

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE HEARING

STATE CAPITOL
MAJORITY CAUCUS ROOM
ROOM 140
HARRISBURG, PENNSYLVANIA

THURSDAY, AUGUST 28, 2008
10:10 A.M.

PRESENTATION ON HOUSE BILL 1571
LOITERING AND PROWLING AT NIGHT TIME

BEFORE:

HONORABLE THOMAS R. CALTAGIRONE, MAJORITY CHAIRMAN
HONORABLE RON MARSICO, MINORITY CHAIRMAN
HONORABLE JOHN R. EVANS
HONORABLE GLEN R. GRELL

IN ATTENDANCE:

HONORABLE MAUREE A. GINGRICH
HONORABLE DANTE SANTONI, JR.
HONORABLE ROSEMARIE SWANGER

ALSO PRESENT:

DAVID McGLAUGHLIN
MAJORITY SENIOR RESEARCH ANALYST
KAREN S. COATES
MINORITY SENIOR LEGAL COUNSEL

DEBRA B. MILLER
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P R O C E E D I N G S

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CHAIRMAN CALTAGIRONE: I would like to start the hearing today.

We are going to have a hearing on House Bill 1571, Representative Gingrich's bill.

I am Tom Caltagirone, Chairman of the House Judiciary Committee, and my cochair is beside me.

If we could have everybody introduce themselves, and then we'll get started with the hearing.

Ron.

REPRESENTATIVE MARSICO: Thank you, Mr. Chair.

Ron Marsico, Chair of the Republican Judiciary Committee from Dauphin County.

MS. COATES: Karen Coates, Counsel to the House Judiciary Committee.

REPRESENTATIVE SWANGER: Representative RoseMarie Swanger, House District 102, Lebanon County.

REPRESENTATIVE GRELL: Good morning. Representative Glen Grell, 87th District, Cumberland County.

1 REPRESENTATIVE EVANS: Good morning. I'm
2 Representative John Evans, 5th Legislative District,
3 Erie and Crawford Counties.

4 MR. McGLAUGHLIN: Good morning.
5 David McGlaughlin, Judiciary Committee staff.

6 REPRESENTATIVE SANTONI: And I'm
7 Dante Santoni. I'm from Berks County. Thank you.

8 CHAIRMAN CALTAGIRONE: All right. We can
9 get started.

10 Mauree.

11 REPRESENTATIVE GINGRICH: Well, good
12 morning.

13 Thank you so much, Mr. Chairman, and my
14 Chairman combined, for bringing this particularly
15 important bill to me and to some of us before your
16 august committee for some mutual enlightenment. So I
17 thank you profusely for that.

18 It felt like a short summer but a long
19 summer since I really have missed working with my
20 legislative colleagues, so it feels good to be back
21 at the table looking at important issues, and I'm
22 looking forward to working on some of these bills
23 before the House floor, hopefully before the session
24 is over.

25 So beyond those thank yous, which are very

1 important, I just want to give you a brief overview
2 of the bill. And I know you are all familiar with
3 it, and I will just touch on some of the few
4 essentials from my perspective as a lawmaker
5 introducing it.

6 Under the current Pennsylvania law, a person
7 is guilty of the offense of loitering and prowling at
8 night if he or she maliciously loiters or maliciously
9 prowls around the dwelling of another person at
10 nighttime. And at present, the first offense and any
11 subsequent offense is graded as a third-degree
12 misdemeanor and is punishable for up to 1 year in
13 jail and a fine of \$2,500.

14 Now based on that, a person who is convicted
15 of being a Peeping Tom, which is the general term on
16 the streets, if that occurs on numerous occasions,
17 that perpetrator would never, under any aspect of the
18 current law, face the prospect of any serious jail
19 time or an escalating fine in conjunction.

20 And then under the sentencing guidelines
21 that our judges have the discretion to use, a person
22 with a criminal record might be sentenced to as
23 little as probation or house arrest or a fine alone.
24 And while a person of record could qualify for some
25 minimal time, he may be a few months in jail, and

1 that's the way we operate under the current
2 law.

3 Now, a classic example of this type of
4 egregious behavior, which we call in the mainstream
5 media a serial peeper, a real classic situation like
6 that happened in my own district over the past few
7 years. And I really, along with Representative
8 Swanger who shares Lebanon County with me, really
9 paid attention to that and started to study the issue
10 and learned what we could about stopping this type of
11 behavior before it potentially escalates.

12 Example: The perpetrator that got my
13 attention, for instance, in '98 he was sentenced to
14 15 months' probation for exposing himself to a female
15 on a college campus. And then in 2000 he was
16 sentenced to 2 years' probation for taking pictures
17 of a teenage girl in a store dressing room. And then
18 in 2001, he was sentenced to 1 to 12 months in jail
19 for prowling outside a home. And then in '03 he was
20 sentenced to 3 months, up to a year in jail, for
21 trying again to peek into a changing room in a retail
22 clothing store. Then in 2007, 4 weeks in jail and
23 11 months on house arrest for peeping into a bedroom
24 window again. And then in 2008, earlier this year,
25 sentenced to 11 months for violating conditions of

1 parole by stepping onto a school bus and approaching
2 a woman, which was in violation. He is currently
3 charged with possession of child pornography, and I
4 share that with you as an example.

5 And I believe and many people believe that
6 situations like this need to be corrected under State
7 law, and we need to look at what we can do to make
8 those penalties tougher than they are now to curtail
9 this activity, Peeping Tom behavior. And not just do
10 we need to discourage it; I think we need to check it
11 and prevent it before it escalates into more serious
12 or more violent or invasive type of criminal
13 behavior.

14 And interestingly enough, I was doing a
15 little research myself, and a former FBI profiler by
16 the name of Robert K. Ressler stated that Ted Bundy
17 was peeping in windows long before he became the
18 worst serial killer in history.

19 So I think it is something that we need to
20 know more about in behavior, and I'm hoping we will
21 look at that today as far as stronger penalties might
22 go as a deterrent effect.

23 I just want to tell you quickly what the
24 legislation involves. You have it before you, so I
25 will do it very quickly.

1 The first offense would remain the same, a
2 third-degree misdemeanor. A second offense would be
3 a second-degree misdemeanor. A third offense would
4 be a first-degree misdemeanor for which the penalty
5 would be up to 5 years in prison and a fine of up to
6 \$10,000. And a fourth or subsequent offense would be
7 a third-degree felony punishable by up to 7 years in
8 prison and a fine of up to \$15,000.

9 So once again, I want to thank both of you.
10 I'm going to let the testimony share with you more
11 specifics about the impact on people, on quality of
12 life, and on our communities.

13 And I would love to join my members at the
14 dais and learn from the testimony as well, and thank
15 you once again.

16 CHAIRMAN CALTAGIRONE: Would you, please?
17 Chairman Marsico wanted to know if you would stand
18 for questions.

19 REPRESENTATIVE GINGRICH: Sure; I would be
20 happy to stand for questions.

21 REPRESENTATIVE MARSICO: I want to
22 interrogate you.

23 REPRESENTATIVE GINGRICH: Go ahead. I'm up
24 for that.

25 REPRESENTATIVE MARSICO: Well, thank you

1 very much for bringing this to our attention.

2 As you know, the last several years we have
3 had discussions about your legislation, and prior to
4 that, in fact, I authored Peeping Tom legislation as
5 well and invasion-of-privacy legislation---

6 REPRESENTATIVE GINGRICH: Correct.

7 REPRESENTATIVE MARSICO: ---going back
8 several years ago.

9 Some of those issues or incidents were
10 involved with invasion of privacy in the workplace as
11 well as peeping at night and then during the day.

12 In fact, there was a law back then that only
13 specified that if you peeped in the windows, if you
14 looked in the windows at night, that was a crime, but
15 if you did it during the day, it wasn't.

16 REPRESENTATIVE GINGRICH: Yes.

17 REPRESENTATIVE MARSICO: So we got that
18 corrected, and that was brought to my attention by my
19 local police department in Lower Paxton Township here
20 in Dauphin County.

21 And then other things came up at the same
22 time, and we certainly appreciate you coming forth
23 with this legislation to bring this whole thing up
24 to date, and that is essentially, as I see it, what
25 we are doing here. And obviously it's a very

1 serious offense, and there should be tougher
2 penalties.

3 So I just wanted to say thanks for bringing
4 it to our attention.

5 REPRESENTATIVE GINGRICH: Well, thank you,
6 Mr. Chairman. And what you are saying edifies the
7 fact that this is not a new issue, that it is one
8 that is not going to go away.

9 And interestingly enough, some law
10 enforcement experts -- and one who will testify today
11 -- brought that very same issue before us. And when
12 the bill is introduced, we will make sure that we
13 deal with the nighttime versus daytime versus
14 business location---

15 REPRESENTATIVE MARSICO: Right.

16 REPRESENTATIVE GINGRICH: ---because it is
17 happening in many other circumstances. So thank you,
18 too.

19 REPRESENTATIVE MARSICO: Sure.

20 Thank you, Mr. Chair.

21 CHAIRMAN CALTAGIRONE: Thank you.

22 RoseMarie.

23 REPRESENTATIVE SWANGER: Mauree, I don't
24 have a question for you; I just want to thank you,
25 too, and commend you for bringing this issue to the

1 attention of the Legislature.

2 I know I was contacted by the families that
3 were affected by this in Lebanon County. I know how
4 traumatized they were, and I know how disappointed
5 they were when the so to speak "slap on the hand" was
6 given to this defendant, but our judges really had no
7 other recourse.

8 And I did speak to our president judge, who
9 was disappointed he could not give a stiffer
10 sentencing, and he in fact, as you know, is the
11 one who suggested the sentencing guidelines in the
12 bill.

13 And I just want to thank you for taking the
14 lead on this, and hopefully we can get this to the
15 floor for a vote. Thank you.

16 REPRESENTATIVE GINGRICH: And thank you for
17 your support, Representative Swanger.

18 CHAIRMAN CALTAGIRONE: John.

19 REPRESENTATIVE EVANS: Thank you,
20 Mr. Chairman.

21 Good morning, Representative Gingrich.

22 REPRESENTATIVE GINGRICH: Good morning.
23 Nice to see you.

24 REPRESENTATIVE EVANS: Thank you so much for
25 your testimony this morning. I think that this is

1 very important legislation that we are hearing about,
2 and I want to commend our two Chairmen,
3 Representative Caltagirone and Representative
4 Marsico.

5 They have been very active this summer in
6 enlightening members of the committee on a variety of
7 bills, and this committee has traveled extensively to
8 all corners of the Commonwealth over the last several
9 months.

10 And it never ceases to amaze me, our critics
11 in the media often say that the Legislators are
12 totally on vacation once session is not in here in
13 Harrisburg, but we have been very busy on this
14 committee, I must say, in looking at important bills
15 like this one.

16 A couple of quick questions for you.

17 Is this something that, from the numbers
18 standpoint, is significant? I mean, how many cases
19 are you aware of in Pennsylvania of Peeping Toms that
20 are facing arrest?

21 REPRESENTATIVE GINGRICH: I would not have
22 those numbers for you, but I can tell you, in the
23 discussions that I have had throughout -- and this
24 bill has been before the committee, you know, or
25 holding a position in the committee almost this

1 entire session, so I have had a lot of time to talk
2 to people in law enforcement and in the District
3 Attorney's Office.

4 And I do not know the numbers. The numbers,
5 however, are significant. There are people
6 testifying today that can probably give you those
7 numbers.

8 What I have learned is that those numbers
9 are increasing, and this serial behavior, this
10 escalation in behavior, is frightening. But we are
11 living in a different day and age, a different
12 psychology, a different access to that type of sexual
13 satisfaction. So the numbers are not getting less,
14 Representative, they are getting more.

15 REPRESENTATIVE EVANS: I can attest that in
16 northwestern Pennsylvania in my district in Erie
17 County and in Crawford County, I get feedback
18 occasionally from district justices who express
19 frustration at certain laws that don't seem to have
20 enough teeth in them.

21 Are you hearing feedback from the
22 judicial bench regarding this legislation and the
23 fact that you have repeat offenders who seemingly get
24 the same slap on the wrist time after time after
25 time?

1 REPRESENTATIVE GINGRICH: Correct, and that
2 is part of the genesis of this bill.

3 The real motivation to look at the situation
4 came from a lovely young girl you are going to hear
5 from today that was a victim who called me, and she
6 really got the ball rolling.

7 In talking then immediately following that
8 to one particular judge who was involved in this
9 case, he clearly stated the frustration that he and
10 the other judges, at least in our county, were
11 experiencing in exactly that venue.

12 Somebody gets their hands slapped because
13 the judge's hands are tied, so we need to untie those
14 hands for our judges so they can have more discretion
15 and an opportunity at a different level of penalty,
16 be that jail time, fine.

17 But the most important part here is that we
18 are going to address this behavior and curtail the
19 behavior at the same time -- hopefully.

20 REPRESENTATIVE EVANS: Well, thank you,
21 Representative Gingrich, for your extensive work
22 on this issue and your dedication to this issue
23 overall.

24 REPRESENTATIVE GINGRICH: Thank you.

25 REPRESENTATIVE EVANS: And I think this

1 important legislation is something that I am hoping
2 we will be able to consider here for a committee vote
3 in the very near future.

4 Thank you very much, Mr. Chairman.

5 CHAIRMAN CALTAGIRONE: Thank you.

6 Would you please join us on the panel?

7 REPRESENTATIVE GINGRICH: I would be happy
8 to join you, and thanks once again.

9 CHAIRMAN CALTAGIRONE: Thank you.

10 We will next hear from Kathleen and Emily
11 Morrison.

12 MISS MORRISON: My name is Emily Morrison.
13 I am 12 years old, and I'm a straight-A student at
14 Lebanon Catholic School.

15 I am here today in support of this bill,
16 because I want there to be tougher laws protecting
17 kids like me and the other kids in my neighborhood
18 that have been affected and hurt by the repeated
19 crimes of Mr. Krpata and criminals like him.

20 I am so fortunate to have met Representative
21 Mauree Gingrich, who I admire so much for how she has
22 not given up on getting a tougher law passed on
23 behalf of victims of Peeping Toms.

24 The effect that Christopher Krpata has had
25 on me has been very frightening. I do not feel safe

1 in my own home anymore like I did before his crimes
2 had been exposed to me and my family.

3 My parents sent me to parochial school to
4 shelter me from negative peer pressure and give me an
5 education founded in morality and faith.

6 It goes against everything I believe in
7 to know that Mr. Krpata, a pastor of all things,
8 could be capable of being such a perverted and scary
9 man.

10 My little sister, who was 4 years old at the
11 time of Mr. Krpata's first arrest, has nicknamed him
12 "Creepy Dude," and it is just not fair that a little
13 girl has to even know what a "creepy dude" is.

14 At night, I am afraid to take my dog
15 outside, and honestly, I shouldn't have to always be
16 afraid like I am.

17 My parents do not allow me or my siblings to
18 go outside alone anymore. I still remember that
19 uncomfortable moment when they had to sit the three
20 of us kids down and explain to us why we weren't
21 allowed to play outside anymore without one of them,
22 that it was for our own protection from the "creepy
23 dude" pastor living behind us.

24 My room has four windows, and I do not like
25 getting dressed in my own bedroom because I'm scared

1 that I might be being watched. I have gotten dressed
2 in the bathroom since the day that Mr. Krpata was
3 caught red-handed by our neighbor.

4 Mr. Krpata was finally caught peeping in on
5 our next-door neighbors, a little boy in his bedroom
6 and his little sister and their mom in the bathroom.
7 That is just sickening that a person like him gets a
8 thrill out of watching in windows and invading
9 people's privacy.

10 When the little boy and girl saw Mr. Krpata
11 outside the window, it terrified them. That night,
12 Mr. Troutman came over to tell my parents that he had
13 finally caught the Peeping Tom looking in on his kids
14 and how upset the kids were looking out the window
15 and seeing this scary man looking back at them.

16 It immediately made me wonder, how many
17 times have I been peeped on, too? So many families
18 in our neighborhood said on several occasions that
19 they had a feeling that he had been at their homes,
20 but unfortunately, no one could catch him.

21 Footprints were seen at the windows, but
22 without catching him in the act, no one could do
23 anything about him. There was even a path worn down
24 between Mr. Krpata's house and our backyard, so he
25 must have been peeping on our street often.

1 The day that Mr. Troutman, our next-door
2 neighbor, caught Mr. Krpata peeping in at his
3 children, I went through so many emotions that
4 night.

5 First, I felt relieved that he had finally
6 been caught by someone and the police had been
7 called, but at the same time, I also felt terrible
8 for Blaine and Brenna, the innocent little kids he
9 had terrified so badly that night.

10 I have a little sister who is around the
11 same age as Brenna, and they play together often. I
12 couldn't sleep that night thinking how scared Blaine
13 and Brenna must be seeing that scary man in their
14 window and also seeing their dad be so enraged at
15 this man.

16 The third emotion I had that night was fear.
17 I kept thinking about the times that Mr. Krpata could
18 have been watching me, taking my dog out at night,
19 playing with my brother and sister in the yard, using
20 our Slip-N-Slide in our bathing suits, and worse,
21 just walking around my house in my pajamas or
22 changing my clothes.

23 What scares me the most is that Mr. Krpata
24 keeps getting short punishments and then is free to
25 go peeping again.

1 I know I am young, but I read a lot, and I
2 know that criminals often get bored with their crime
3 and then they escalate into worse crimes for the
4 thrill.

5 He proved that theory when he was on work
6 release and was caught downloading pornographic
7 pictures of kids my own age. That is disgusting that
8 he gets a thrill out of looking at naked kids, and it
9 scares me that one day he will do something even
10 worse when the pictures aren't enough.

11 There are a lot of bad and scary people in
12 this world, but I never thought I would have one
13 living right behind me.

14 I hate living with the fear that one day he
15 will kidnap me, my sister, my brother, the kids next
16 door, or anyone else and do something disgusting and
17 terrible to them.

18 There are so many stories on the news about
19 kids who disappear and are found months later, naked,
20 abused, and dead, and it scares me that Mr. Krpata
21 might one day do that to an innocent kid.

22 I feel like my privacy and the privacy of
23 other kids and teenagers in my neighborhood has been
24 invaded and that the law is not protecting us like it
25 should be.

1 Once Mr. Krpata was caught peeping in on the
2 kids next door, he went to court, and I was one of
3 the people who testified against him.

4 I was so upset that his punishment was
5 1 month in prison and 1 year of house arrest. It
6 should have been a lot stricter. Judge Charles sure
7 wanted to give him a longer sentence, but his hands
8 were tied.

9 Then while on house arrest, he broke the law
10 again and went back to court. I sat in the courtroom
11 and was so glad that Judge Charles was able to give
12 him the rest of his year in prison.

13 Those months that he was in prison were the
14 best months of the last few years for the kids in the
15 neighborhood, because we could finally feel safe
16 enough to play outside. But now he is out of jail,
17 having served his short punishment, and we all have
18 to worry and wonder when he will strike again and how
19 bad it will be this time.

20 I really wish the judge would have been
21 allowed to condemn him much longer than the current
22 law allowed. Kids are afraid to play outside again,
23 something we all took for granted 3 years ago.

24 I would feel much safer in my neighborhood
25 and in my home if this law were stricter for men who

1 are Peeping Toms, because Mr. Krpata has proven that
2 peepers do get bolder and do worse things as the
3 thrill of peeping wears off.

4 I think they should be in jail for a much
5 longer time, because this crime is not as minor as
6 the current law seems to portray it as.

7 I am not just speaking on my behalf but on
8 the behalf of other adolescent girls in my position
9 that do not have the opportunity to plead their cases
10 in front of such an honorable committee.

11 I appreciate you giving me your time and for
12 listening. I heartily hope that you will side with
13 me and Representative Gingrich, who has worked so
14 hard to make the laws tougher and the punishment
15 stricter for Peeping Toms and criminals like
16 Mr. Krpata.

17 Thank you once again for your time today.
18 Thank you.

19 CHAIRMAN CALTAGIRONE: Thank you.

20 We will next hear from Detective
21 Mike Dipalo, Lebanon County Detective Bureau.

22 REPRESENTATIVE MARSICO: Mr. Chair, if I
23 could just make a comment.

24 CHAIRMAN CALTAGIRONE: Sure.

25 REPRESENTATIVE MARSICO: Emily, thank you

1 for coming here today. That was very courageous on
2 your part, and you did a great job---

3 MISS MORRISON: Thank you.

4 REPRESENTATIVE MARSICO: ---and we certainly
5 appreciate you being here. Thanks.

6 MISS MORRISON: Thank you.

7 CHAIRMAN CALTAGIRONE: Detective.

8 DETECTIVE DIPALO: Good morning,
9 Mr. Chairman and distinguished members of this
10 committee.

11 My name is Michael A. Dipalo. I am employed
12 as a Detective with the Lebanon County District
13 Attorney's Office, Criminal Investigation Unit,
14 better known as the Lebanon County Detective
15 Bureau.

16 I was a police officer with the borough of
17 Palmyra for 13 years, and I have been employed with
18 the District Attorney's Office for about 5 years.

19 On behalf of David Arnold, District Attorney
20 of Lebanon County, I want to thank you for the
21 opportunity to speak about House Bill 1571 pertaining
22 to the criminal violation of loitering and prowling
23 at nighttime, otherwise known as the Serial Peeper
24 Bill.

25 Initially when asked by Representative

1 Gingrich to testify before the committee today, I was
2 hesitant. While I was aware of the circumstances of
3 the Lebanon County case which brought the limitations
4 of this section to light, I had no involvement in
5 that specific case concerning that individual.
6 However, I agreed I would speak with regard to my
7 experiences and my perceptions regarding the need to
8 change the penalties of this statute.

9 As I prepared for the testimony, I recalled
10 several sets of incidents which I dealt with as a
11 criminal investigator in the borough of Palmyra and
12 the frustrations I felt when I thought the applicable
13 statute and penalties were inadequate.

14 With your permission, I would like to speak
15 about a series of events which I have specific
16 knowledge of and which I hope will make very clear
17 the need to enhance the penalties of this section.

18 In 1995, a subject was arrested in
19 Wilkes-Barre for indecent exposure and indecent
20 assault for which he was sentenced 18 to 36 months in
21 the county prison.

22 During his time in prison, he established a
23 pen-pal relationship with a woman living in Palmyra
24 and, when released, moved to Palmyra to be with
25 her.

1 On August 30 of 1998, in the early morning
2 hours, the subject was seen peeping into a window
3 several blocks away from his residence. Contact was
4 made with this offender; however, the victim was not
5 able to positively identify whose face she had seen
6 looking in the window.

7 Despite contact with the police, the subject
8 then went a few streets to the east and peered in
9 another window. He then crawled into the bedroom of
10 an 80-year-old woman. The woman, awakened by the
11 intruder, flung her hand upward, striking him in the
12 eye and causing him to flee.

13 He was arrested the following day and
14 charged with criminal trespass and two counts of
15 loitering and prowling at nighttime. His sentence
16 was 2 years county probation.

17 In October of 1998, while on bail on the
18 prior offense, the subject was again arrested after
19 exposing himself to a child. He was charged with
20 indecent exposure and corruption of minors and
21 received a sentence of 6 months to 2 years on both
22 counts consecutively.

23 In April of 1999, the subject was again
24 found looking in the window of a residence at
25 nighttime and was charged with loitering and

1 prowling, receiving a sentence of 12 months' county
2 probation.

3 In March of 2000, this subject, while
4 walking on an approved route to his workplace and on
5 probation, asked the 5-year-old playing in her
6 backyard if she wanted to go to a birthday party with
7 him.

8 Through creative prosecution, the subject
9 was charged with criminal attempt/indecent assault,
10 criminal attempt/interference with custody of
11 children, and criminal solicitation/interference with
12 custody of children.

13 The offender pled guilty and was sentenced
14 to 1 to 2 years in a State correctional facility with
15 a special State probation sentence of 7 years.

16 Upon his release on parole, he then again
17 came back to Palmyra. With the assistance of State
18 parole, he was convinced he was most unwelcome within
19 the borough of Palmyra and that he would be given
20 special attention by the officers of our department.
21 The subject then decided it was in his best interests
22 to move to Highspire, PA.

23 In April of 2002, within 2 weeks of his
24 relocation, the subject was again arrested for
25 three counts of loitering and prowling at nighttime

1 and was sentenced to 6 to 12 months' incarceration in
2 the Dauphin County Prison.

3 Due to the special State probation sentences
4 as the result of the earlier creative prosecution,
5 the subject was violated on the terms of his earlier
6 sentence and was ordered to serve 1 to 7 years in a
7 State correctional facility.

8 On at least two occasions during daylight
9 hours, this same subject was looking into windows of
10 residences. No charges could be filed, nor could his
11 bail be revoked or probation violated because it was
12 not a criminal offense.

13 During our repeated contacts with the
14 above-mentioned individual, my department had no
15 doubt the offender was a threat to the community we
16 served. We expected each and every day to receive a
17 call that a child had been abducted or a woman had
18 suffered harm at his hands. Yet until he actually
19 committed the act, there seemed to be little that
20 could be done.

21 He was greeted each and every time we saw
22 him on the street, and he was still unable to control
23 his impulses. I expressed my frustrations with the
24 current laws and recalled arguing with prosecutors
25 about being able to prove the charges that I had

1 filed in an attempt to stop the horrible crimes I
2 felt certain to happen.

3 Despite the subject's criminal history and
4 six prior counts of loitering and prowling, he could
5 only be sentenced between 6 to 12 months in a county
6 facility.

7 The above-described subject has already
8 attempted to submit a home plan for parole back to
9 Palmyra in the event that he is released. His
10 maximum date on the prior sentence is April of 2009,
11 at which time he will again be without supervision.

12 No matter where he settles, it is only a
13 matter of time before he is again peeping in
14 someone's windows. Would any of you, knowing the
15 litany of previous charges, feel your communities or
16 your families are protected, knowing that he can only
17 be charged with a third-degree misdemeanor and
18 sentenced yet to another 6 to 12 months in the county
19 jail?

20 The series of incidents bringing the need
21 for these changes to light involved another Lebanon
22 County resident, which has been touched upon by the
23 prior testimony.

24 This subject was initially arrested in
25 October of '97 after exposing himself to a Lebanon

1 Valley College student, for which he was sentenced to
2 15 months' probation.

3 In May of 2000, he pled guilty to invasion
4 of privacy and disorderly conduct for taking pictures
5 of a partially nude girl at a changing booth in a
6 store in the Harrisburg East Mall.

7 In January of 2001, the subject was charged
8 with loitering and prowling at nighttime for looking
9 in the windows of a North Cornwall Township home and
10 sentenced to 1 to 12 months in the county prison.

11 Again, in October of 2002, the subject pled
12 guilty to attempted invasion of privacy for trying to
13 sneak a peek at customers in changing rooms of yet
14 another local business.

15 And the subject was again arrested in
16 December of 2007 for possession of child
17 pornography.

18 As with the prior-described offender, are
19 there any doubts that this subject will reoffend upon
20 release?

21 Other incidents come to mind which I will
22 share as potential modifications to be considered in
23 this legislation.

24 As previously mentioned, the limitation of
25 "night time" has posed an issue in the past where

1 this activity was taking place during daylight
2 hours.

3 Whether the purpose is for sexual
4 gratification or another criminal scheme, there is
5 still a malicious intent. I would submit that this
6 statute should encompass suspicious actions during
7 the daytime or nighttime hours.

8 I am also aware of instances in which
9 similar activities have taken place at area
10 businesses, including office buildings, laundromats,
11 and beauty salons.

12 Loitering and prowling is criminal conduct
13 which can occur anyplace people are engaged in the
14 course of their day-to-day activities and are unaware
15 or unsuspecting that someone may be watching.

16 Whatever the purpose, it is not conduct
17 solely confined to residences as the current statute
18 suggests.

19 As written, the current statute offers no
20 remedy to law enforcement to arrest someone for the
21 very same behavior that would be a crime had the
22 victim been in their own residence.

23 As my last observation, there was an
24 instance of an unregistered Megan's Law offender
25 from another State who was discovered above the

1 drop ceiling in a woman's restroom within a
2 department store, yet not arrested for this
3 conduct.

4 The police felt they were not able to meet
5 the elements of the invasion-of-privacy statute
6 requiring proof that he was there for the purpose of
7 arousing or gratifying sexual desire of any person,
8 in addition, the victim having to be in a state of
9 full or partial nudity.

10 In this case, the victim had walked in to
11 wash her hands, and the offender was arrested solely
12 for the Megan's Law violation.

13 As in the other examples, the statute of
14 loitering and prowling with language about malicious
15 intent or language causing alarm for the safety of
16 persons and property would allow law enforcement to
17 take proper action before the offender is able to
18 escalate into another, yet more serious offense.

19 I hope I have been able to articulate what I
20 believe to be our shortcomings in the current statute
21 as it exists. Prowling and peeping are red flags of
22 serious behavior which should be treated as such.

23 In my professional opinion, the persons who
24 engage in this activity are among the most dangerous
25 members of our society. They are predators feeding

1 their fantasies and lying in wait for the
2 opportunity to prey upon innocent and unsuspecting
3 victims.

4 Statistically, their behavior is certain to
5 escalate, as described above. The offender operates
6 in disregard for the consequences and would appear to
7 be unable to control their impulses.

8 I firmly believe that the subjects I have
9 described during my testimony are the most dangerous
10 and unpredictable offenders I have had contact with
11 in my police experience.

12 I have no doubt that these offenders will
13 continue being arrested for similar type crimes. I
14 fear they are also capable of committing more
15 horrific crimes when, not if, the opportunity arises,
16 either by victimizing children or the elderly, the
17 most vulnerable of our society.

18 I believe the intent of the legislation is
19 meant to be forward-thinking and seeks to punish a
20 certain type of criminal behavior before it ripens
21 into the commission or attempted commission of a
22 substantive crime.

23 Prowling and peeping is predatory conduct
24 which should be treated more seriously than a
25 misdemeanor of the third degree.

1 In conclusion, I would like to thank you
2 again for the opportunity to address your committee.

3 I appreciate Representative Gingrich's
4 recognition of the problem concerning the current
5 penalties existing for the statute today and the
6 House Judiciary Committee's willingness to consider
7 these modifications.

8 Thank you.

9 CHAIRMAN CALTAGIRONE: Thank you, sir.

10 Questions?

11 You did an excellent job. Thank you, sir.

12 Oh, I'm sorry. Mauree.

13 REPRESENTATIVE GINGRICH: Thank you,
14 Mr. Chairman.

15 I'll say thank you again. I cannot say
16 thank you enough for today.

17 But maybe, Detective, you can answer the
18 question that was asked of me earlier, since I didn't
19 have any numbers on it, and I don't know that you do.

20 But this type of behavior, this type of
21 criminal predator, from your experience in the D.A.'s
22 Office and so on, do you have any idea of the numbers
23 of this type of criminal behavior we are seeing, if
24 in fact it is increasing or it is a perpetual number
25 that is always going to be there? What is your sense

1 of it, since I have heard from a lot of other people.

2 DETECTIVE DIPALO: I do not have the
3 numbers. I didn't have the opportunity to research
4 the numbers. I think the concern would be more that
5 the repeat offenders, whether it is for sexual
6 gratification, whether it is for committing arsons,
7 whether it is for committing burglaries in the
8 residences, this particular charge of loitering and
9 prowling is a precursor for a far more serious
10 conduct, whatever that might be, whether it might
11 happen that night or perhaps the next. There is no
12 way of documenting or being able to tell.

13 I can certainly try to obtain those numbers
14 through our office for you.

15 REPRESENTATIVE GINGRICH: Yes, I agree with
16 you; that's not the most critical aspect, but we know
17 it is certainly not becoming any less.

18 I just want to make some comment here a
19 little bit on your "creative prosecution." I like
20 that term.

21 I imagine that you really need to be
22 thinking about that by virtue of the statute as it is
23 written. It appears you have been trained, or from
24 your own experience, you know what you have to do to
25 try to stop this by any other, you know, legal avenue

1 there is. Is that the way you have operated up to
2 this point?

3 DETECTIVE DIPALO: By the term "creative
4 prosecution," I felt that the charges that I filed
5 were probably a stretch, but under the circumstances,
6 they were the only avenue that I could think of
7 to address the problem and try to protect the
8 community.

9 I felt, potentially, that if he had
10 contested the charges, I didn't know that I could
11 prove any one of those. But under the circumstances
12 and with the judges' adding that special State
13 probation tag of 7 years, fortunately it worked out,
14 so when he again did violate the conditions of his
15 probation, the 7-year special tag was sufficient to
16 then incarcerate him for the past 7 years.

17 REPRESENTATIVE GINGRICH: Then I will simply
18 say thank you to that, because I live in Palmyra, and
19 he could be on my street. Thank you.

20 CHAIRMAN CALTAGIRONE: Chairman Marsico.

21 REPRESENTATIVE MARSICO: Thank you,
22 Mr. Chair.

23 Thanks, Detective, for being here today.

24 Just a couple of questions. Maybe for the
25 viewing public, if we could just, if you can do this,

1 outline the offenses, misdemeanors -- first, second,
2 third -- so the viewing public would have an idea
3 what we are talking about here? I think that is good
4 to know. We have an idea here, but for the public.

5 On the bill, which I support, the grading of
6 the offense, under subsection (a), constitutes a
7 misdemeanor of the third degree when the offense is
8 the first offense, okay? And explain, if you can,
9 what that is.

10 DETECTIVE DIPALO: Well, there are three
11 classifications of violations in the State of
12 Pennsylvania.

13 REPRESENTATIVE MARSICO: Right.

14 DETECTIVE DIPALO: There are summary
15 offenses which are comparable to a ticket, a traffic
16 ticket for speeding, a citation for disorderly
17 conduct. A failure to return your library books is a
18 summary violation.

19 The next class of offenses---

20 REPRESENTATIVE MARSICO: I'm in trouble
21 then. My wife is actually.

22 DETECTIVE DIPALO: The next class of
23 criminal violations are the misdemeanor offenses.

24 A misdemeanor of the third degree is
25 comparable to furnishing alcohol to minors. In the

1 grand scale, it is an offense which usually carries
2 only a probationary sentence and not generally jail
3 time, unless there is a sufficient criminal record on
4 the part of the offender.

5 The escalating offense of a misdemeanor of
6 the second degree is comparable to a
7 driving-under-the-influence charge. Again, it
8 carries, you know, the potential of jail time, not
9 always occurring; you know, once again depending on
10 the criminal history.

11 And then the misdemeanor of the first
12 degree, I believe, carries a potential of up to
13 2 years -- 5 years, correction -- in prison.

14 REPRESENTATIVE MARSICO: Okay. That is very
15 helpful for us.

16 When he was, when the subject was
17 apprehended and convicted of the invasion of privacy
18 at the local mall, which I'm familiar with -- I'm
19 familiar with the subject, actually, because of my
20 dealings with this for a number of years. He was
21 only sentenced, I think you said for 1 month to
22 12 months? Is that correct?

23 DETECTIVE DIPALO: I believe that was the
24 loitering and prowling that he was sentenced to
25 1 month to 12 months.

1 REPRESENTATIVE MARSICO: Oh, okay.

2 What about the invasion of privacy? Because
3 we really tried to strengthen that. That's why I'm a
4 little perplexed here with---

5 DETECTIVE DIPALO: I am not certain what
6 penalty he received from that.

7 REPRESENTATIVE MARSICO: Right.

8 DETECTIVE DIPALO: I was not personally
9 involved in that case at all, sir.

10 REPRESENTATIVE MARSICO: Okay; all right.

11 Okay. We'll do some research on that.

12 REPRESENTATIVE GINGRICH: I am looking at
13 3 months to a year in jail for peeping.

14 REPRESENTATIVE MARSICO: Okay; 3 months
15 to---

16 REPRESENTATIVE GINGRICH: Three months to a
17 year, and I don't know what he served.

18 REPRESENTATIVE MARSICO: Okay.

19 Thanks again for being here. You were very
20 helpful. Thanks, sir.

21 DETECTIVE DIPALO: Thank you for allowing me
22 to testify, sir.

23 CHAIRMAN CALTAGIRONE: Thank you, sir.

24 No questions? Okay.

25 We will next hear from Dr. Peter Favaro.

1 DR. FAVARO: Favaro.

2 CHAIRMAN CALTAGIRONE: Favaro, a forensic
3 psychologist.

4 DR. FAVARO: Yes, sir.

5 CHAIRMAN CALTAGIRONE: Very good.

6 DR. FAVARO: Those Italian names can be
7 tough.

8 CHAIRMAN CALTAGIRONE: Yes, they are. I
9 know.

10 DR. FAVARO: First, I would like to thank
11 the honorable chairs and the distinguished committee
12 members for permitting me to have the opportunity to
13 speak to you about this bill.

14 In the normal course of the way I conduct my
15 practice, I am not the sort of psychologist that you
16 come to and speak to about your problems.

17 Over 6,000 instances in my career, judges in
18 the Family, Supreme, and Criminal Courts have
19 appointed me to assist the ultimate trier of the fact
20 in making certain determinations.

21 So I make no bones about the fact that I
22 intend to try to use all of that experience to try to
23 persuade you to listen to some of the frightening
24 things that I have to say.

25 I have actually reduced my testimony into

1 the form of writing, but I prefer to actually speak
2 to you in a sort of extemporaneous way to try to make
3 it a little bit more personal, and once again, to try
4 to influence you as best I can.

5 It might not surprise you that the term
6 "Peeping Tom" actually comes sort of out of a
7 political context.

8 In the legend of Lady Godiva, who was asked
9 to ride around on her horse naked as a means of
10 convincing her husband to reduce taxes -- it is a
11 part of the story that almost no one knows about --
12 all of the villagers averted their gaze except for
13 the butcher named "Tom." So that is where the term
14 derives from, at least in terms of folklore.

15 And that is precisely one of my problems
16 with how we characterize this behavior, because we
17 tend to minimize it.

18 And certainly it has been difficult for me
19 at various points in my life to avert my gaze from
20 things which I consider to be attractive at the beach
21 or whatever, but that is not the behavior that we are
22 talking about, okay?

23 We are talking about a behavior that is akin
24 to an unstoppable itch, an unscratchable itch. We
25 are talking about a behavior that the perpetrator of

1 the behavior has no ability to sensor fantasy and
2 impulse -- okay? -- without turning it into action.

3 The last two cases of voyeurism that I have
4 been involved with in the legal system, one of them
5 involved two 21-year-old men who seduced a
6 16-year-old girl on the Internet in an Internet
7 chat room and, after weeks and weeks of breaking down
8 this poor young woman's defenses, invited her to what
9 she thought was a party. It turned out to be a party
10 of only three, two men and her. At some point after
11 plying her with alcohol and marijuana, one of the men
12 convinced her to have sex with him.

13 There was a Web camera pointed at them in
14 the room broadcasting their sexual behavior to the
15 second male. Within minutes -- within minutes, okay?
16 -- that video was uploaded to a site that specializes
17 in producing voyeuristic and exhibitionistic
18 content.

19 The behavior that was memorialized from the
20 product of their actions was exposed to virtually
21 millions of people. And they were selling it,
22 okay?

23 So from that instance alone, you can see how
24 this one act can turn into a series of very, very
25 depraved crimes that certainly are not victimless,

1 certain not cute to talk about, certainly not the
2 subject of folklore or that we can get a small giggle
3 out of. These are severely, severely devastating
4 psychological consequences to the victim of these
5 crimes.

6 In Manhasset, New York, which is a very,
7 very quiet suburb of the north shore of Long Island,
8 a well-known cardiologist was just arrested for
9 setting up a video-camera system in the dressing room
10 of his patients, where he collected a series of
11 videos that he used for certainly nonmedical
12 purposes.

13 Again, a very, very serious act which
14 betrayed the trust of many of the women patients whom
15 he had treated. This is a serious crime, a serious
16 behavior.

17 Unfortunately, we now have access to
18 technology that is making this crime easier and
19 easier and easier to commit. Anybody who has a
20 cell phone ostensibly has a miniature broadcasting
21 system that can take pictures on a timed basis --
22 okay? -- and directly upload those pictures to the
23 Internet.

24 There are cameras that are as small as a
25 piece of fishing line, as thin as a piece of

1 monofilament. There are cameras that can be mounted
2 on shoes so that the perpetrators of these acts can
3 take their pictures and videos and whatnot up the
4 skirts of unwitting victims.

5 So again, we have an instance where I think
6 the benefits of technology, you know, often have a
7 downside.

8 The sites that people upload these videos to
9 create a community which legitimizes the behavior.
10 When any group of like-minded individuals becomes
11 sort of in concert with one another, it tends to
12 legitimize the behavior and also creates competition
13 among the members of these communities to consume
14 more and more of this type of filth.

15 In the course of -- and actually what I
16 wanted to say as an aside here, while we are somewhat
17 focused on the issue of how this behavior occurs and
18 at what time of day it occurs, I am sure all of you
19 know, there is no timestamp on things that get
20 uploaded to the Internet.

21 You can have a camera that is set to take
22 10 pictures an hour, all day long, every day for a
23 week, before a tiny little memory card gets filled
24 with images and videos.

25 So the opportunity to commit this crime is

1 becoming sort of enhanced by the presence of
2 technology that is supposed to be sort of helpful to
3 us.

4 I wanted to sort of go over some interesting
5 numbers with you. Those I don't have committed to
6 memory, but if you were to go to Google and type the
7 word "upskirt" into Google -- "upskirting" is the act
8 of taking video or picture with one of these
9 shoe-phone things and uploading it to the Internet --
10 you would receive, as of yesterday, 22,880,000
11 hits.

12 That is how -- you know, we have been
13 talking about, what is the prevalence of this
14 behavior? Well, the prevalence of this behavior is
15 completely unknown, okay? It is far, far greater
16 than what is reported because victims are embarrassed
17 -- okay? -- to participate in prosecution which may
18 make these pictures available as evidence in yet
19 another public forum.

20 It is the same sort of victimization that
21 occurs that re-traumatizes rape victims when they are
22 asked to testify about the crimes that have been
23 committed against them.

24 If you go to the ubiquitous MySpace and type
25 in the same term, you will get 27,000 videos tagged

1 with the word "upskirt." Photo-sharing sites such as
2 Flickr, tens of thousands of similar individuals.

3 Worrisome as all of this may be -- okay? --
4 it does not remain to the person who is mentally ill
5 with the compulsion to commit this sort of behavior.
6 And when I say "compulsion," I mean, think about how
7 hard it is to stop eating a certain food, even that a
8 doctor tells you not to eat. Think about how
9 difficult it is to stop eating French fries when
10 someone tells you not to eat French fries.

11 It is thousands and thousands and thousands
12 of times more difficult for the perpetrators of these
13 acts to stop their compulsive behavior, and it
14 escalates, okay?

15 According to Gene Abel, who is a
16 psychologist who researches methods to evaluate sex
17 offenders, 52 percent of voyeurs, of arrested
18 voyeurs, admitted to having sexual contact with a
19 female prepubescent child outside of the home within
20 the last year.

21 Twenty-six percent of the voyeurs admitted
22 to having this contact with a male prepubescent child
23 during the last year.

24 Eighteen percent admitted to having sexual
25 contact with a female prepubescent child outside of

1 the home within the last year.

2 Ten percent admitted to having such contact
3 with a male prepubescent child.

4 Thirty-seven percent -- 37 percent --
5 admitted to committing a rape within the last year.

6 This is not a criminal mind that stops at
7 peeping, okay? It is a result of an inexorable
8 proclivity to turn thought into action, okay?

9 The behavior which once satisfies the urge
10 intensifies after it is satisfied, as it does in many
11 habits or many compulsive behaviors.

12 So to sort of reiterate some of my concerns,
13 I think that this bill certainly requires some very,
14 very strong advocacy, okay? It is virtually
15 impossible to deter people from committing this act
16 when the gratification they get from the behavior
17 they perform would be a greater incentive than the
18 punishment they would receive from being caught at
19 it, okay? And most are simply just not caught at
20 it.

21 The two 21-year-old men that I spoke about
22 at the beginning of my presentation I had to
23 evaluate. One of them had an IQ of 84 -- okay? --
24 and was able to perpetrate these acts. So these were
25 not exactly rocket scientists. And the only reason

1 why they were caught is because one of them flipped
2 the other one in because he stole his video game.

3 So that is hopefully a little bit of insight
4 into the behavior or into the minds of the people
5 that we are dealing with.

6 I really would like to express my gratitude
7 to Representative Gingrich for inviting me here. In
8 my day-to-day life, I only get a chance to influence
9 the outcome of events that occur to a small number of
10 people. Here, I am absolutely honored to be able
11 to participate in a process that may protect many
12 more.

13 CHAIRMAN CALTAGIRONE: Will you stand for
14 questioning, please?

15 DR. FAVARO: I do it every day, so I'm more
16 than happy to now.

17 CHAIRMAN CALTAGIRONE: Okay.

18 Repeat offenders, I'm just curious, is there
19 any hope for them to curtail that behavior? Or you
20 deal with this, evidently, in your occupation.

21 DR. FAVARO: Yes.

22 CHAIRMAN CALTAGIRONE: What is the
23 recidivism rate?

24 DR. FAVARO: In my opinion, the recidivism
25 rate would be probably 80 percent or more.

1 The most effective treatment that I read
2 about for beginning to deter all this behavior was
3 listed as electric convulsive therapy.

4 CHAIRMAN CALTAGIRONE: And what is that,
5 please?

6 DR. FAVARO: Shocking someone.

7 CHAIRMAN CALTAGIRONE: Shock treatment?

8 DR. FAVARO: Yes.

9 CHAIRMAN CALTAGIRONE: Electric shock
10 treatment?

11 DR. FAVARO: Yes.

12 CHAIRMAN CALTAGIRONE: Does it work?

13 DR. FAVARO: You know, electric shock
14 therapy is very, very controversial.

15 CHAIRMAN CALTAGIRONE: It's controversial.

16 DR. FAVARO: It works for just about
17 anything in a number of cases and would certainly
18 work on most things that I might do that I shouldn't
19 do, simply from the fear of the treatment itself.

20 So for me, I would say that the jury is sort
21 of out on whether that is the most effective
22 treatment. It is simply the most effective treatment
23 that we have tried right now.

24 And I think that it would be difficult to
25 answer that question sort of without the presence of

1 other strong deterrents, like having to go to jail,
2 you know---

3 CHAIRMAN CALTAGIRONE: Right.

4 DR. FAVARO: ---and taking people out of
5 society and not giving them the opportunity to do
6 these things that they are doing.

7 CHAIRMAN CALTAGIRONE: How about medication?

8 DR. FAVARO: In my opinion, it is unlikely
9 that any medication that was short of the sort of
10 medications that they have tried on rapists that
11 reduced their libido would be effective. But I'm
12 saying that with the caveat that I am not a
13 psychiatrist; I am not a specialist, you know, in
14 psychopharmacological treatments.

15 CHAIRMAN CALTAGIRONE: Counsel, I know you
16 had a question.

17 MR. McGLAUGHLIN: Yes; thank you,
18 Mr. Chairman.

19 Doctor, you began your testimony by
20 indicating that you testify in court. Is that
21 correct?

22 DR. FAVARO: That is what I do for a
23 living.

24 MR. McGLAUGHLIN: And you do it primarily
25 for the prosecution, don't you?

1 DR. FAVARO: Well, I would say primarily
2 yes. Occasionally people will try to hire me for the
3 defense. It has to be pretty compelling for me to
4 take on a case like that.

5 MR. McGLAUGHLIN: Okay.

6 And you have also indicated that people that
7 engage in this kind of behavior have a mental
8 problem. Isn't that correct? Didn't you testify to
9 that?

10 DR. FAVARO: Well, if you think about it,
11 from my point of view, voyeurism is a diagnosable
12 mental illness. So sort of separating the legal
13 from what I do, I would believe that anybody who did
14 this behavior would be demonstrating a mental
15 illness.

16 MR. McGLAUGHLIN: So could perhaps the high
17 recidivism rate be related to their particular malady
18 as opposed to fear of punishment?

19 In other words, their behavior does not
20 correlate the punishment because it is a compulsive
21 mental disorder.

22 DR. FAVARO: Well, that may be so, except
23 for that you could -- punishment, aside from being a
24 legal term, is also a psychological treatment.

25 MR. McGLAUGHLIN: Thank you very much,

1 Doctor.

2 DR. FAVARO: Sure.

3 CHAIRMAN CALTAGIRONE: You know, I'm just
4 wondering with your testimony, after hearing the
5 previous testimonies, especially from the young lady,
6 Emily, you know, what young children have to go
7 through and knowing that we have these predators out
8 there.

9 DR. FAVARO: It is as devastating as a
10 rape.

11 CHAIRMAN CALTAGIRONE: What can we do as
12 a society?

13 I mean, we can pass all the laws we
14 want, and, you know, I'm up here 32 years and I have
15 seen things work and I have seen things that just do
16 not work, and, you know, I just shake my head.

17 We have been in some of the institutions.
18 We're going to go to some more. I guess next week
19 we're going to Camp Hill.

20 How do you modify the behavior of people so
21 that they don't continue to repeat offend, whether it
22 is drugs or these situations or whatever?

23 You know, how do we deal with these people
24 in our society?

25 DR. FAVARO: You know, I testify to this all

1 the time.

2 You know, people change their behavior for
3 two reasons: hope of reward, or fear of punishment.
4 And I think that aside from being sort of glib and
5 like a cliché -- I actually believe that it was
6 Einstein who actually made that quote -- we do really
7 have to concentrate on what we can do in the context
8 that we can do it in.

9 Certainly in this context, we can make the
10 consequences for that kind of behavior severe enough
11 to try to help people think twice.

12 I mean, it is the same question that we
13 encounter when we say, well, how do we prevent people
14 from murdering people? How do we prevent people from
15 raping people? How do people in a civilized society
16 act responsibly to try to curtail the behavior of
17 individuals who aren't necessarily interested in
18 cooperative living, you know? And I think we do that
19 by starting here and by making more people aware of
20 how devastating this is, not minimizing it, not
21 helping people legitimize it; also offering
22 legislation about certain types of Internet
23 behavior.

24 Obviously we have to keep a keen eye on
25 how this might impact on freedom of speech. I

1 understand, you know, I understand what those
2 responsibilities are as well.

3 But certainly, as most of the laws in most
4 of the States are written now, the punishment simply
5 is not severe enough to address the severity of the
6 behavior.

7 CHAIRMAN CALTAGIRONE: You know, the thing
8 that disturbs me, I have 12 grandchildren, 9 of them
9 are young girls, and after hearing this situation,
10 you know, you begin to wonder, are there other
11 solutions that we are going to have to look at with
12 these kinds of people that we are going to have to
13 deal with in our society as we know it?

14 I don't know what those solutions are. I'm
15 just throwing it out for some thought process that,
16 you know, you can put people in jail for 10, 15,
17 20 years; if they don't change their behavior and
18 they come out and they repeat offend -- if it is
19 80 percent like you are saying -- what are we talking
20 about? We're going to set these animals loose on
21 society to prey on innocent people, mess up the minds
22 of young children? What need be done in our society
23 as we know it?

24 I understand the constitutional issues and
25 everything else, but we also have rights of the

1 majority of the people that aren't in that group, and
2 you begin to wonder, what more can we do as a society
3 to start changing that kind of behavior to protect
4 those that are loved ones and close to us and other
5 friends that we know that, you know, that kind of
6 behavior is going to scar them for the rest of their
7 lives. They are going to be afraid to go out, afraid
8 to do things, afraid to do activities.

9 Why do we have to continue to tolerate that
10 in our daily lives, in our neighborhoods, in our
11 homes, and I'm thinking, this is wrong.

12 DR. FAVARO: Sure.

13 CHAIRMAN CALTAGIRONE: This is absolutely
14 wrong.

15 We have to be prisoners in our own homes.
16 Young kids, you have to be constantly vigilant that
17 these people are not trying to perpetrate some type
18 of assault on them.

19 You know, it just boggles my mind that, you
20 know, why are we being handcuffed? We're the good
21 guys. And the bad guys are allowed to perpetrate
22 those kinds of atrocities on our people in this
23 country in this day and age?

24 DR. FAVARO: Yes, and it will get worse,
25 because the opportunity and the technology will

1 certainly make it worse.

2 I listened very, very careful to Emily while
3 she was giving the testimony which you characterized
4 as "courageous" and which I certainly see as that
5 way.

6 She said that the piece of mind that she
7 received was knowing that the perpetrator of that act
8 was incarcerated and not able to do what he was
9 doing. She said that that was one of her only
10 periods in her life that provided her with some piece
11 of mind.

12 That certainly had an impact on me, and I am
13 hoping it had the same impact on all of you.

14 CHAIRMAN CALTAGIRONE: But, you know, even
15 with the legislation, and we could certainly deal
16 with that. I have no problem with that; do not
17 misunderstand me. But is it enough?

18 I mean, you still have a time frame that
19 they may be out of society, but they are coming
20 back.

21 DR. FAVARO: Sure.

22 CHAIRMAN CALTAGIRONE: And usually back to
23 the same neighborhoods.

24 DR. FAVARO: I had a tough time -- the only
25 real tough time I had coming in and doing this -- and

1 there's a lot I don't know about the political
2 process -- is that I could not figure out what would
3 be the opposition to making, to passing a bill like
4 this. Because from a commonsense level, from me
5 being a citizen, you know, and not being an expert, I
6 would wonder what would prevent people from wanting
7 to place stricter consequences on individuals who
8 committed this act.

9 And the only afterthought I had about that
10 was to try to make as strong a presentation as
11 possible to show you that it is not something that
12 goes away -- and I hear that you are getting that --
13 and it is something that is much likely to get a lot
14 worse, and it is something that is resistant, you
15 know, to punishment, to mild forms of punishment.

16 CHAIRMAN CALTAGIRONE: Thank you, Doctor.
17 Questions?

18 Mauree.

19 REPRESENTATIVE GINGRICH: Thank you,
20 Mr. Chairman, also for sharing your deep feelings
21 about this issue, you know, as a human being, as a
22 family member.

23 Thank you, Dr. Favaro.

24 DR. FAVARO: Sure.

25 REPRESENTATIVE GINGRICH: I have had the

1 opportunity to at least have breakfast with you and
2 ask some of my questions there.

3 But I wanted to share with you that this one
4 -- and you have heard about a couple of perpetrators.
5 I'm going to go back to the one that Emily and I are
6 sharing here, that particular individual.

7 His last defense to his multitude of similar
8 and escalating criminal record here is now sexual
9 addiction, and that seems to be the common defense
10 now.

11 If they finally caught up with you and you
12 just can't help yourself -- you just told us, you
13 just can't help yourself -- so now he has got an
14 addiction. You talked about our food addictions, and
15 we certainly know that, and smoking and drinking and
16 all of that. You know, I would like to think this is
17 in a different category.

18 But regardless, that's the defense he is
19 using, and that is a little troublesome to me that
20 that is a viable defense to put Emily and everybody
21 else in jeopardy because of that.

22 Also the comment, you alluded often to the
23 Internet. That is not where this legislation goes,
24 but it can't help but go there. It is dovetailing
25 integrally to what Representative Chairman Marsico

1 talked about earlier.

2 We did do some work on tightening up our
3 invasion-of-privacy legislation that does escalate --
4 it has escalating penalties to a degree. Maybe they
5 are not tough enough; I don't know.

6 But I don't see how we can't do something
7 about this piece of legislation dovetailing with what
8 we have attempted to do. We are making these
9 efforts -- that is what our Chairman is saying --
10 and our frustration is, geez, we can't make this go
11 away.

12 But in a civilized society, and we are
13 becoming hard-pressed to protect this civilized
14 society, because all of the technology which is to
15 our advancement -- and earlier today you made a good
16 comment to me when you said this technology is
17 opening the doors.

18 For the guy who is tired of looking at and
19 peeking at Emily in her bedroom window, he is
20 probably already -- well, he is; he is doing the
21 child pornography thing on the Internet. So it is
22 almost a natural progression to be able to take a
23 look somewhere else.

24 So we have got to, I think, tie those two
25 together, and we have got to -- our job as

1 Legislators is to public safety.

2 CHAIRMAN CALTAGIRONE: Right.

3 REPRESENTATIVE GINGRICH: We have got a real
4 public safety issue here, and that technology is
5 growing our troublesome side where the perversion is
6 allowed to advance.

7 But you said it could also help us address
8 it because we can access so much more information and
9 ways to deal with it.

10 DR. FAVARO: Sure.

11 REPRESENTATIVE GINGRICH: Can we find some
12 optimism there? Because I'm sharing what our
13 Chairman is sharing in my emotional response to
14 this.

15 DR. FAVARO: You know, I think so.

16 And in response to your question and your
17 question about, you know, the difference between a
18 mental illness and a bad behavior, there is a point
19 in any discussion and in any intelligent discussion
20 where things become a matter of semantics.

21 For me, it would be like excusing a bank
22 robber because he had an addiction to money.

23 REPRESENTATIVE GINGRICH: Well, that is not
24 the way it is working, though, in the legal defense.

25 DR. FAVARO: Yeah; I understand.

1 REPRESENTATIVE GINGRICH: Do you know what
2 I'm saying?

3 DR. FAVARO: But when I'm given the
4 opportunity to testify about it, that is what I'll
5 say every time.

6 CHAIRMAN CALTAGIRONE: Thank you very much.
7 Karen.

8 MS. COATES: Doctor, in your experience,
9 which appears to be extensive -- I was reviewing your
10 curriculum vitae -- is there a classic profile of
11 this type of offender, in other words, a particular
12 socioeconomic background, a particular age group, or
13 does it cut across all swaths of society?

14 DR. FAVARO: It is obviously mostly male,
15 okay? There are not too many female voyeurs. And
16 what worries me -- okay? -- is that with the
17 proliferation of pornographic materials, it is very,
18 very easy to learn this behavior, okay?

19 You can have a person who might be shut in
20 and isolated who has never thought about this before
21 but who sees it somewhere, takes a hobbyist's
22 interest in it, you know, and eventually becomes
23 obsessed with it.

24 So one of my very, very strong concerns is,
25 hey, there are a lot of people out there who are

1 fragile mentally for any one of a number of reasons,
2 okay? But with the tremendous opportunity there is,
3 it worries me, because anything that creates any
4 semblance of enjoyment, once it is practiced, becomes
5 a habit.

6 CHAIRMAN CALTAGIRONE: Chairman Marsico.

7 REPRESENTATIVE MARSICO: Just a comment.

8 Thank you very much for being here.

9 Actually, your testimony is very frustrating---

10 DR. FAVARO: Yes.

11 REPRESENTATIVE MARSICO: ---but also very
12 helpful and informative and compelling.

13 So I just want to let you know that I
14 certainly appreciate, on behalf of the members here,
15 your taking your time to come here.

16 DR. FAVARO: It has been my honor, sir.

17 REPRESENTATIVE MARSICO: Obviously most of
18 us, I am sure, here support this legislation.

19 CHAIRMAN CALTAGIRONE: Absolutely.

20 REPRESENTATIVE MARSICO: And I have the same
21 feelings that the Chairman has, you know, what else
22 can we do?

23 And he asked a very good question and had
24 very good points. I'm not quite sure yet either, but
25 we will continue to work on this and appreciate the

1 fact that you are here to lend your expertise.

2 Thank you.

3 DR. FAVARO: Sure. Thank you.

4 CHAIRMAN CALTAGIRONE: Any other questions?

5 Thank you, Doctor. I do appreciate your
6 testimony and your time given us today.

7 DR. FAVARO: It has been my honor. Thanks.

8 CHAIRMAN CALTAGIRONE: I want to thank all
9 the testifiers that were here today and reassure you
10 that even though we have about 8 days left in the
11 session, I can't guarantee, you know, even if we were
12 to get it out of the House, let alone the committee
13 -- I think we can get it out of the committee; I
14 don't think that's going to be the problem -- but
15 rest assured what I would like to be able to do is
16 make sure that this is a priority on our agenda when
17 we come back, because I know the Senate will not
18 consider -- what I am hearing -- any House Bills that
19 have not already passed and are sitting over in the
20 Senate. They only are going to deal with issues that
21 are sitting there before them, and we would have to
22 reintroduce it -- and I am sure Mauree will do this
23 -- in January, and hopefully we just kick-start this
24 and get this out as soon as possible, whether
25 Ronny is chair or whether I'm chair or however

1 that---

2 REPRESENTATIVE MARSICO: We're cochairs.

3 CHAIRMAN CALTAGIRONE: Or we're cochairs,
4 we'll work it out one way or another.

5 And rest assured, we are going to face this
6 issue, because this is most devastating on everybody
7 in this Commonwealth that is affected by these
8 situations.

9 I do want to offer for the record, from the
10 Office of the District Attorney, County of Lebanon,
11 the Victim-Witness Assistance Program letter that was
12 sent by Beth Hoch, Victim/Witness Coordinator, and
13 Tammy Hartman Hankins, also the Victim/Witness
14 Coordinator, for the public record.

15 We will now adjourn the hearing.

16 Thank you.

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18 (The hearing concluded at 11:15 a.m.)

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20 SUBMITTED WRITTEN TESTIMONY

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23 BETH HOCH and TAMMY HARTMAN HANKINS,
24 Co-Coordinators, Office of the District Attorney,
25 County of Lebanon, Victim-Witness Assistance Program,
offered the following written testimony:

1 Dear Honorable Mauree Gingrich:

2 On behalf of the Lebanon County
3 Victim/Witness Assistance Program, we are pleased to
4 inform you that we are in support of House Bill 1571
5 to amend Section 5506 of Title 18 (Crimes and
6 Offenses) of the Pennsylvania Consolidated Statutes,
7 further providing for the offense of loitering and
8 prowling and we encourage all your colleagues to vote
9 for the bill.

10 While many people consider the offense of
11 loitering and prowling as a harmless activity,
12 victims and law enforcement know that the offense
13 often escalates to more aggressive behavior.

14 Eric Beauregard, an assistant professor at
15 Simon Fraser University's criminology department,
16 stated, "Peeping Toms have trouble interacting with
17 other people and are trying to acquire some sort of
18 power over their victims by watching them."

19 According to Robert K. Ressler, a retired FBI
20 Criminal Profiler, Ted Bundy began peeping into
21 windows before he became one of the worst serial
22 killers in history.

23 As Victim Service Providers, we have seen,
24 firsthand, the devastating effects that this crime
25 has on victims. Feelings of violation, lost sense of

1 security, anger, doubt and a loss of trust are just a
2 few of the issues that victims must deal with as a
3 result of this offense. Currently, the grading of
4 this offense does not provide escalating penalties
5 for repeated offenses. Amending Title 18 to increase
6 the grading for subsequent offenses will provide
7 increased protection and peace of mind to victims.

8 For the crime victims of Pennsylvania, we
9 again encourage your colleagues to vote for this
10 legislation when it is considered on the House floor.

11 Sincerely,

12 Beth Hoch

13 Victim/Witness Co-Coordinator

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15 Tammy Hartman Hankins

16 Victim/Witness Co-Coordinator

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

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Debra B. Miller, Reporter

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