there for the misdemeanor to felony conviction but
17 it should also be made that they are accountable. Because
18 how do you bring them forward and punish them if we never
19 know who they are?

20 CHAIRMAN BIRMELIN: I'm not sure why you weren't
21 able to ever ascertain who they were.

22 MR. BOLUS: The State Police would not reveal
23 them. They were unnamed informants, period. So the thief
24 or the liar who destroys your life like that could sit there
25 and just keep every day going by.

1 It is just like the informants we have today that
2 know everybody who bought drugs. And what do they do? They
3 are allowed to go back out on the street every single day
4 feathering their nest selling illegal drugs just because
5 they will come back and give a State Police officer, a cop,
6 or whatever information on someone else.

7 Yet our society is inundated with illegal drugs
8 that they are still permitted to dispense and disperse
9 through the area without ever being made aware of who they
10 are. Yet many people, families are destroyed by the same
11 concept that who are the informants.

12 The police are there to do their job. They want
13 to know what is going on. Let them go out on the street and
14 do their job. Don't sit in the doughnut shops, the side of
15 the road with radar guns playing games. Let them come out
16 and be cops. That's what they are for instead of using an
17 electronic system in life to make it a lot easier and punish
18 us, the citizens, with the fact that they are not doing the
19 job they should be doing. We shouldn't have informants out
20 there.

21 If the police want to know what is in your
22 place -- just like they raided my place with 30 State Police
23 officers. They wouldn't even wait for us to come there with
24 a key to open the door. They smashed the windows out just
25 to be heroes, play games like little children.

1 We had the key. Here is the key. I'll be there
2 in two minutes. They took sledge hammers and smashed
3 windows and there was nobody running out of the building.
4 They were closed.

5 And this is what happens when someone puts that
6 badge on and straps that gun on. They are above the law.
7 And that's what is happening here today. And that's what is
8 continuing to happen.

9 A law enforcement officer like Scales who has a
10 DWI, now this is a man who could pull you over or shoot you
11 literally and be justified because he's an officer. He's a
12 cop. He's above the law.

13 The District Attorney, they are above the law.
14 The informants, they are above the law. Because they are
15 never made to pay for what they create. So really we're the
16 guilty ones. A person whose life is destroyed and can't
17 straighten it out like I can't.

18 CHAIRMAN BIRMELIN: We're hoping that legislation
19 if not in its current form in some form will correct that
20 problem.

21 MR. BOLUS: That's why I came here today.
22 Because I believe the firsthand knowledge that I've given
23 you -- I'll give you a little history.

24 I was a former congressional candidate when Bob
25 Casey ran for Governor. I've been in politics. I've been

1 involved in a lot of different major things. And they
2 destroyed that with these lies literally, my life.

3 I couldn't carry a hunting rifle to hunt with my
4 children that I taught them to hunt when they were kids
5 because I have a felony conviction.

6 And it is all precipitated because someone lied.
7 Today I've struggled and I built a business back up. I'm
8 still fighting them. I have an Order from a judge that says
9 you have to return the property. Where does it all end?

10 When do we have an equal foot in with these
11 people who are above the law? And that's why I hope this
12 House Bill that you're putting there and maybe other House
13 Bills that may be presented by members of this committee and
14 various others change it a little. We have too much police
15 out there and not enough restriction on what they can or
16 cannot do.

17 CHAIRMAN BIRMELIN: This would make some changes
18 for sure of that. We want to thank you for your testimony.

19 MR. BOLUS: Thank you very much. I appreciate
20 it. If there is any additional information that this panel
21 or anyone else would need, we can give you just about
22 anything that you need.

23 CHAIRMAN BIRMELIN: Thank you.

24 REPRESENTATIVE BARD: I know a number of you have
25 traveled a good distance to be here, and I would like to

1 invite everyone across the street to my office for lunch.

2 CHAIRMAN BIRMELIN: In that direction.

3 MRS. PALLIS: I have one thing to say.

4 CHAIRMAN BIRMELIN: I'm sorry but I can't accept
5 your testimony. If you want, you can talk to me personally.

6 Thank you very much. The meeting is adjourned.

7 (The hearing concluded at 1 p.m.)

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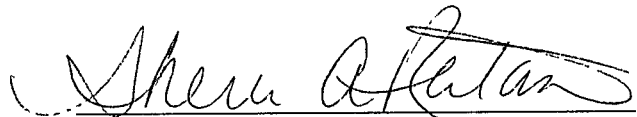
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.


Sherri A. Reitano
Notary Public

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