

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JOINT HEARING
OF THE
JUDICIARY COMMITTEE
AND
CHILDREN AND YOUTH COMMITTEE

STATE CAPITOL
HARRISBURG, PA

MAIN CAPITOL BUILDING
ROOM 140, MAJORITY CAUCUS ROOM

TUESDAY, JANUARY 22, 2013
10:00 A.M.

PRESENTATION ON
REPORT OF THE TASK FORCE
ON CHILD PROTECTION
CREATED BY HR 522 AND SR 250 OF 2011

BEFORE:

HONORABLE RON MARSICO, MAJORITY CHAIRMAN
OF THE JUDICIARY COMMITTEE
HONORABLE KATHARINE M. WATSON, MAJORITY CHAIRMAN
OF THE CHILDREN AND YOUTH COMMITTEE
HONORABLE BRYAN CUTLER
HONORABLE SHERYL M. DELOZIER
HONORABLE BRIAN L. ELLIS
HONORABLE KEITH J. GREINER
HONORABLE GLEN R. GRELL
HONORABLE JOSEPH T. HACKETT
HONORABLE FRED KELLER
HONORABLE MARK K. KELLER
HONORABLE TIMOTHY KRIEGER
HONORABLE JOHN A. LAWRENCE
HONORABLE DAVID M. MALONEY, SR.

* * * * *

*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

BEFORE (cont.'d):

HONORABLE DAN MOUL
HONORABLE DONNA OBERLANDER
HONORABLE BERNIE O'NEILL
HONORABLE MIKE REGAN
HONORABLE TODD ROCK
HONORABLE RICK SACCONI
HONORABLE TOMMY SANKEY
HONORABLE TODD STEPHENS
HONORABLE WILL TALLMAN
HONORABLE MARCY TOEPEL
HONORABLE TARAH TOOHL
HONORABLE THOMAS R. CALTAGIRONE, DEMOCRATIC CHAIRMAN
OF THE JUDICIARY COMMITTEE
HONORABLE LOUISE WILLIAMS BISHOP,
DEMOCRATIC CHAIRWOMAN OF THE
CHILDREN AND YOUTH COMMITTEE
HONORABLE BRYAN BARBIN
HONORABLE MATTHEW D. BRADFORD
HONORABLE VANESSA LOWERY BROWN
HONORABLE MICHELLE F. BROWNLEE
HONORABLE H. SCOTT CONKLIN
HONORABLE DOM COSTA
HONORABLE ED GAINNEY
HONORABLE KEVIN HAGGERTY
HONORABLE STEPHEN KINSEY
HONORABLE DEBERAH KULA
HONORABLE BRANDON P. NEUMAN
HONORABLE MARK ROZZI
HONORABLE JOHN P. SABATINA, JR.
HONORABLE JESSE WHITE

ALSO IN ATTENDANCE:

HONORABLE THOMAS P. MURT
HONORABLE SCOTT A. PETRI

COMMITTEE STAFF PRESENT:

THOMAS W. DYMEK
MAJORITY EXECUTIVE DIRECTOR,
JUDICIARY COMMITTEE

JOHN E. SCARPATO
MAJORITY EXECUTIVE DIRECTOR,
CHILDREN AND YOUTH COMMITTEE

KAREN L. DALTON
MAJORITY SENIOR LEGAL COUNSEL,
JUDICIARY COMMITTEE

MEREDITH M. SCHULER
MAJORITY ADMINISTRATIVE ASSISTANT,
CHILDREN AND YOUTH COMMITTEE

E. LAUREN ORAZI
DEMOCRATIC EXECUTIVE DIRECTOR,
JUDICIARY COMMITTEE

ROSEANN R. CADAU
DEMOCRATIC EXECUTIVE DIRECTOR,
CHILDREN AND YOUTH COMMITTEE

V. KURT BELLMAN
DEMOCRATIC RESEARCH ANALYST,
JUDICIARY COMMITTEE

HEATHER J. WALSH
DEMOCRATIC LEGISLATIVE ASSISTANT,
CHILDREN AND YOUTH COMMITTEE

I N D E X

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P R O C E E D I N G S

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3 MAJORITY CHAIRMAN MARSICO: Good morning,
4 everyone, and welcome to the Joint Hearing of the House
5 Judiciary and House Children and Youth Committees.

6 I and Chairperson Kathy Watson are very pleased
7 to be able to convene our committee meeting today to
8 receive testimony from the members of the Task Force on
9 Child Protection. So we have a full house here, don't
10 we?

11 MR. HECKLER: We do.

12 MAJORITY CHAIRMAN MARSICO: Good morning.

13 MR. HECKLER: Good morning.

14 MAJORITY CHAIRMAN MARSICO: I want to announce
15 that the meeting is being recorded -- you can just all see
16 that -- and I'd ask that Members and guests silence all
17 cell phones and electronic devices. So we've all done
18 that? Okay; good.

19 One year ago, the Pennsylvania House and Senate
20 worked closely with the Governor and created the task force
21 for the express purpose of comprehensively studying the
22 laws, policies, and practices of this Commonwealth to
23 determine how best to reform Pennsylvania's laws to better
24 address the terrible crime of child abuse. I sponsored,
25 along with Chairman Caltagirone, the House resolution that

1 created this task force, because it was evident that no
2 single piece of legislation can solve the problem of child
3 abuse alone.

4 The task force brought together 10 members, each
5 of whom is an expert in his or her particular field,
6 representing a wide range of background and experiences in
7 child abuse issues. Using this interdisciplinary approach,
8 the task force has completed the Herculean task of
9 conducting this review, and I applaud all of the task force
10 members for their efforts.

11 The task force used an approach to deliberate and
12 produce a thoughtful 427-page report detailing the task
13 force's conclusions. It will take time to fully digest the
14 many findings and recommendations of the task force. And
15 while some aspects of the task force report may take time
16 to enact, others can be moved forward without delay.

17 There is much work to be done. To that end, be
18 assured I will devote the full energy and authority of the
19 House Judiciary Committee to combating the issue of child
20 abuse. I'm quite certain that Chairperson Watson feels the
21 same way.

22 Now with the task force's guidance and expert
23 suggestions, it now falls upon the rest of us -- the rest
24 of us, those of us in the General Assembly, the Governor,
25 and those who prosecute these crimes and those who work

1 selflessly to advocate for the children who are hurt by
2 these terrible crimes -- to assume the mantle of leadership
3 in reforming Pennsylvania law to protect our children.

4 The task force has made an enormous contribution
5 to better protecting the children of Pennsylvania from the
6 predators who, for too long, have preyed upon the
7 defenseless. I look forward to working with all the
8 Members of both Committees; the General Assembly,
9 Republican and Democrat; the Governor; and those who
10 advocate for the victims to combat this horrific problem in
11 a responsible, comprehensive, and constitutional manner.

12 Before I turn things over to Chairperson Watson,
13 let me just add this one housekeeping note. While I expect
14 we will receive much useful testimony this morning, the
15 Committee will also keep the record open in order to
16 receive written comments from any other interested persons
17 who wish to submit statements.

18 With that, I turn the hearing over to Chairperson
19 Watson for her opening remarks.

20 MAJORITY CHAIRMAN WATSON: Thank you, Chairman
21 Marsico.

22 Ladies and gentlemen, first of all, a huge thank
23 you to you, task force members, who came out of busy lives
24 to make such an important contribution for the children of
25 Pennsylvania, for the families of Pennsylvania, and a

1 contribution certainly to the Children and Youth Committee
2 and the Judiciary, because you've pointed the way, the way
3 for us to go. And as I've said to many people, this is a
4 long road to go down. It's a road that does have some
5 twists and turns, and we need to be very careful that we
6 don't get off into what I call the woods on either side for
7 side issues but that we keep going down that road.

8 Will we get there, as you would hope, and I'll
9 call it lickety-split, but really fast, at a fast gait and
10 a clip? Probably not. There are lots of things to
11 understand and digest and viewpoints to be heard. But I
12 would like to assure you that Chairman Marsico and I, we've
13 met before this all started, and we determined we're going
14 down the road. And going with us is Representative
15 Caltagirone and Representative Bishop, so at least -- and
16 no, this is not the Wizard of Oz, ladies and gentlemen, and
17 it's not a yellow-brick road, but we are going to go down
18 that road.

19 We are holding this hearing with Judiciary as a
20 start. You showed us the way. You talked about
21 interdisciplinary work to make things better, and you are
22 seeing here, I think, a very important start that we are
23 working together, recognizing in a bipartisan way, in
24 sometimes a younger and an older way for some of us, but
25 very importantly, with committees and no propriety, we just

1 want to get the job done for the children of Pennsylvania
2 and for the families of Pennsylvania.

3 So we've gone through a lot of our housekeeping
4 rules. I believe we still are required to take the roll.
5 I guess I would like the Members of the two Committees,
6 Children and Youth and Judiciary, to please introduce
7 themselves for being here, and then I have the pleasure of
8 doing a brief introduction of each of you on the task force
9 who is going to testify. We're not going through all your
10 credentials because that would take us until 11 o'clock, so
11 we'll just say something nicely. And our Committee Members
12 will simply identify themselves and the part of the State
13 that they represent.

14 Let's begin.

15 MINORITY CHAIRMAN CALTAGIRONE: Tom Caltagirone,
16 Berks County.

17 REPRESENTATIVE COSTA: Dom Costa, Allegheny
18 County.

19 REPRESENTATIVE TALLMAN: Will Tallman, York and
20 Adams Counties.

21 REPRESENTATIVE TOEPEL: Marcy Toepel, Montgomery
22 County.

23 REPRESENTATIVE SABATINA: John Sabatina,
24 Philadelphia County.

25 REPRESENTATIVE KULA: Deberah Kula, Fayette and

1 Westmoreland Counties.

2 REPRESENTATIVE ROZZI: Mark Rozzi, Berks County.

3 REPRESENTATIVE HAGGERTY: Kevin Haggerty,

4 Lackawanna County.

5 REPRESENTATIVE GAINEY: Ed Gainey, Allegheny

6 County.

7 REPRESENTATIVE MURT: Tom Murt, Philadelphia and

8 Montgomery Counties.

9 REPRESENTATIVE BROWNLEE: Michelle Brownlee,

10 Philadelphia.

11 REPRESENTATIVE KINSEY: Stephen Kinsey,

12 Philadelphia County.

13 REPRESENTATIVE CONKLIN: Scott Conklin,

14 Representative of the little-known region of Penn State

15 University.

16 REPRESENTATIVE TOOHIL: Tarah Toohil, Luzerne

17 County.

18 REPRESENTATIVE BARBIN: Bryan Barbin, Cambria

19 County.

20 REPRESENTATIVE REGAN: Mike Regan, York and

21 Cumberland Counties.

22 REPRESENTATIVE HACKETT: Joe Hackett, Delaware

23 County.

24 REPRESENTATIVE M. KELLER: Mark Keller, Perry and

25 Franklin Counties.

1 REPRESENTATIVE OBERLANDER: Donna Oberlander,
2 Clarion and Armstrong Counties.

3 REPRESENTATIVE SANKEY: Tommy Sankey, Clearfield
4 County.

5 REPRESENTATIVE WHITE: Jesse White, Washington,
6 Allegheny, and Beaver Counties.

7 REPRESENTATIVE O'NEILL: Bernie O'Neill, Bucks
8 County.

9 REPRESENTATIVE DELOZIER: Sheryl Delozier,
10 Cumberland County.

11 REPRESENTATIVE ELLIS: Brian Ellis, Butler
12 County.

13 REPRESENTATIVE GRELL: Glen Grell, Cumberland
14 County.

15 REPRESENTATIVE ROCK: Todd Rock of Franklin
16 County.

17 REPRESENTATIVE SACCONI: Rick Sacconi, Allegheny
18 and Washington Counties.

19 REPRESENTATIVE MOUL: Dan Moul, Adams and
20 Franklin.

21 MINORITY CHAIRWOMAN BISHOP: Louise Bishop,
22 Philadelphia County, Chair of Children and Youth, minority
23 side.

24 I just wanted to say in passing, and I'll be very
25 quick, Madam Chairman, in meditating on the many, many

1 challenges, vast challenges that are before us today, that
2 it is time -- and I'm delighted that all of us are here --
3 it is time for us to address the issue of child abuse and
4 child sexual abuse, issues that have been, and have existed
5 for years, that have been covered up, that have been
6 denied, and that have been placed on the back burner.

7 I'm here and delighted that we have brought it
8 out of the past and out of the hidden in families, in
9 communities, in schools, and in homes. It's time for us to
10 talk about them.

11 Thank you.

12 REPRESENTATIVE STEPHENS: Todd Stephens,
13 Montgomery County.

14 REPRESENTATIVE PETRI: Scott Petri, Bucks County.

15 MAJORITY CHAIRMAN WATSON: I think that's it, and
16 I'm Kathy Watson, proudly from Bucks County.

17 MAJORITY CHAIRMAN MARSICO: We have one more.

18 MAJORITY CHAIRMAN WATSON: One more?

19 REPRESENTATIVE MALONEY: Dave Maloney, Berks
20 County.

21 MAJORITY CHAIRMAN WATSON: There we go. And you
22 will note, ladies and gentlemen, sitting here, we're well
23 represented for this Commonwealth. We probably hit almost
24 all of the 67.

25 So we are ready to go, and if I might take a

1 moment to introduce those from the task force who are
2 testifying today to give us something of an overview.

3 Each of you will have received through your
4 Chairman, your Committee, this tome of information. This
5 committee, the task force, was very busy. It's very
6 interesting. You'll want to read, and you have your own
7 copy to make notes, highlight, do whatever it is that you
8 need to do so that you understand it. But we're going to
9 help you today by doing an overview.

10 And who will be joining us? Well, if I would
11 introduce the task force:

12 The Chairman of the task force, David Heckler,
13 who is the District Attorney of Bucks County, former
14 President Judge, and I suppose for this Capitol also a
15 former State Representative and a State Senator from Bucks
16 County. He's also a good friend of mine.

17 And with him, there are several task force
18 members who I hope are becoming new friends, and that would
19 be Jackie Atherton Bernard, Esq., Chief Deputy District
20 Attorney for Blair County.

21 And Dr. Cindy W. Christian, Director of Safe
22 Place: The Center for Child Protection and Health, and
23 that's part of Children's Hospital of Philadelphia. And
24 also, she's the Medical Director, Department of Human
25 Services of Philadelphia. She doesn't have enough to do.

1 And Jason Kutulakis. Jason is Senior Partner of
2 Abom & Kutulakis right here in Dauphin County.

3 And then we have by Skype, I hope, and I'm only
4 mildly technically aware so I'm hoping this works, but it's
5 Dr. Rachel Berger. Dr. Berger is of the Child Protection
6 Team, Child Advocacy Center -- the other children's
7 hospital on the other side that works for the betterment of
8 children -- Children's Hospital of Pittsburgh, the
9 University of Pittsburgh Medical Center. So we're covered
10 on both areas of the Commonwealth. And hopefully
11 Dr. Berger can hear, and then you will hear her testimony.
12 She needed to stay in Pittsburgh.

13 Mr. Heckler, I never know if I'm doing "Judge,"
14 "DA Heckler" -- whatever.

15 MR. HECKLER: Just "Dave."

16 MAJORITY CHAIRMAN WATSON: David, are you ready
17 to go?

18 MR. HECKLER: I am; I am.

19 MAJORITY CHAIRMAN WATSON: Okay. Yes, sir?

20 MR. HECKLER: Thank you.

21 And let me mention, although we were not able
22 to get in contact in time for me to submit to the
23 Committee another member who served on the task force,
24 Delilah Rumburg, who, of course, is known to you folks, I'm
25 sure, as the head of PCARE -- there you go -- Delilah is

1 also with us this morning.

2 I'm delighted to be here. Actually, I never got
3 much of a look at this room during my tenure in the House
4 of Representatives. We were always in the minority, and
5 they didn't much let us in here. So I'm delighted to sit
6 here this morning in the majority caucus room.

7 A couple of preliminary things. Let me please
8 recognize the staff of the Joint State Government
9 Commission. I know that in the tough budget times that the
10 Commonwealth has been through, maybe even their very
11 existence was in doubt. The report you have before you
12 just would not exist, and certainly in its excellent form,
13 without their extraordinary efforts, and we taxed them to
14 the max. I've known those folks for many years now, and I
15 have it on good authority that we were the most miserable
16 to deal with, the toughest group that they ever dealt with.

17 I'm an optimist. I thought we'd be done with
18 this report in September. We were down to the last
19 deadline in November. This has been an enormously
20 hands-on, extraordinarily qualified group that I've been
21 privileged to be associated with that just did an
22 extraordinary job.

23 Also here today are some of the folks who helped
24 out, and you will see, I suspect at least five times before
25 we're done, that I'll be looking back at Mary Taylor, who

1 of course many of us first met when she was I guess
2 minority counsel to the Judiciary Committee in this House,
3 to remember what the heck it is we did and why.

4 We were blessed with a great deal of support.
5 Jim Anderson is here from the Juvenile Court Judges'
6 Commission. There were other extraordinary task force
7 members who made enormous contributions.

8 If we hadn't written a report at all, if the only
9 thing we did is have hearings and collect the testimony of
10 an extraordinary group of witnesses and then gone home, I
11 think we would have done something very important for this
12 Commonwealth. And I commend to your attention as you go
13 through these things -- and you may find that you have
14 questions about some of our recommendations. I'm already
15 hearing a little, well, you know, maybe they went off a
16 little bit on a tangent here. Read the testimony. And I'm
17 just going to highlight -- I think Joint State has it,
18 certainly we have the written testimony that was submitted,
19 and I believe there are transcripts of virtually all of the
20 testimony that's available: Anne Marie Ambrose, who is the
21 Commissioner of the Philadelphia Department of Human
22 Services; Dr. Maria McColgan, who is from St. Christopher's
23 in Philadelphia -- and I don't mean to ignore or diminish
24 the testimony of other people, but just in terms of
25 highlights -- Dean Gelles from the School of Social Policy

1 and Practice at Penn; Leslie Gomez and Gina Maisto Smith,
2 who were both former prosecutors in Philadelphia and have
3 seen and prosecuted horrors that none of us want to think
4 about; Bob Schwartz, who I can remember before I was even
5 elected to the House as somebody who has been a tireless
6 children's advocate in Philadelphia for many years;
7 Sean McCormack, a prosecutor here in Dauphin County;
8 Dr. Turkewitz, a member of the staff at York Hospital and
9 plainly a committed pediatrician and somebody who has
10 wrestled with these issues for many years.

11 On the issue of child advocacy centers,
12 particularly in the smaller counties of this State:
13 Jeff Burkett, who took the initiative in a very small
14 county to start a CAC with the help of his local hospital,
15 gave moving and persuasive testimony about just how
16 dramatically effective that particular institution can be
17 in a community. And then, of course, Craig Stedman, the
18 District Attorney, and actually all the people who came
19 with him from Lancaster County, which is, you know, a
20 larger, more sophisticated approach to the same thing --
21 many others.

22 Before -- let's put it this way -- before you
23 bypass any significant part of this report, I would urge
24 you to read that testimony for yourself. It wouldn't take
25 all that long. I just came away from every one of our

1 hearings in some cases moved certainly in awe of the
2 efforts that people are putting in throughout our
3 Commonwealth to better the condition of children and to
4 address it from the prosecutorial standpoint, and I've
5 always sort of taken the negative view of life to punish
6 those who do terrible things to our children.

7 Another point I'd like to make, and I'm going to
8 leave it to your questions and to my very able colleagues
9 to deal with more of the specifics of this report, but one
10 of my, and it may look sort of goofy as we have proposed
11 it, I sort of took the lead on proposing three different
12 entities that would interact with the Legislature. You may
13 well want to streamline that, although like the task force,
14 we propose that all of them would serve without
15 compensation. So I'm thinking that, you know, it doesn't
16 necessarily have to cost the taxpayers very much, but I
17 would strongly stress, there needs to be an ongoing
18 dialogue in this area.

19 We've waited many years, and I'll confess, I was
20 Chairman for a while when I was in the Senate of the Aging
21 and Youth Committee. I didn't really understand the CPSL
22 all that well as an overall structure. We did some
23 amendments, and some amendments that I still think were
24 useful, particularly in helping to terminate parental
25 rights where that needed to happen for the child's

1 well-being. But I never got a command of it; I didn't
2 practice in this area, and it wasn't until my service here
3 that I really kind of came to see how it works or, in the
4 case of our present law, in a lot of cases doesn't work,
5 and hopefully we've given you a better version.

6 But there are entities out there -- one of the
7 outstanding ones, of course, is the Field Center at Penn --
8 that are thinking, are devoting substantial academic
9 efforts to figuring out where we should be going, where our
10 society should be going, and certainly where Pennsylvania
11 and its laws should be going. There needs to be an
12 ongoing, gradual discussion with the Legislature. We don't
13 want to do this once every 10 or 15 years when a Sandusky
14 case blows up and we suddenly discover that there are
15 problems in the world.

16 And I guess that would be my final observation to
17 you. What the Sandusky case has succeeded, and also the
18 Archdiocese of Philadelphia cases succeed in bringing home
19 to Pennsylvanians is, this stuff really happens, and it
20 happens a lot. I did not fully appreciate until I became a
21 Judge, just in a county like Bucks County, 600-and-some
22 thousand people, how regularly children are victimized --
23 sexually, which we kind of like not to talk about and kind
24 of want to push away, and physically.

25 My Chief of Prosecution is sitting at his desk

1 right now doing the final prep on a case in which an infant
2 child was killed by the paramour of the mother. The child
3 had been seen at one of our local hospitals for a broken
4 limb within several months before the death. Children and
5 Youth were involved in that, but the nature of the injury
6 was not identified as being abuse related. The child went
7 back into the same setting and was left for the weekend by
8 the natural mother with the paramour, who killed the child,
9 including the child ended up with a significant human bite
10 mark. That child died a terrible death. This stuff
11 happens. It happens in our cities. It happens in our
12 small towns. It happens in our affluent suburbs. It
13 happens, and it happens regularly.

14 And so the final piece, I can't tell you how many
15 times as a Judge -- in fact, it was one of the things that
16 actually made it a little bit easier to leave the bench and
17 plunge back into my first love -- the number of times I
18 went home and said to my wife, you know, if I never spend
19 another day listening to a child, 8, 10 years old, relate
20 their abuse or their sexual experiences to me and
21 12 strangers sitting in a jury box, that will be great; you
22 know, that will be just fine with me. And certainly as a
23 Judge, you know, as punitive as I'm perfectly comfortable
24 with being, nothing you do to a convicted offender helps
25 that child in a significant way.

1 Preventing, identifying this conduct, identifying
2 pedophiles who don't get fixed, who will do it over and
3 over again unless they are caged, getting them caged
4 quickly, identifying what's going on quickly and sparing
5 other children, is a priority which we can address. And so
6 the final piece of information or the final thought I would
7 have for you, as all of you and your colleagues, because I
8 hope you will become advocates for what you take from our
9 efforts and draft in legislation to the rest of the
10 Legislature, the Members of the House and the Senate, who
11 sometimes need to be led along by the House in my
12 experience, look at this from the child's point of view.
13 It became so plain to me when I actually was part of
14 digging into the CPSL, trying to figure out, where did we
15 get this, why would somebody enact this particular
16 provision, that everybody is thinking about adults. There
17 are various entities. You can kind of figure out where
18 this would come from or where that would come from. But if
19 you're the child, if you are the recipient of this
20 treatment and looking for somebody to just give you simple
21 justice or just protect you in some basic way, it just
22 makes no sense whatsoever.

23 And the more you can stop, when you get to a
24 particular issue and you're weighing it -- well, there's
25 this consideration; these people want you to do this -- or,

1 you know, people are advocating for particular angles to
2 say, wait a minute, if I'm a kid and this is happening to
3 me or there's the possibility that it's going to happen to
4 me and somebody is trying to prevent that, what makes
5 sense? What do you do? I think you will find that it
6 gives you a perspective that you might not have otherwise.
7 We deal with these issues, and we certainly deal with them
8 when there is a public consciousness. We've all got a
9 responsibility to deal with the well-being of children in
10 our communities, in our Commonwealth, on a daily basis.
11 This is a great opportunity to do that.

12 I still stand in awe of the knowledge and
13 abilities of the people I was privileged to serve with on
14 this task force, and, you know, you have our summaries of
15 what we've done. I hope you will be asking us questions so
16 that we can focus in on the things you're most concerned
17 about.

18 I'm particularly hopeful that you'll be asking
19 Dr. Christian questions. My staff, many of the young
20 people on my staff are just envious that I have gotten to
21 hang out with Dr. Christian so much, and of course she has
22 appeared in trials that have been tried before me and
23 others in Bucks County, and of course many places. But
24 it's just fun to see people who, every once in a while a
25 foolish defense attorney endeavors to cross-examine

1 Dr. Christian, and then it just gets better than it was on
2 direct. So we hope that you'll be asking her questions.

3 But at any rate, thanks for having us here today.
4 I'm sure I speak for everybody on the task force. We will
5 be delighted to be of any help we can -- formally,
6 informally -- to get this done in a way that will help the
7 children of Pennsylvania.

8 MAJORITY CHAIRMAN WATSON: I thought that, and
9 with your permission, Chairman -- Chairman and Chairman --
10 that we would let the task force members in the order you
11 choose go ahead and testify. And then, Members, if you're
12 jotting down all your questions or you've read your
13 400 pages, we can go and ask questions, if that suits
14 everyone. All right? So we all know how this is going to
15 go.

16 MAJORITY CHAIRMAN MARSICO: Before we do that, I
17 see that other Members have joined us: Representative
18 Krieger, I believe, is here from Westmoreland County, and
19 Representative Cutler is here from Lancaster County.

20 Any other Members that came in? Stand up and
21 introduce yourself.

22 REPRESENTATIVE NEUMAN: Representative Neuman
23 from Washington County, the 48th District. Thank you.

24 REPRESENTATIVE BROWN: Representative
25 Vanessa Lowery Brown from Philadelphia.

1 MAJORITY CHAIRMAN WATSON: We'll turn it over to
2 you.

3 MR. HECKLER: Thank you. Then I will yield the
4 floor to Dr. Christian. A good bit of legislation, the way
5 we do it these days, is contained in the definitions, and
6 that has been one of the areas where she and Dr. Berger put
7 considerable effort.

8 Doctor.

9 DR. CHRISTIAN: Thank you, Boss.

10 Mr. and Ms. Chairs and all of the
11 Representatives, first let me say that it is really an
12 honor for me to be here. This is not what a pediatrician
13 gets to do every day. So, you know, yesterday I was making
14 rounds in the hospital, taking care of sick children, and
15 today I found someone to cover for me so I can be here with
16 all of you to kind of help explain and maybe defend and
17 help you all with the very, very really extraordinary,
18 challenging, and I think very good work that this task
19 force did. It was really a great honor for me to be chosen
20 to be on this task force, and I really enjoyed greatly any
21 contributions that I've made.

22 So I, for some reason, have kind of adopted
23 talking about our definitions and the changes or our
24 recommended changes in the definition of "child abuse," and
25 let me start by saying that we made some minor changes to

1 the definition of "child sexual abuse" because, for the
2 most part, the definitions were okay. But we did broaden
3 "sexual abuse" to include, and I'm going to read a little
4 bit just so I get it correct, "engaging in sexually
5 explicit conversations and looking at the intimate parts of
6 a child or encouraging a child to look at the intimate
7 parts of another person for the purposes of sexual
8 gratification of any party." But the problems that we have
9 with child sexual abuse were not really contained in the
10 definitions of "sexual abuse." For the most part, they
11 were pretty good.

12 But I will say as a practicing pediatrician and a
13 child-abuse pediatrician, our State definitions of "child
14 physical abuse" have been incredibly problematic for years.
15 Our State definition of "child physical abuse" is probably
16 the most narrow in the country, and we did not hear
17 testimony from anybody who praised our definitions of
18 "child physical abuse," who said they were adequate or in
19 any way exemplary.

20 So presently our definition of "child abuse" is
21 "Any recent act or failure to act by a perpetrator which
22 causes nonaccidental serious physical injury to a child
23 under 18 years of age." Under this definition, children
24 are not adequately protected. There were concerns that
25 were repeatedly raised about the meaning of "nonaccidental"

1 and the definition of "serious physical injury" which
2 requires severe pain or impairment of physical function as
3 part of our child-abuse definitions.

4 So some of the testimony that we heard from
5 front-line pediatricians was that we could have children
6 before us who have multiple bruises, injuries in abnormal
7 places, children who have been clearly victimized by an
8 adult who is supposed to be protecting them and taking care
9 of them, but because the child before us is not in severe
10 pain -- and we can talk about how people experience pain --
11 and because the child's skin has all been injured but the
12 child is moving fine and using their limbs and maybe even
13 running around the hospital room playing, that this would
14 not be defined as "child abuse." And I don't need to show
15 examples, but if you'd like to see, I brought plenty of
16 examples with me of children who have multiple injuries
17 who, by our laws in Pennsylvania and by actual
18 investigations, had unfounded child abuse reports because
19 their injuries didn't seem to meet our definitions.

20 So we recommend changing the definition of "child
21 abuse" to include "recent intentional or reckless acts."
22 So we've replaced "nonaccidental" with "intentional or
23 reckless acts, attempts to act, and failures to act that
24 cause or create a reasonable likelihood of bodily injury or
25 serious bodily injury." And these definitions also better

1 parallel the definitions of "assault" and "aggravated
2 assault" in the Crimes Code. Am I correct, Mr. Chairman?

3 MR. HECKLER: It sounds good so far.

4 DR. CHRISTIAN: You know, I'm just the doctor.
5 Okay.

6 So in addition, though, we made some other
7 recommendations. There are some States that define "child
8 abuse" by a very specific list of things: if a child has
9 this; if a child does that; if you see this, that, that, or
10 the other, this is what constitutes "child abuse." And we
11 really didn't want to give basically like a recipe or, you
12 know, just a list of injuries that would constitute "child
13 abuse," but we really did believe that there were certain
14 situations that in and of themselves should be considered
15 child abuse, and we included kicking, burning, biting,
16 stabbing a child, cutting, throwing a child, unreasonably
17 confining or restraining a child. We see children who are
18 locked up in closets for hours or days or weeks or months
19 at a time, and if there are no obvious injuries to that
20 child, they might not have met our definitions.

21 Forcibly -- and we use the word "forcibly" --
22 shaking or slapping an infant, because we see infants who
23 have injuries where there's no impairment but they have
24 marks on their bodies, and to us, to a pediatrician, that's
25 just a marker for worse things to come, and if we can't use

1 our system to protect that infant, we're asking for that
2 baby to come back with sometimes fatal and sometimes
3 life-threatening and permanent injury.

4 "Intentionally interfering with a child's
5 breathing." We have parents who try to suffocate children
6 and then the child is fine when the child is seen by the
7 doctor, but intentionally trying to interfere with the
8 breathing of a child should be child abuse.

9 Or causing a child to be present where illegal
10 drugs are manufactured, such as a methamphetamine lab, and
11 include driving under the influence of alcohol or drugs
12 with a child in the car.

13 And then finally in our definitions, we have all
14 seen, those of us who work kind of front line, have seen
15 many cases where it is very clear that a child has been a
16 victim of child abuse. They may be battered. They may
17 have multiple injuries, life-threatening injuries. But
18 after an investigation, Children and Youth, the police,
19 nobody knows the exact identity of the perpetrator. It may
20 be one of a number of members of a family. We just don't
21 know who did it. Presently, that case would be a
22 nonindicated report. They would not indicate that as
23 "child abuse" in the State of Pennsylvania, even though it
24 was clear that the child was a victim of child abuse,
25 because they could not identify the perpetrator. But in

1 order to protect that child, in order to know that that
2 child was a victim of child abuse, we recommend that those
3 cases are indicated as "child abuse" regardless of whether
4 or not you can identify the perpetrator.

5 And that's all I have to say for now, and I'll
6 turn it over to Jason, I suppose, for his comments. Thank
7 you very much.

8 MR. KUTULAKIS: Good morning.

9 I was introduced as an attorney in a local law
10 firm, but I've dedicated a great deal of my professional
11 career towards advocating for children's rights.
12 Organizing the Pennsylvania Children and Youth Solicitors
13 Association is very much akin to the District Attorneys
14 Association, and now I'm involved in a training program for
15 what I call first responders to child abuse, and that is
16 called ChildFirst Pennsylvania.

17 So while on its face you say I'm an attorney,
18 really my passion is about ensuring that Pennsylvania's
19 most important resource, and that's not natural gas,
20 although we talk a lot about it today, it's the children of
21 this Commonwealth. They're the most important constituent
22 that this body has, and they're the most unspoken for or
23 least spoken for resource that we have. So when you're
24 approached by others that say "We have a stake in this,"
25 remember the voices that don't have the opportunity to

1 speak to you and don't have the power and resources to come
2 before you to speak on this topic that transgresses all
3 socioeconomic situations in the Commonwealth. This is a
4 very serious pandemic that we have.

5 But I thank the leadership for giving me the
6 opportunity and us the opportunity to spend a great deal of
7 time putting this report together. It's extremely
8 comprehensive, and I'm very hopeful that it will move
9 forward, while not at lightning speed, with due diligence.
10 I, too, remain available to be a resource formally or
11 informally to anybody in this body to discuss this subject
12 matter in the future.

13 The report really focuses on the Child Protective
14 Services Law primarily, although we do touch on the Crimes
15 Code and some family-law matters in the custody section.
16 But it really focuses on what we call the Child Protective
17 Services Law -- Mr. Chairman referred to it as the "CPSL"
18 -- and that is the body of law that directs and drives the
19 child abuse system. It's a civil-related system, not a
20 criminal-based system, and that's hard to get your brain
21 around, and that's why the definitions that Dr. Christian
22 talked about in modifying and changing them are so
23 important.

24 While there may be a situation -- and I give this
25 example when I talk about this -- where if I were to walk

1 out of the Capitol today and walk across the street and
2 punch a 5-year-old as hard as I can in the face and break
3 the orbital socket, no doubt that's the crime of aggravated
4 assault. However, under our current definition, that's not
5 child abuse, because I don't have any kind of relationship
6 with that child. So it's important as you go forward to
7 digest -- and I reinforce what Dr. Christian talked about
8 -- the issue of physical abuse and how that really is going
9 really unattended in the Commonwealth versus other States.

10 Our mandate, especially for some of the newer
11 Members, our mandate came down that asked us to address the
12 issue of mandated reporters and also to, equally
13 importantly, reestablish, come up with information to help
14 reestablish confidence in this system, and this report really
15 does a good job of that.

16 While the authority probably was precipitated by
17 the Sandusky case and the Archdiocese case, I think that's
18 where the mandated-reporter section came from. So to that
19 end, I'll address two different things today: Who is the
20 perpetrator of child abuse currently and what do we
21 recommend, and what is a mandated reporter today and what
22 do we recommend?

23 Currently the definition of "perpetrator"
24 involves, yet again, somebody who has a special
25 relationship with that child: a parent, a person

1 responsible for the welfare of a child -- and that's
2 further defined -- or a resident of the home where the
3 child resides who is over the age of 14. We've expanded
4 that definition or recommended expanding that definition so
5 that we bring in and we start counting other children, to
6 protect other children, as Dr. Christian indicated. That's
7 the most important thing we need to come out of here doing,
8 and we need to hold those perpetrators accountable.

9 The recommendations include expanding to add
10 employees or volunteers who are in a position of trust,
11 someone with whom you leave your child when you go to work.
12 So ensure that they can be defined as a "perpetrator."

13 It would also include specifically individuals
14 who work or volunteer at camps, athletic programs,
15 enrichment programs, schools, teachers, all of their
16 employees.

17 Any person who commits abusive acts on a child
18 within that child's home. You don't need to have a special
19 relationship. If you commit an act on a child in their
20 safe haven, they should be held accountable.

21 Any relative within the fifth degree of
22 consanguinity, and there's a little chart; you can figure
23 that out.

24 A paramour or former paramour.

25 Those people all come into regular contact with

1 children, and they should be held accountable if they
2 commit these heinous acts on a young child.

3 We have seen in the high-profile cases in the
4 last year and a half a system break down, clearly break
5 down, and not catch bad situations early on. The task
6 force has recommended expanding the definition of those who
7 are required to report suspected child abuse. And it's
8 very important to understand that as this body goes
9 forward, to get the message out that anybody can report
10 child abuse -- anybody can report child abuse. Frankly, I
11 think they should report child abuse. However, there are
12 those that are required to report, and there are
13 consequences for failing to report if you're one of those
14 enumerated persons.

15 We've expanded that definition to include:

- 16 • Colleges, employees of colleges or
17 universities.
- 18 • Coaches, those that are entrusted to work
19 with children in athletic systems.
- 20 • Attorneys, and there is a caveat to that:
21 unless you are receiving privileged
22 information.
- 23 • Librarians. We heard testimony about children
24 coming into a library, and there are people
25 there, they are in trusting situations and

1 learn of situations of child abuse, but they
2 are not required to report currently.

- 3 • Persons working or volunteering in programs.
- 4 • The commercial film industry.
- 5 • Computer-repair individuals.

6

7 These last two areas are for obvious reasons,
8 because it deals with child pornography, and we must change
9 the tide and make those people accountable. If they come
10 into contact with that subject matter, they should be
11 required to report it, and there should be serious
12 consequences for failing to comply with the law.

13 I'm going to reserve more time so that hopefully
14 we'll get a dialogue with all of you. Again, it has been a
15 great privilege, but I hope that you rely on us. We
16 volunteered our time this year and we continue to pledge
17 that time to make sure that Pennsylvania becomes a leader
18 in the fight against child abuse. This is a great step
19 towards that.

20 MR. HECKLER: And last but far from least,
21 Prosecutor Bernard.

22 MS. BERNARD: Thank you.

23 Good morning. I also would like to echo that of
24 my colleagues on the task force. It was a completely
25 humbling experience to work with these folks in their

1 various areas of expertise.

2 I am a former child abuse prosecutor myself and
3 have since moved on from that position in the District
4 Attorney's Office, but I think it is clear that
5 Pennsylvania has a long history of wanting to protect kids,
6 and we have several good statutes which we have tried, I
7 think, over the years to patchwork that protection in. But
8 it became clear through our testimony that we heard that
9 there are just some serious issues that exist with even
10 being able to account for the number of children that come
11 before us that are abused.

12 So we know that there's a definite need for a
13 revision of, how do we account for children that are
14 abused? And one of my roles in the task force was to
15 remind people that we have a civil definition of "child
16 abuse" which is handled by the Children, Youth and Family
17 Services, and then we have a criminal definition of "child
18 abuse" which is dictated by the Crimes Code.

19 So the example that Jason pointed out -- I
20 noticed everyone kind of sat up and thought about that for
21 a minute -- is really how "child abuse" is defined by the
22 civil definition. And one of our objectives through the
23 task force was to try to mirror those two so that we had
24 more interdisciplinary ability to work together.

25 Pennsylvania back in the nineties said, we want

1 to have multidisciplinary teams. We want people who are
2 child abuse caseworkers and Children, Youth and Families
3 and police officers, if they're traveling along this
4 parallel path, we want them to try to work together and for
5 the best interests of the children, which comes back to the
6 child advocacy center, which I'm sure our Chair will
7 address in a little bit.

8 But we did implement some statutes to make that
9 happen, but what kept happening in reality in the field was
10 that the child abuse investigators for CPS kept butting up
11 heads with the criminal investigators, and a lot of that
12 had to do with the statutory implements that were obstacles
13 to them and to their ability to work together. And so a
14 lot of what you'll see in our report is an attempt to
15 really marry the two and, as consistent as we can be across
16 the board, make those definitions the same so that we don't
17 have an example, as Jason pointed out, where a child is
18 assaulted in broad daylight by a complete stranger and
19 Children and Youth cannot be involved, and therefore, that
20 child, on a national database, is not counted as an abused
21 child, okay?

22 Pennsylvania looks great in the numbers. When I
23 was first appointed to the task force, I looked at the
24 numbers for Pennsylvania and we looked wonderful. I was
25 like, wow, we're really low in our numbers. And then it

1 became evident that one of the reasons why we're so low in
2 those numbers is those numbers only account for the work
3 that is done by Children, Youth and Family Services, not by
4 law enforcement. And those numbers only account for those
5 cases where the children were specifically indicated on an
6 abuse for a named perpetrator.

7 So all of the cases where Children, Youth and
8 Families was working in general protection, trying to make
9 sure that children had a clean home, went to school, had
10 adequate clothing, adequate food, none of those children
11 were considered abused and none of those children's numbers
12 were showing up on the national database. So one of the
13 things that I think our report also recommends, if you can
14 get through the technical stuff, one of the things that it
15 also recommends is the need to be consistent.

16 So really my purpose today is to simply address a
17 couple of the Crimes Code changes that we're proposing, and
18 they're quite simple. The legislation starts in your
19 report on page 241, and it deals first with the physical
20 assaults of children.

21 We heard testimony from two former Philadelphia
22 prosecutors, a very talented woman as well as a current
23 Philadelphia prosecutor and another colleague of mine,
24 Sean McCormack, who works in the District Attorney's Office
25 here in Dauphin County, as to the obstacles when it comes

1 to prosecuting cases where children are victims.

2 And I know all of you with your experience in the
3 Legislature are well aware of the current legislation or
4 the recently passed legislation that allows children to
5 testify by closed-circuit television, all for good reason.
6 But as a trial prosecutor you can imagine that when I'm
7 asking 12 people to convict someone and call that person a
8 child molester or a child abuser, they want a lot of proof,
9 and they want to be able to judge that child -- they want
10 to see that child; they want to judge that child's
11 credibility in person. So even though that's an effective
12 step towards us being able to prosecute these cases,
13 jurors' expectations are not always realistic with what we
14 expect of children.

15 I like to tell a story to put that in
16 perspective. Years ago when I was a new prosecutor in the
17 District Attorney's Office, I was sent to a training, and
18 it was for sexual abuse and how to prosecute those cases.
19 I was very pregnant at the time with my first child, and
20 one of the tactics that the law enforcement instructor used
21 was to pick out someone in the room and ask them to
22 describe their first sexual experience, and the point that
23 she was trying to make was to get all of us to realize how
24 difficult it is for any one of us as an adult to talk about
25 that in public in a room full of strangers.

1 Well, I was the lucky one that got chosen, and
2 being very pregnant, I just kind of panicked. I was like
3 deer in the headlights, and I said it never happened, you
4 know? And she started to laugh and so did everybody else
5 in the room because clearly it had happened, but she
6 pointed it out as an example of, children in that same
7 situation, often when they're interviewed for the first
8 time in dealing with it, don't want to admit that it
9 happened. So a lot of times the first response they get
10 is, "That didn't happen. I don't know what you're talking
11 about," and I know exactly how that feels.

12 So one of the things we heard about, going back
13 to the Crimes Code, is the difficulty in prosecuting cases
14 against children when they're physically assaulted. And
15 Cindy had mentioned that Pennsylvania, really under the
16 definition that existed in the CPS Law, did not adequately
17 protect children, and I felt and I believe that I convinced
18 some others on the task force to agree with me that the
19 Crimes Code also did not do an adequate job in protecting
20 children.

21 We have a history in Pennsylvania of protecting
22 certain classes of people. If you look at the aggravated
23 assault statute as it exists right now on the books, we
24 recognize that certain people, just because of who they are
25 or the type of employment they have, are entitled to a

1 heightened sense of protection and, therefore, heightened
2 penalties if they are assaulted in that capacity, so why
3 wouldn't we offer children that same protection? So what
4 we're proposing under the aggravated assault statute is
5 simply by age, and determined by the type of injury that
6 they suffer, they're a protected class. So if they're
7 under 4 and they have bodily injury, it's one crime; if
8 they're under 12 and they have serious bodily injury, it's
9 another crime, and the grading also increases based upon
10 their age and the type of injury they suffer. We think
11 it's very reasonable and it is consistent with what we have
12 done historically in Pennsylvania.

13 As well as the simple assault statute. There was
14 one glitch that we found in that, and that is, under the
15 current simple assault statute, you had to be 21 in order
16 to be guilty under that section that protects kids. So
17 we're simply making that, if you're an adult, if you're 18
18 or over and you assault a child 12 or under, you're subject
19 to a heightened degree of penalty as a misdemeanor of the
20 first degree.

21 One of the interesting things that we heard about
22 -- and very sad -- in the testimony was that we had
23 children that had been involved in the system through
24 Children, Youth and Family Services and then were being
25 removed from school, which, as you can imagine, school was

1 probably the place where they got away from the abuse if
2 the abuse was occurring in the home or at the hand of a
3 paramour of the parents, and so then you're also removing
4 that child from all the neutral eyes that are on that child
5 throughout the day. And we had information from various
6 witnesses that children then were dying, because there was
7 no one to really keep track of them, number one; and number
8 two, they had already been involved in a system, and
9 sometimes when the caseworkers went there or law
10 enforcement went to the home, there was nobody who would
11 really tell them where the child was. There were excuses
12 about, well, the child's with so-and-so or the child went
13 shopping, all the while the child was being systematically,
14 physically abused to the point of death, and we had a
15 couple of those cases that were talked about to us.

16 So we'd like to propose an amendment to the
17 endangering the welfare of children statute to provide that
18 people who reside in the home have a responsibility to
19 report -- if they reside in the home or if they're the
20 paramour of a parent and they know that a child is being
21 abused, they have a responsibility to report that abuse
22 under ChildLine, you know, which is simply a phone call.
23 That's all it is. They can even remain anonymous. But if
24 they want to absolve themselves of liability under
25 "endangering the welfare," they're obviously going to have

1 to prove that they made the call, okay? It gives the
2 authorities the ability to make sure that that child is
3 safe.

4 The other changes that we're proposing under the
5 "endangering the welfare" section is that people should
6 have a responsibility when the authorities come there to
7 make sure that they're not trying to protect the abuser,
8 and so there's a separate section that really says it will
9 be a crime if you do not -- if you prohibit the
10 authorities, law enforcement, or Children and Youth from
11 detecting the abuser at the home.

12 A couple other things I just wanted to touch on
13 briefly, and then I also would be happy to answer any
14 questions relative to our work on the task force, is that I
15 have been handling most recently a lot of child pornography
16 cases, and these are very troubling cases for us in
17 Pennsylvania. Many times, we cannot connect the people who
18 possess this material with actual assaults on children, but
19 we have also had people who possess this material and then
20 we've had information from children that they have been
21 abused by these same people. This is an epidemic as far as
22 I'm concerned in Pennsylvania right now, and our sentencing
23 guidelines are woefully inadequate to address the type of
24 behavior that is being demonstrated in these movies, these
25 videos, these images.

1 Unfortunately, we can't show them to you, and I
2 don't think you would ever want to see them. When I
3 prepare for trial on these and I see these images, there
4 are things that I can't forget about for weeks. They stick
5 with you forever. And I often feel bad even having to show
6 them to a jury when we get to that point in a trial. But
7 the Federal system, and I know that there's a lot of talk
8 here in Harrisburg about the removal of mandatory
9 sentences, but I would ask that in this particular case you
10 recognize that, first of all, mandatories are done at the
11 prosecutor's discretion, so the prosecutors have the
12 ability to determine whether or not someone is truly a
13 first-time offender and a low-level offender and their risk
14 of recidivism based upon the information that we have
15 before we even ask for it.

16 And additionally, we with a mandatory would be
17 protecting the most vulnerable segment of our society --
18 these kids. I don't know of any research, and I would be
19 happy to review any that anybody could suggest, that would
20 show me that people who have this predilection to this type
21 of material are really rehabilitatable. Clearly, the
22 sentencing guidelines right now, if you are a first-time
23 offender and have possession of child pornography, it's
24 probation to 9 months. So even if we were to go through a
25 trial, many times these folks get probation.

1 And I have to tell you, many of the defendants
2 that we prosecute have jobs and have families, and so I
3 think the courts are often persuaded by the fact that they
4 otherwise seem to be productive members of society. But
5 this is a very dark crime. I'm positive that it leads to
6 the exploitation of children on many levels, which we may
7 never be able to truly gather the data on in terms of human
8 trafficking, kidnapping, abuse by people that these kids
9 know, abuse by complete strangers, and then the people who
10 have it and view it, the crimes that they are committing on
11 children.

12 So the Federal system actually takes into account
13 the number of images that a person has, what the children
14 are required to do in the images, including bestiality,
15 bondage, those types of things, and they assign a sentence
16 based upon the content, which is, I think, where we need to
17 go in Pennsylvania, and I would seriously ask you to
18 consider doing something along those lines.

19 My friends at the State Police tell me that when
20 they prosecute or try to investigate these cases, they have
21 so much difficulty gathering the information, because most
22 of the companies, computer companies, are located out of
23 the State. So what we've proposed and supported and I
24 believe was considered by the General Assembly previously
25 was administrative subpoena power for police to get limited

1 information to initiate an investigation so that they can
2 start the process moving. And it also has certain
3 timeframes on it that are reasonable, so that if nothing
4 develops out of it, we are protecting people's privacy and
5 returning the information or destroying the information.
6 So I would ask your support of that.

7 And finally, we heard from doctors. You know, we
8 all like to think as prosecutors or police officers or CYS
9 solicitors or former Judges that we're on the forefront of
10 protecting kids, but we heard from pediatricians who as
11 well are foot soldiers when it comes to protecting our
12 children. And sometimes they're the first line of defense
13 when a call needs to be made against a parent, and they
14 have to actually see that parent in the examination room
15 and still report it.

16 We heard from them that they are often
17 intimidated and retaliated against for making those
18 reports, so we've proposed -- and this is really the
19 genesis for it, but I think we made it broader than just
20 pediatricians -- we proposed a crime for retaliation or
21 intimidation against a witness in a child abuse matter so
22 that we can protect the integrity of the investigation and
23 we can protect the integrity of the prosecution and we have
24 witnesses who are willing to not only come forward but stay
25 committed to protecting Pennsylvania's children throughout

1 the process. And so I think that you will find that also,
2 after page 241, in the proposed amendments to the Crimes
3 Code.

4 I think that's all I have, and I probably took
5 more time than I should, so I apologize. But thank you all
6 so much for your attention and your hard work.

7 MR. HECKLER: I wonder if we might -- I,
8 Chairman Watson, share your uncertainty about the
9 technology. If Dr. Berger is hearing us and has been
10 hearing us and can join us. I'm not sure whether she would
11 wish to make any comments at this time, but I'd like to see
12 if we can afford her that opportunity. She certainly was a
13 key contributor to our efforts and deliberations.

14 I see your picture.

15 DR. BERGER: I can hear you.

16 MR. HECKLER: Great.

17 DR. BERGER: I'm not sure that you can hear me.

18 MR. HECKLER: We can.

19 DR. BERGER: Okay.

20 So I was just going to make one comment and say
21 thank you for having us speak here. This is Rachel Berger
22 from Pittsburgh. I think Cindy reflected my views very,
23 very clearly here.

24 I said I've been in this field for more than
25 10 years, and I would say I'm the front lines insofar as I

1 have taken care of hundreds and hundreds of children with
2 physical abuse, some with sexual abuse, as well as other
3 kinds of problems, like failure to thrive, severe neglect,
4 lack of supervision, multiple other problems, and I can't
5 state strongly enough some of the issues which Cindy raised
6 about how the definition of "physical abuse" has really,
7 the current definition has really made it difficult to
8 protect children on the front lines before they have
9 injuries which are fatal or near fatal.

10 I've also practiced as a PCP for 6 years before I
11 started in child abuse, and I was struck by how the issues
12 in primary care today are still the issues that we're faced
13 with, where children who are involved with CYF are involved
14 with actively getting services and the primary-care
15 providers have no idea that CYF is involved in the lives of
16 their families.

17 We had one of the physicians testify,
18 Dr. Amy Nevin, who said that about 40 percent of her
19 caseload or the children she sees -- she's in a very
20 high-risk area of Pittsburgh -- are involved with CYF, but
21 she has no idea what 40 percent that is because the cases
22 are opened and closed without her ever knowing. And CYF
23 can get information from her and ask her for it, but if she
24 asks them, they cannot provide her with information. And
25 so the idea that you can even practice primary care without

1 knowing things such as CYF is involved in the children's
2 lives and providing services for huge risk factors really
3 interferes with our ability to care for children.

4 And I always say the primary-care providers are
5 our safety net for children, and we need to do everything
6 we can to allow them to practice in the best way possible
7 so that they can protect children, because that's really
8 where the primary and even the secondary prevention starts.
9 Once as a system, if I see the children and CYF is seeing
10 the children, honestly, we're almost too late.

11 So I wanted to thank also Mr. Heckler for doing a
12 fantastic job to lead this task force and also to say this
13 was an unbelievable experience for me to hear all the
14 different people testifying and also the expertise of the
15 other people on this task force. So I can hear everything
16 that's going on, so thank you.

17 MR. HECKLER: Thank you very much, Doctor.

18 And if I may just piggyback on those comments for
19 a moment, Dr. Christian has down "break down the silos";
20 Dr. Berger covered a part of it. Let me branch that out
21 into the criminal justice end of it and the broad range of
22 Children and Youth Services.

23 Purely in the interests of adults, we have in the
24 existing laws a number of different silos, a number of
25 different, oh, this information is confidential; the

1 alleged abusers have rights not to have this shared. We
2 don't keep records at all for a variety of reasons on what
3 we call child protective -- I'm sorry.

4 MR. KUTULAKIS: ChildLine.

5 DR. CHRISTIAN: GPS.

6 MR. HECKLER: GPS; thank you. General protective
7 services, and they tend to be -- and I know the doctors
8 will back me up -- general protective services are thought
9 to be more dealing with neglect than overt abuse. Kids, if
10 we're talking about actual kids dying, they are probably
11 statistically more likely to get neglected to death than
12 they are beaten to death or strangled to death. There's no
13 record of the GPS services. If you aren't treating a child
14 within normal ranges, there are all kinds of possibilities.
15 We need to have, we need to maintain records of those, and
16 at least for law enforcement purposes, those records need
17 to be available.

18 We've already established and I think the
19 language here proposes the treatment that doctors need to
20 know, and in some cases I think maybe there's even more
21 restriction now than the law requires. But the doctors who
22 are providing treatment need to know, there needs to be
23 records maintained when kids receive services, and at least
24 when there's a reasonable reason to investigate, those need
25 to be available.

1 And we certainly see in some cases either parents
2 moving from place to place, from jurisdiction to
3 jurisdiction, so even the Child Protective Services may not
4 know what happened. You know, they're in Bucks County one
5 month; they move up to the Poconos. Those folks don't have
6 a clue until they have to discover in some way that there's
7 a child in need. And then law enforcement isn't going to
8 know at all, when finally you reach a threshold where maybe
9 there are reports and a criminal investigation, they're not
10 going to have access to this.

11 So we really try to require those records be
12 maintained, not destroyed at any point, for those limited
13 confidential purposes. Not something that, you know,
14 generally follows you around, but if there's a reason to
15 focus on that child's well-being, we can go back, because
16 very little of this stuff just suddenly pops up.

17 Again, I don't want to belabor. For instance,
18 CACs, we really haven't covered those in depth. I'd like
19 to. But we all want to maximize the opportunity -- there
20 are quite a number of you here -- to entertain your
21 questions.

22 MAJORITY CHAIRMAN MARSICO: Well, thank you very
23 much.

24 I'm going to turn it over to the Members for
25 questions and get some dialogue going here, but first I

1 have a question.

2 You emphasize a lot and you just mentioned the
3 CACs in Pennsylvania. Could you explain, for those who are
4 not aware, what the function is of a CAC, and what is your
5 vision? The task force did put a lot of emphasis on CACs.
6 Would any of you want to talk about that?

7 MR. HECKLER: I'd be delighted to. And Jason
8 probably has more expertise; I'll let him sort of follow
9 up. But let me just stress, if there's one tagline that
10 I've taken from this, if there had been a CAC -- first of
11 all, CACs are the logical extension of the
12 multidisciplinary team, which are required in every county.
13 The DA is supposed to be in charge of sort of setting up
14 the protocols -- don't necessarily exist. And in some of
15 the smaller counties where the resources are limited,
16 that's understandable but not acceptable.

17 A multidisciplinary team, at a minimum, involves
18 the Children and Youth worker, who should be present in
19 every county; law enforcement, you know, State Police,
20 local police, whoever is looking at a particular alleged
21 criminal, a crime committed against a child; and somebody
22 from the prosecutor's office. That's at a minimum. You
23 then bring in other people, depending on what the resources
24 in that county are.

25 One of the resources, and it's funny, these CACs

1 have sprung up differently in different communities. Bucks
2 County happens to have the only one that actually
3 originated with a victims' service agency -- with NOVA, in
4 our case. Many of them spring up in hospitals, because the
5 hospital has a convenient place. The kids, in many cases,
6 require some sort of treatment, either, you know, a rape
7 test or just physical treatment. But one way or another,
8 the thing that the CAC adds to this multidisciplinary team
9 who already is getting together, looking at the background,
10 helping each other with the investigation, not "Oh, I'm law
11 enforcement; I don't talk to Children and Youth," "Oh, I'm
12 Children and Youth; I can't talk to law enforcement," and
13 "I'm the prosecutor; I've got to eventually pull this all
14 together and prosecute," but everybody gets together, lets
15 their hair down, and actually cooperates.

16 You then, to get to the CAC, you have a person
17 who's key to this, a qualified forensic examiner, somebody
18 who really doesn't have a dog in the fight, isn't looking
19 to get this child to say "I was abused," either sexually or
20 physically, but is simply skilled at talking to kids as
21 kids, talking to them at their particular level, whatever
22 that may be, and is particularly trained in asking
23 nonleading questions.

24 One of the problems I dealt with, at least one
25 case that still troubles me as a Judge, is where a young

1 woman who was sort of a little wishy-washy just in her
2 general character, and maybe because of things that had
3 happened to her at the hands of her father, was questioned
4 by her mother, a priest, and about three different police
5 officers in the course of a day, and ultimately her
6 testimony wasn't tainted, but a whole lot of defense
7 material was generated simply because none of those people
8 just let the child tell her story.

9 And so the CAC, a lot of people put emphasis on
10 bricks and mortar, the idea that you have a nice, safe
11 place with maybe some pictures of balloons on the wall
12 where the child -- and again, some of these children are
13 quite young -- can feel comfortable and can feel safe, and
14 then be questioned, we find right from the get-go on
15 videotape, in an environment where it's just them and this
16 trained, friendly, comfortable "interrogator," if you will,
17 although it's hardly an interrogation, with them in a
18 remote location behind a one-way mirror or whatever, the
19 police, prosecutors -- I mean, at least all of our CAC
20 interviews happen with one of my prosecutors on the other
21 side of the window -- and after the question takes place,
22 then there's an opportunity for some dialogue so that, you
23 know, the criminal justice needs of the interview are met.
24 But the child is hopefully only put through it once,
25 ideally.

1 And I will tell you that I think some of the
2 testimony, for instance, from Mr. Stedman is maybe the most
3 striking, although I think even up in -- well, I'm
4 forgetting the county.

5 MR. KUTULAKIS: Jefferson County.

6 MR. HECKLER: Jefferson County. Once they had
7 the CAC in place, they have had practically no trials of
8 these cases. In some cases, even where the guy steadfastly
9 "Oh, no, this didn't happen, couldn't happen," finally they
10 sit him down and say, "Hey, watch this video," and at the
11 end of that they fault. So an enormously effective
12 technique to save kids from having to go through the
13 experience of a trial.

14 Jason, what did I miss?

15 MR. KUTULAKIS: Mr. Chair, if I may, you really
16 have two pieces of the puzzle going on here. One is the
17 multidisciplinary investigative team. That's those people
18 that the Chairman described.

19 The CAC is the home where they all get together.
20 We have counties such as Adams County, I think one of the
21 best in the State. They developed it with some funding
22 from the community. This is not something that takes a lot
23 of money to put together. It is a very, very necessary
24 component to improving the system in Pennsylvania.

25 We need to make sure that we have protocols for

1 the MDIT, the multidisciplinary investigative team, in
2 every single county, that they are functional, operational,
3 with checks and balances. And I think in our report we
4 suggest that that information is checked by the committee
5 that the Chair suggested at the onset to here today. Make
6 sure that those protocols are in place, because statutorily
7 it should be today, and I've got to tell you, it's not.

8 The CACs, we've suggested, should be within a
9 reasonable distance for the child so the child doesn't have
10 to travel and be further traumatized by traveling long
11 distances, and furthermore, having our professionals having
12 to travel long distances to convene as a team. It's all
13 about getting those people to have the expertise to bring
14 the child in for, it's a one-stop-shop process. You have
15 the forensic interviewer, not an interrogator -- I'll take
16 issue with that terminology in the system -- but a forensic
17 interviewer. That's somebody who has highly credentialed
18 training on how to speak in a developmentally appropriate
19 way with the child.

20 For instance, when I started doing the trainings,
21 one of the things you do is to build a rapport with the
22 child. You draw an oval on a piece of paper and say,
23 "Johnny, we're going to draw your face. Is that okay?"
24 "Sure." "What's on your face?" "Eyes, nose, mouth."
25 Being the genius that I think I am, I want more

1 information: "What else is on your face?" and a kid looks
2 at me and studies my face, can't figure out what I'm
3 getting at. I say, "Well, what do you hear with?" "Ears."
4 "Where do they go on your face?" Silence; crickets. And I
5 draw them on my little drawing: "Is this where they go on
6 your face?" He says no. "Well, it seems to be this is
7 where they go on your face." At the end of the day, the
8 point is, ears don't belong on your face to a young child.
9 They're very concrete thinkers. They belong on your head.
10 So if you don't have a trained forensic interviewer that's
11 asking developmentally appropriate questions of that child,
12 you're never going to learn how that child was sexually
13 assaulted by mom's boyfriend.

14 We need to have CACs. It's the most important
15 thing we come out of this with: CACs, highly sophisticated
16 and trained, a well-oiled machine, the MDITs, and that's
17 really what ChildFirst does. We're training the members of
18 the MDIT. If I can impress upon you, those two things have
19 got to come out of this body.

20 MAJORITY CHAIRMAN MARSICO: Do the CACs receive
21 any State funding at all?

22 MR. HECKLER: At this point, except for maybe a
23 few might have gotten grants, I think generally---

24 MR. KUTULAKIS: I can tell you, Cindy Horshaw is
25 here from DPW. Right now there are some Federal bring-down

1 dollars from the Child Justice Act, and they're using some
2 of that information to study these things, to give them a
3 little seed money. So I know there's a little bit of money
4 coming down from the Feds on this, but I don't know about
5 any State direct funding source.

6 MR. HECKLER: Counsel, as I told you, Counsel
7 Taylor, who has the real dope here, PCCD has given some
8 grants to a few of these. One of the important sources is
9 the needs-based budgeting through DPW to Children and Youth
10 Services. And I will tell you, for instance, Bucks County,
11 there's a charitable component both through NOVA, in this
12 case the sponsoring organization; a lot of the hospitals
13 kick in money. Montgomery County, Risa Ferman, has done a
14 spectacular job at fundraising through, I think it's a
15 kids' place.

16 REPRESENTATIVE STEPHENS: Mission Kids.

17 MR. HECKLER: Mission Kids; thank you. So it
18 depends on the community.

19 What we are suggesting that you folks do, that
20 the State do, is come up with sort of an endowment, some
21 money. You shouldn't be funding these things entirely.
22 This needs to be a collaborative effort, but certainly
23 money should be available through the needs-based
24 budgeting. A good bit of what our CAC runs on is money and
25 other resources that have been allocated through the

1 Children and Youth budget, which ultimately comes from the
2 Commonwealth.

3 MR. KUTULAKIS: Can I just add to that?

4 We already have a lot of the players in the
5 system that are being compensated -- the caseworker, the
6 county detective, the prosecutor. They are already in
7 place, so it's a matter of getting them together. A lot of
8 this is already there. It doesn't take a great deal more
9 money. We need to have the structure from you to make sure
10 it happens.

11 There will be some money that's required, but
12 it's not as much. When you talk about adding MDITs,
13 they're already doing the work. We need to get them
14 together as a piece of the machine.

15 MR. HECKLER: The big thing that probably goes
16 beyond the multidisciplinary investigative team are these
17 interviewers -- and I stand corrected; not interrogators,
18 interviewers -- but they need to be specially trained and
19 somebody needs to pay them. But in some cases, they might
20 even be able to ride the circuit.

21 Although I will tell you, in Bucks County, I
22 think we had 600 interviews last year. And they also clear
23 cases. You know, in some cases it will be "No, nothing did
24 happen here," and obviously, particularly in custody
25 disputes, there are either confabulated claims or one way

1 or another. You know, it cuts both ways. But the ability
2 to have, as I say, an endowment, some funding for which
3 PCCD might be an appropriate sort of vehicle, so you could
4 have a grants approach.

5 Many places, it is hospitals. I'm not sure to
6 what extent, in our new health-care environment to what
7 extent the State will be involved, but that may be another
8 vehicle in which some State money would be forthcoming.

9 MAJORITY CHAIRMAN MARSICO: Okay.

10 Chairperson Watson, a question?

11 MAJORITY CHAIRMAN WATSON: Thank you,
12 Mr. Chairman.

13 First, rather than a question, because I have
14 Members who are absolutely chomping at the bit, and the
15 truth is, I've got all your phone numbers. So if I don't
16 ask you questions, I'm just the one going to be at the
17 other end going "Can you talk to me now?" or "Can you call
18 me on my cell phone?" So plan on it; yes, it's me when you
19 get that phone call.

20 But very seriously, I first want to thank you. I
21 think the expertise in this, really what seems like a long
22 time, I'm sure, if somebody's filming it but is a brief
23 vignette, I think, and, well, I'll use this one because
24 mine's annotated, but this document, a wealth of
25 information and certainly a very good roadmap of where we

1 want to go.

2 I'd like to turn it over to questioning, and I
3 know that Representative Bishop may have a question, and
4 then I'll allow my time to go to Representative Moul over
5 there, my Vice Chair, who had a whole list of questions
6 even before he walked in the room.

7 MINORITY CHAIRWOMAN BISHOP: I'll try to be
8 brief. Thank you, Madam Chair.

9 Thank you so very much for all of your time and
10 all of your patience, and it's an awesome job that is ahead
11 of all of us.

12 I would really like to direct a question to
13 Dr. Christina?

14 DR. CHRISTIAN: Christian.

15 MINORITY CHAIRWOMAN BISHOP: Christian.

16 Dr. Christian, I spend a lot of time as an
17 ordained Baptist minister doing sessions and sort of almost
18 like consulting, though I'm not a doctor, but always trying
19 to help those in church, especially the youth. We do a lot
20 of times in the evenings, a lot of times on Saturdays and
21 Sundays, talking about problems that many of our children
22 encounter, especially those that are mentally ill.

23 It has been the theory of some of the ministers
24 that I've talked with recently and some of the parents that
25 many of the outstanding, well-known mass murders that are

1 taking place could possibly be children who have been
2 treated and possibly might still be being treated and the
3 combination of not getting all the care they need or going
4 off medication that they need. And they feel that many of
5 them have been violated in some way at a very early age,
6 may not have talked about it and may have grown up with a
7 lot of anger and a lot of hatred, and when they get certain
8 medications and don't take that medication and don't get
9 the care and the counseling they need, then they go off and
10 they're so mad that they just shoot anybody, and they feel
11 that these mass murders, many of them, could be caused by
12 that.

13 So in your study and you being a doctor and
14 seeing them every day, is there any possible validity that
15 a child who doesn't have all of the care they need, doesn't
16 have the kind of concern, may be home and nobody is paying
17 attention to them, do they have those kinds of tendencies,
18 and is there a combination of the medication and their
19 condition that could cause that?

20 DR. CHRISTIAN: Okay. So I think that there are
21 a lot of questions kind of embedded in that question. So
22 my first answer is that there is very strong evidence that
23 children who are victims of child maltreatment, whether
24 it's physical neglect, sexual abuse, have high rates of
25 mental health disease, not only as children but as adults.

1 But there's also incredibly strong evidence that children
2 who are maltreated as children also have higher rates of
3 all of the common physical problems in adulthood that lead
4 to morbidity and early mortality, including higher rates of
5 heart disease, obesity, even cancer; higher rates of
6 depression; higher rates of sexually transmitted
7 infections; higher rates of almost every disease that you
8 can think of.

9 So even from a financial point of view, if you
10 wanted to save this country billions and billions and maybe
11 trillions of dollars, if you could do something about child
12 maltreatment, you could affect the health and the
13 well-being of the adult population and save enormous
14 amounts of money on health care, okay? Because it's not
15 only your genetics that predict your diseases as adults,
16 it's the epigenetics. It's the influence of stress
17 hormones on a young body and how it influences our
18 decisionmaking and our immunological response to stress.
19 And trust me, this is emerging scientific data that will
20 really help inform how we think about adult physical
21 disease as well.

22 I also believe -- so the answer to the first part
23 is yes, children who are abused are going to have terrible
24 mental health problems. We also have a problem in this
25 Commonwealth and in this country that children who are

1 involved in child welfare have high rates of use of
2 psychotropic medications, and we don't use psychotropic
3 medications accurately or well in this Commonwealth and in
4 this country. There are some children who are undertreated
5 and there are some children who are overtreated, and we
6 don't have enough mental health clinicians, psychiatrists,
7 child psychiatrists, to ensure that what we're doing for
8 children and the drugs we're putting them on sometimes are
9 appropriate, are adequate, and are well monitored.

10 And there are movements in this Commonwealth and
11 throughout the country to really look at these issues, but
12 I will tell you that sometimes our laws, those silo laws,
13 those HIPAA laws and other laws of protection, do not allow
14 for communication back and forth between our behavioral
15 health systems and our child welfare systems. And, you
16 know, part of what we need to do is break down kind of
17 these silos.

18 I know that in the Federal Government they just
19 passed a law, like last week, that started to break down
20 the educational silos, so that now children who are in
21 foster care, there must be information shared about their
22 education back and forth between the schools and child
23 welfare, right? So breaking down FERPA a little bit to
24 allow educational data to go back and forth between child
25 welfare and schools so that we can ensure that kids in

1 foster care are in school, are getting the appropriate
2 education, somebody knows that they are in trouble. We
3 need those same barriers broken down between child welfare
4 and our HIPAA laws.

5 And I believe and I did tell the Chairman on the
6 way here that this is an area where Pennsylvania could be a
7 leader in the nation to say that when we have children who
8 are placed in foster care, we want to break down the
9 barriers between their primary-care doctors, the doctors
10 who are supposed to be protecting and ensuring the health
11 and well-being of children, and child welfare. We want
12 them in communication. We don't want doctors hiding behind
13 HIPAA saying "I can't share that information" or our child
14 welfare laws saying "Well, you can give me information, but
15 I can't tell you anything about this child." We need to
16 break down barriers, wrap our arms around children.

17 And I don't know, finally, the data on mass
18 murderers, because I don't know that there have been enough
19 studies really. But I think any of us would believe that
20 young adults, adolescents or young adults who do these
21 horrendous things to children have very serious mental
22 health problems that absolutely need to be addressed in
23 more appropriate ways.

24 MINORITY CHAIRWOMAN BISHOP: Thank you,
25 Doctor.

1 MAJORITY CHAIRMAN WATSON: Representative Moul.
2 But I do have to, may I check with Chairman Caltagirone
3 that he -- no? We're good?

4 Then, Representative Moul, the time is now.

5 REPRESENTATIVE MOUL: Thank you, Madam Chairs and
6 Chairmen. I appreciate it very much.

7 I'm Representative Dan Moul from Adams County,
8 and thank you for the plug.

9 MR. KUTULAKIS: It was sincere.

10 REPRESENTATIVE MOUL: And believe me, it was a
11 great segue into one of the things I was going to mention,
12 the importance of our CACs. And I'll very gloatingly say I
13 have the best one in the Commonwealth of Pennsylvania,
14 right down the street from my district office, and I
15 encourage everyone who would like to see one in action and
16 how they are designed to work to not only help our court
17 systems but to help the children, which is the main basis
18 of what it's geared toward. Please come down and take a
19 look at that.

20 And I would also encourage our committees to
21 respectively bring some of these professionals in from the
22 CACs and let's jump into their brains, because they have
23 issues of their own that they need to convey to us as
24 lawmakers to help them out. This is probably the most
25 serious issue that we will face in this building, as far as

1 I'm concerned.

2 One of the things that I want to throw out there
3 as far as CACs is, should we be setting or should we look
4 at setting standards of operations for CACs so that they're
5 all operating across the State rather than having
6 67 different sets of rules and regulations and how we go
7 about operating it? One of the things, and I'm not looking
8 for an answer there necessarily, but, you know, we should
9 think about this.

10 And I know we're running late on time. Just two
11 more quick things.

12 I heard, you know, that we should have
13 recommended penalties for those who do not report child
14 abuse. What would be a reasonable amount of time, and is
15 this something that we must address legislatively?

16 MR. HECKLER: If I may, presently it's a
17 misdemeanor of the third degree for those fairly limited
18 people who are identified as mandated reporters and who
19 fail to report. So that's within the existing structure.
20 We recommend both raising that, if I recall correctly, to a
21 misdemeanor of the second degree, which gives you more
22 range in terms of sentence, at least discretion with the
23 court and the prosecutors, and very substantially expanding
24 the universe of people who are required to report.

25 And one of the things that is fascinating, and we

1 see it in the Sandusky case, there are a bunch of people
2 who don't know whether they're required or not and for whom
3 it comes as a surprise that they may be mandated. One of
4 the approaches that we've recommended, and we recommend
5 that everybody who gets a license to do anything from the
6 State, you know, be a beautician, lawyer, doctor, or Indian
7 chief, be a required reporter. You may well get some
8 pushback on that, and that's an area that, you know, you
9 folks as the elected Representatives, you can figure out
10 who should be.

11 But everybody who should be needs to get
12 educated, and it's not that tricky these days. I'm on a
13 Boy Scout board, and I managed to find my way, as computer
14 illiterate as I am, through the training and get approved.
15 But we suggest, for everybody we can administer it, have
16 them sign an oath; have them sign something that says,
17 which will certainly help prosecutors when we find out that
18 they have not been reporting, but it will bring home to
19 these folks, hey, you know, I'm signing this; I'm going to
20 be subject to criminal penalties; and if it's a licensure
21 issue, I may lose my license to do whatever it is, practice
22 my profession, and we recommend that as another penalty.

23 So absolutely we think that's something you folks
24 need to attend to and have made our recommendations.

25 DR. CHRISTIAN: But -- oh; I'm sorry.

1 MR. KUTULAKIS: If I could, currently the
2 requirement is an immediate report. We're not suggesting
3 that should change. In fact, that's the way it should be;
4 a mandated reporter, a person required to report, shall
5 immediately make an oral report. Think about the school
6 setting. A kid comes to school and says "I'm being
7 abused." You don't want Johnny to go home to the abusive
8 setting; you want that report to happen immediately. It
9 has to be followed up within 48 hours with a written report
10 from that mandated reporter giving more details about what
11 they're reporting.

12 So that's the current status. We're not
13 suggesting that should change. In fact, I think we would
14 say it should not change.

15 REPRESENTATIVE MOUL: Okay. Thank you.

16 One very last quick thing. I must admit I'm a
17 little derelict in my duties. I didn't get all the way
18 through this book yet, and I'm working on it. Where does
19 Münchhausen by proxy fit into this?

20 DR. CHRISTIAN: You know, Münchhausen by proxy,
21 it's not a very common problem. It represents parents who
22 kind of feint or fabricate illness in their children and
23 repeatedly bring them in for kind of medical care that is
24 unnecessary, and it's a really very terrible way to harm a
25 child.

1 You know what? If you think about the example I
2 gave of interfering with the breathing of a child? Like
3 sometimes parents suffocate children but, you know, they
4 let go just in time and then they save them. It would be
5 included in there. And I don't know if it's spelled out
6 specifically, but it would probably be---

7 MR. HECKLER: If we can get back to you on that.
8 I know that arose in various testimony and discussions, and
9 I think specifically it is addressed, but not by name---

10 MR. KUTULAKIS: Right.

11 DR. CHRISTIAN: Right, but not by name.

12 MR. KUTULAKIS: Not by name.

13 MR. HECKLER: ---and we'll have to hunt it up for
14 you.

15 REPRESENTATIVE MOUL: Okay. That mental illness,
16 in my opinion, needs to be defined---

17 DR. CHRISTIAN: It's in there, I think. We'll
18 find it.

19 REPRESENTATIVE MOUL: ---as opposed to grouped
20 with everyone else. But thank you very much. I really,
21 truly appreciate what you people are doing for us.

22 MS. BERNARD: Could I just make a point as well?

23 REPRESENTATIVE MOUL: Sure.

24 MS. BERNARD: With regard to your previous
25 question about how long someone has to report? So they're

1 answering you, under the Child Protective Services Law, as
2 it relates to a mandatory reporter and the expansion of
3 that definition. But under the proposed recommendations to
4 the Crimes Code changes, there would be additional
5 requirements for people who live in the home where the
6 boyfriend or girlfriend of the parent know that the abuse
7 is occurring, and a failure to do so more than one time can
8 lead to a course of conduct, which would be a felony,
9 versus under the old law where it was a misdemeanor for
10 simply failing to report, if that helps explain it a little
11 bit better, too.

12 REPRESENTATIVE MOUL: It does. I just didn't
13 know if we needed to address that here.

14 MR. HECKLER: Well, I assume what you're
15 concerned with is essentially a defense that we don't want
16 to be prosecuting the mother, for instance, who
17 obsessively, because of her mental health issues, is making
18 these reports.

19 There is a false-reports section, and actually
20 one of the things that pops up that you wouldn't think
21 about right away is some of the savvy teenagers who end up
22 in institutions of one sort or another, because the courts
23 have placed them there, and then figure out ways to get
24 over on the system by reporting that, oh, this counselor or
25 that counselor abused me, and that needs to be dealt with.

1 We've got language in there that does that.

2 But just from a prosecutor's standpoint, I've got
3 plenty of people to prosecute. If I've got a crazy woman
4 who everybody is satisfied is off the deep end, I'm not
5 interested in prosecuting her. There have been very few
6 prosecutions of people who fail to report in any event.
7 One of the things, however, it does -- and we'll have to
8 find you that section -- we were concerned with dealing
9 with it from the child abuse standpoint as actually
10 addressing that can be, as I recall, a child abuse just so
11 that Children and Youth can be involved in helping to
12 protect that child, who may suffer some very real
13 consequences as a result of that constantly being dragged
14 back to the doctor when there's nothing wrong.

15 REPRESENTATIVE MOUL: Thank you very much. I
16 appreciate it.

17 MAJORITY CHAIRMAN MARSICO: We have four other
18 Members that have questions, but I just want to give a plug
19 for the Lehigh County CAC. I actually had made a visit
20 there last year, Representative Harhart and I. They have
21 an excellent CAC as well.

22 MR. HECKLER: There are a ton of them out there
23 that are doing great, and the real issue is, and I know
24 Prosecutor Bernard has mentioned, you've got to truck kids
25 several hours---

1 MS. BERNARD: We come to Dauphin County or we go
2 to Pittsburgh. So if you can imagine, even though we tried
3 to say a reasonable amount of distance where the child
4 lives, putting a child in the car and traveling 2 ½ hours
5 to get here with a team of people, having that child
6 undergo an intensive interview, and then sending that child
7 back to their home, it's a whole day for that child. So
8 I'm not so sure that 2 ½ hours is a reasonable distance.

9 MAJORITY CHAIRMAN MARSICO: Yeah.

10 MS. BERNARD: If we could make it, you know,
11 45 minutes or less, you're going to also be more
12 efficiently using the personnel involved in the case, which
13 goes back to the whole cost.

14 You know, if we're talking about the economics of
15 a CAC, as Jason mentioned, many of the individuals involved
16 in a CAC are already being paid to do their job, but now
17 we're going to do it more efficiently and we're going to
18 save money that way, because we're going to be doing it one
19 time versus three different times.

20 MAJORITY CHAIRMAN MARSICO: Okay.

21 Representative Stephens for a question.

22 REPRESENTATIVE STEPHENS: Well, I guess, I mean,
23 I would be chastised at home if I didn't recognize
24 Abbie Newman from Mission Kids, the Montgomery County Child
25 Advocacy Center, which I was a founding board member of, by

1 the way, and I think does an excellent job in addition to
2 Lehigh and Adams and all the other wonderful institutions.
3 I can see we're going to go down the road here with every
4 one of them.

5 Thank you all so much for sharing your knowledge
6 with us, and fortunately I'm familiar with many of you from
7 my work in the DA's Office back in MontCo. But I wanted to
8 focus specifically on the issue of mandated reporters, and
9 I know we were just talking about it briefly.

10 I introduced a bill last session that would have
11 made everybody a mandated reporter, and I know, DA Heckler,
12 you just made a comment that sort of just about everybody
13 and their uncle seems to be included in the list. I mean,
14 it's very comprehensive, the number of folks.

15 MR. HECKLER: Yes.

16 REPRESENTATIVE STEPHENS: Do you envision, is the
17 standard a subjective or objective one when it comes to
18 that mandated reporter? In other words, is, you know, the
19 kindergarten teacher who might be a reading specialist with
20 enhanced training held to the same standard as the HVAC guy
21 who happens to stop in a school to fix the heating and
22 cooling system, or are they different standards that would
23 apply?

24 MR. KUTULAKIS: It's very subjective. But keep
25 in mind, it's reasonable basis to believe that the child

1 has been a victim of abuse. There's no need to conduct an
2 investigation. In fact, you shouldn't do one. We should
3 let the MDITs do that. The idea is to open the door to
4 have a communication with the professionals. Let them do
5 their job and screen out cases where the child has not been
6 abused.

7 But it is subjective, and the reason -- and I'm
8 familiar with your bill. The reason this task force, we
9 debated about this, is it's important to train those
10 people, the mandated reporters. And it's not just making
11 the report. A mandated reporter doesn't simply make the
12 report. They can make an oral report, but then the next
13 step is a sophisticated written report.

14 REPRESENTATIVE STEPHENS: But I guess the
15 question is, when you have every independent contractor who
16 could come into contact with children and every employee of
17 a mandated reporter and every independent contractor of a
18 mandated reporter, I don't, just from a practical
19 standpoint, see how you could possibly train every plumber,
20 every electrician, every -- I mean, I'm going through the
21 building trades right now, but do you know what I mean? I
22 mean, it's an exhaustive list.

23 So I can certainly appreciate -- and like I said,
24 I'm on your side. I mean, I think, you know, if you see a
25 child being abused or you suspect that a child has been

1 abused, you should pick up the phone and report it. I just
2 wondered, getting back to something that DA Heckler said,
3 how do we effectively make sure people understand who is
4 obligated to report it?

5 When it becomes so complicated in terms of, well,
6 am I an independent contractor of a mandated reporter, I
7 don't know if you get that far down the road for those
8 people to really understand that they have that obligation,
9 and then aren't we defeating the purpose by making it too
10 complicated?

11 MR. HECKLER: Well, I don't know that we so much
12 envision the building trades who might wander into a
13 building, although that may be a reasonable reading of the
14 broad language. That's for you folks to craft. We
15 certainly wanted to capture, and again, reflecting on
16 Sandusky, the people who would provide educational or
17 supervisory services who might well not be directly
18 employed in the school.

19 REPRESENTATIVE STEPHENS: Okay.

20 MR. HECKLER: For instance, one of the reasons
21 the colleges were pulled in, and in fairness, why there may
22 have been some ambiguity on the part of the folks at
23 Penn State, they're not normally dealing with kids under
24 18, except sometimes they are, both some younger kids going
25 to school but also all these enrichment programs, all kinds

1 of other settings in which it turns out, lo and behold, we
2 do have younger kids in the university.

3 So I think, number one, you're right in terms of
4 maybe it needs to be focused more in terms of who needs to
5 educate and what education is appropriate, but the
6 standard, as Jason articulated it, of having a reasonable
7 basis to believe, you know, the HVAC guy isn't going to
8 have a reasonable basis to believe pretty much unless he
9 walks around the corner and, you know, à la the shower
10 scene out of Sandusky.

11 REPRESENTATIVE STEPHENS: Sure.

12 MR. HECKLER: He just doesn't have that kind of
13 interaction. It's going to sort of naturally focus down to
14 the adults who we'll be speaking with who will have a much
15 more intimate kind of interaction with the child to ever be
16 in that situation.

17 REPRESENTATIVE STEPHENS: Okay. And that's sort
18 of what I was getting at with my question: Did the task
19 force intend to really make that relevant to those
20 independent contractors that would routinely come in
21 contact with children, you know, more so than the HVAC
22 system or the plumbing system? I mean, it seems like that
23 was really the intent, to focus on those that are routinely
24 in contact? Is that---

25 MR. HECKLER: Sure.

1 DR. CHRISTIAN: Yeah. And who are responsible in
2 their -- like who come in contact with children in their
3 professional lives, whatever your professional life is.

4 REPRESENTATIVE STEPHENS: Okay.

5 I did just have sort of a technical question, and
6 I guess you guys all have the report there.

7 On page 77---

8 DR. CHRISTIAN: I've memorized it.

9 REPRESENTATIVE STEPHENS: All right. I don't
10 doubt it, knowing you.

11 MR. HECKLER: I wouldn't call her on it.

12 REPRESENTATIVE STEPHENS: On page 77, in the very
13 first full paragraph there, Roman numeral (i), the small
14 letter "i" there, "In the case of an employee or
15 independent contractor of a mandated reporter, notify the
16 person directly responsible for supervising the employee or
17 independent contractor on behalf of the mandated reporter."
18 Should that also include notifying the mandated reporter?

19 MR. HECKLER: Well, you understand that's an
20 "and." So the first thing that they've got to do,
21 everybody has a direct obligation to report to ChildLine.

22 REPRESENTATIVE STEPHENS: Right.

23 MR. HECKLER: And then, let's see---

24 REPRESENTATIVE STEPHENS: I mean, I think I get
25 the intent. I think the intent was to bring the -- if the

1 mandated reporter themselves doesn't suspect it but one of
2 their employees or independent contractors does, then you
3 obviously want this to still go up the chain of command,
4 even though that link is sort of missing. I just wondered
5 if there was a deliberate reason or if I'm missing it or if
6 it was just an oversight or something like that. But it
7 just seemed to me like the mandated reporter -- I didn't
8 know why the task force didn't say "notify the mandated
9 reporter" who would then send it up the chain as opposed to
10 going around the mandated reporter.

11 MR. KUTULAKIS: Because they are the mandated
12 reporter. This describes the person's actions. So this is
13 the reporting process. The report, the person's required
14 report, a.k.a. the mandated reporter, that person has to
15 make the call to ChildLine first and also the mandated
16 reporter must report up the chain of command.

17 REPRESENTATIVE STEPHENS: Right.

18 MR. KUTULAKIS: That way we avoid the Penn State
19 debacle.

20 REPRESENTATIVE STEPHENS: Right.

21 MR. KUTULAKIS: That's what that is describing.

22 REPRESENTATIVE STEPHENS: Well, no; this talks
23 about someone reporting on behalf of the mandated reporter.
24 That's what it says, the last sentence there.

25 I mean, I can talk to you guys about it

1 afterwards; I don't want to tie up the meeting, but it
2 just, the language about reporting "on behalf of the
3 mandated reporter" is what confused me and some of the
4 staff members here as we reviewed it, and we're trying to,
5 you know, kind of sharpen the pencils on it.

6 MR. HECKLER: And right now it's stumping me.

7 REPRESENTATIVE STEPHENS: Okay. Well, I'll
8 follow up with you guys.

9 MR. KUTULAKIS: This may have come out of the
10 institutional, the hospital setting, where somebody is
11 incredibly busy, like Dr. Christian.

12 MR. HECKLER: Yeah.

13 MR. KUTULAKIS: Gets hands on the kid, says "I
14 have a reasonable basis to believe child abuse occurs," and
15 they have a point person, and I don't know who that is.

16 DR. CHRISTIAN: Social worker.

17 MR. KUTULAKIS: The social worker.

18 REPRESENTATIVE STEPHENS: So she's directing
19 someone to report it on her behalf.

20 DR. CHRISTIAN: Right.

21 REPRESENTATIVE STEPHENS: Okay.

22 MR. HECKLER: Yeah. That's doctors in
23 particular.

24 And in fact another one of those little things,
25 one of the most useful things we may do in all of this,

1 right now, ChildLine has very specific requirements that
2 require things to be either done live over the phone or in
3 writing, and ultimately in writing. We authorize e-mail.
4 You know, here it is, the 21st century; you can use e-mail.

5 REPRESENTATIVE STEPHENS: Right.

6 MR. HECKLER: Because doctors are hanging,
7 doctors who should be treating people are hanging on the
8 phone, and in fact in some places, even though it may not
9 meet the requirements of the law, they are already
10 delegating a unit clerk or somebody like that to hang on
11 the phone because ChildLine backs up their delays, and a
12 doctor could be burning a heck of a lot of time just
13 waiting on the phone. So that's a yes.

14 REPRESENTATIVE STEPHENS: That's very helpful. I
15 really appreciate it. That sheds a lot of light on it.

16 I have one last, what I think is a quick
17 question, and I'll certainly touch base with the rape
18 crisis centers on this issue, but it surrounds the
19 privilege concerning rape crisis centers with statutory
20 sexual assault. And I just wondered, and DA Heckler, I
21 know you made reference to this, or maybe it was
22 Ms. Bernard, I'm not sure, but one of you made reference to
23 the fact that oftentimes a child, when first asked about a
24 sexual encounter, isn't entirely forthcoming, and I just
25 had concerns about a rape crisis counselor making a

1 determination as to whether or not something was statutory
2 sexual assault, which, as we know, is consensual, versus
3 either a sexual assault, which is without consent, or even
4 a forcible rape. You know, to me, it was something that I
5 wondered whether you thought that requires some additional
6 investigation that maybe we don't want rape crisis
7 counselors to have to perform in order to assess whether we
8 are dealing with statutory sexual assault, a sexual
9 assault, or a rape. Can you comment on that and why that
10 carveout was there and whether or not you think it's best
11 to leave that unreported?

12 MR. HECKLER: This may be getting at, and again,
13 let's make this a pro tem answer and maybe we need to look
14 more closely at this. In fact, I've been dealing with my
15 local people on this issue.

16 There is a legitimate concern on the part of rape
17 crisis centers that they will not have, particularly
18 teenage girls who are sexually active, whether we'd
19 optimally like them to be or not, 15, 16, 17, 18 years of
20 age, and who have some kind of sexual relation with a
21 boyfriend, with somebody who's a juvenile. If they know
22 that the rape crisis center worker is going to have to
23 report that, they may not speak with them about it, they'll
24 just keep mum, as opposed to getting some psychological
25 counseling, maybe some physical, you know, STD counseling

1 and being checked. So we weighed sort of a carveout, do we
2 want to give these people some leeway not to have to report
3 the relationship which may technically, depending on how
4 you define it, be a lower-level crime. But, you know,
5 you're weighing that they're not going to get any
6 counseling at all.

7 So I want to look at the language, but that is
8 certainly, let's put it this way, that's an issue that's
9 going to be before you one way or another. What we did may
10 be the right way to handle that. Certainly there's a
11 legitimate balancing in terms of whether there ought to be
12 some limited exception to the reporting requirement where
13 you're talking about not an adult victimizing this child
14 but some kind of more or less consensual conduct taking
15 place amongst peers.

16 REPRESENTATIVE STEPHENS: Okay. Thank you very
17 much. I appreciate it.

18 MAJORITY CHAIRMAN WATSON: May I just interject
19 one thing and ask a quick question and we'll move to our
20 other people.

21 Pulling it back from mandated reporters and so
22 forth, I am correct -- am I not? -- that any one of us can
23 report child abuse.

24 DR. CHRISTIAN: Yes.

25 MAJORITY CHAIRMAN WATSON: Can you give a

1 2-minute, because there are people in the room who may not
2 realize and there are people who will watch this on PCN or
3 wherever. And I guess it's a commercial I'm trying to do,
4 but I want people to understand, while we prefer, and our
5 mandated reporters are trained, indeed the protection of
6 children is a responsibility for all responsible adults
7 anywhere in the Commonwealth. So could you do that little
8 commercial, one of you, about how indeed we do that?

9 MAJORITY CHAIRMAN MARSICO: You just did it.

10 MAJORITY CHAIRMAN WATSON: Well, no; they have to
11 give the number.

12 MR. KUTULAKIS: I think you did a great job.

13 MAJORITY CHAIRMAN MARSICO: Doctor.

14 DR. CHRISTIAN: Although there are some
15 individuals in Pennsylvania whose professional
16 responsibilities are to ensure the health and the
17 well-being and the safety of children and they are mandated
18 reporters, every citizen of the Commonwealth of
19 Pennsylvania can report any suspicion or concern they have
20 about child abuse simply by calling ChildLine at
21 1-800-932-0313.

22 MAJORITY CHAIRMAN WATSON: And that number again
23 was?

24 DR. CHRISTIAN: 1-800-932-0313.

25 MAJORITY CHAIRMAN WATSON: I've watched cable; I

1 know they do this, and it doesn't cost \$19.95. So you can
2 do it for free. But it's very serious.

3 Sir, thank you.

4 MS. BERNARD: Mrs. Chairman, can I just say one
5 thing to you? If an individual believes that a child is
6 being abused, until we can get some implemented changes to
7 have consistency between the Child Protective Services Law
8 and our Crimes Code, I would ask that they also reach out
9 and contact their local police department to report those
10 concerns, because many times cases that are referred to
11 Children and Youth under the current law would not go to
12 the police for further investigation. They would simply be
13 handled as a civil investigation.

14 So we need to make sure that our children are
15 being protected by law enforcement to the extent that we
16 can as well as Children, Youth and Family Services.

17 MAJORITY CHAIRMAN WATSON: Thank you.

18 MS. BERNARD: Thank you.

19 MAJORITY CHAIRMAN WATSON: Thank you,
20 Mr. Chairman.

21 MAJORITY CHAIRMAN MARSICO: That was a very good
22 idea.

23 Representative Brown, I believe you're next.

24 REPRESENTATIVE BROWN: You know, as we all take
25 this very seriously, unfortunately I've had issues come

1 into my district office, and we have parents that come in
2 and they report that incidences are happening with their
3 children. Either it has been a boyfriend returning back
4 from incarceration; it has been a parent. And I often have
5 not really been confident that we've handled it as
6 correctly as we probably should have, and it leaves me to
7 wonder with the mandated reporting how other people in
8 society are confident in reporting.

9 You know, it's good that we just did that
10 commercial, and I want to thank our Chairwoman, you know,
11 moving on to your new career in journalism, for having us
12 do that, because education is a big piece to this. And
13 with the report being here, you know, and we're making
14 these recommendations, if we don't add a broad media
15 education to this, I don't know how effective we really
16 are, because we know this in this closed room, we all have
17 been educated well, but this is widespread throughout our
18 Commonwealth more than we even want to admit.

19 You know, the numbers that you talked about, you
20 thought our numbers were kind of low and then you realized
21 we weren't really reporting well. I believe the number is
22 even higher than that, because people have come into my
23 office that probably didn't even make that channel, you
24 know? Because when you have a mother that, you know, they
25 want to walk me into almost a closet and whisper to me that

1 this is happening in their home, and then when you tell
2 them, well, you need to do this, this, and this, you know
3 that they walked out and they haven't done it, because it's
4 a hard thing to do, to report your mate. And sometimes
5 they have come back two and three times when, you know,
6 there should be a proper way to address this so they don't
7 have to come back and we can help to remove that burden of
8 shame that is associated with protecting children. So I
9 just wanted to put that out there, that really if we're
10 serious about it, we have to put money to it and we have to
11 do an education campaign on this.

12 My other concern was about the oath. I saw that
13 there is a recommendation that teachers and other mandatory
14 reporters sign an oath, and I was just wondering, would
15 there be a clearance house where that oath would be stored?
16 You know, how is that administered, and what would be the
17 penalties if somebody did not have all of their staff do
18 the oath?

19 MR. HECKLER: I'd have to look at the penalties.
20 It certainly wouldn't be above a misdemeanor of the second
21 degree.

22 The oath, at least as we've proposed it, would be
23 -- and I'm going to scrub the bureaucracy -- but the
24 Department of State licensing folks, that would actually
25 have to come back -- in order to get your license to be a

1 teacher, well, now, the teacher is the Department of
2 Education, but whoever the licensing agency is actually has
3 to have that oath.

4 Let me just throw in a plug. As I mentioned,
5 Delilah Rumburg, another member of our task force, is here.
6 One of the notes she continued to sound throughout is
7 prevention. Certainly education goes hand in hand with
8 prevention. There are a number of outstanding programs.
9 I'm going to again screw up the exact title, but I believe
10 up in York, Operation Front Porch or something similar --
11 Front Porch Light -- in communities, that's another
12 component of this. It's much harder to quantify, but
13 certainly educating people to the needs that this happens
14 is enormously important.

15 Let me emphasis the role of Children and Youth
16 Services within each county. That's another place this can
17 be reported. They are the people who, of course, will
18 report to law enforcement if the matter rises to a crime
19 but are involved within the communities. And I think some
20 of the proposals we've made -- for instance, getting the
21 solicitors involved -- we've attempted to parallel what we
22 see in criminal justice, which is the police -- law and
23 order -- the police and the prosecutors work as a team to
24 get to the end of the day, and the Children and Youth
25 workers, many of whom need training, need experience. It's

1 a tough job and it doesn't pay very well. There's a big
2 turnover. Having them guided by and assisted by legal
3 counsel to make appropriate choices and administer the law
4 effectively is another one of the recommendations we make.

5 DR. CHRISTIAN: But we have also talked about we
6 really need a culture change -- right? -- where the culture
7 in the State, the culture in this country, is to protect
8 children. And so part of that is education and part of it
9 is building our laws that protect children and being
10 serious about our laws to ensure that they really do
11 protect children. So I think we're in support of kind of
12 all of that education and public awareness.

13 REPRESENTATIVE BROWN: Okay. Thank you.

14 DR. CHRISTIAN: Can I -- oh; I'm sorry.

15 MAJORITY CHAIRMAN MARSICO: Go ahead.

16 DR. CHRISTIAN: You know, I want to emphasis one
17 thing that was, I think, very important in our report that
18 I don't think has had due diligence, and I just want to
19 make sure everybody understands because I think this is an
20 opportunity, and I'll only take 3 minutes to do it.

21 Right now, we have two laws. We have a CPS law
22 and we have a general protective services law. In the
23 CPSL, cases get reported to ChildLine or a county; they get
24 numbered; they get investigated. And then after they're
25 investigated, if they are indicated or founded by a Judge,

1 then they go on a registry somewhere. If they are not
2 indicated, then they get expunged and they go away forever.
3 So that 6 months down -- or no, no, 2 years down the line,
4 if another report comes in, nobody knows that there was a
5 CPS investigation in the past.

6 On the GPS side, in the GPS law, those cases get
7 reported often to the county, sometimes through ChildLine,
8 but they don't get numbered. There's no statistical
9 recognition of them in our child abuse reports, in our
10 State reports. And the county knows about them, but no
11 other county knows about them. The State doesn't know
12 about them. And some of the fatalities we see, and I've
13 reviewed plenty where there has been a CPS report, a CPS
14 report, 12 GPS reports, another CPS report, a GPS, 4 more
15 GPS reports, and then a death, but nobody is looking at
16 everything. And one of our recommendations is that we do
17 away with a system where we throw out the cases that there
18 is just not enough information to indicate it, maybe that
19 we know it's child abuse but we don't know the perpetrator
20 so it gets thrown away forever, or all of the GPS cases
21 that never get counted by the State and nobody knows
22 existed, and those are the families that go from Montgomery
23 County to Berks County to Lehigh, all over the place, where
24 nobody knows that they existed, and really, just for very
25 specific purposes, maintain a record that child welfare has

1 been to this household, not once, not twice, but seven
2 times in the last 10 years, so that you really know what's
3 going on in a family so you can make meaningful
4 interventions earlier into that family, and I just wanted
5 to stress that.

6 MR. KUTULAKIS: To support that from a pragmatic
7 approach, financially it allows you to put performance
8 measures in place.

9 MS. BERNARD: That's right.

10 MR. KUTULAKIS: So we spend lots of money through
11 our needs-based budget, millions if not billions of dollars
12 annually, and we're not measuring the GPS, the vast
13 majority of cases, that come into child welfare. So by
14 numbering every single incident where the family comes into
15 contact with the county, you then can start building
16 performance measures so that down the road we can say, this
17 is a good place to spend money on this program; this one,
18 maybe not such a good place.

19 DR. CHRISTIAN: Right. We don't know what's
20 going on.

21 MR. HECKLER: I wonder if I could take and seize
22 the opportunity that Representative Brown gave us to get
23 back to another point that I think you folks are going to
24 encounter in the course of your deliberations, and that is
25 the dilemma that, and it typically tends to be women,

1 mothers of children who may be subjects of abuse by
2 paramours, husbands, whatever.

3 As prosecutors, we encounter women who are
4 abused, who decide by the time of trial certainly that now
5 they weren't abused, either because they would prefer some
6 more abuse to being, crassly, without the income; they've
7 decided he'll never do it again and I accept that. We
8 treat them like murderers and, wherever we can, just go
9 ahead and prosecute, and in fact we just won a case not
10 long ago where the woman testified for the defense "never
11 happened" and we proved it did.

12 That is one thing where it's simply a woman who's
13 being abused. It becomes gravely more serious, in my view,
14 where the woman is saying -- and it falls to women
15 primarily, although it could be the reverse -- you know,
16 "My child was abused"; "Well, no, my paramour didn't do it"
17 or "I won't report it," "I can't report it." Now, to some
18 degree, that may be a matter of fear of abuse herself.
19 These are tough issues. These are tough issues that the
20 victims' advocacy community faces, and it's one of the
21 reasons why many of the victim advocacy groups haven't
22 embraced CACs.

23 I take the view that the child's welfare comes
24 first. I think women are making a sad choice to ever
25 tolerate this in their own lives, but I don't believe

1 they've got a choice about whether their children are
2 subject to it, both from a mandatory reporting standpoint
3 and, you know, would I prosecute a woman who -- and clearly
4 parents are mandated reporters -- would I, not necessarily
5 with glee, but would I prosecute a woman who failed to
6 report the abuse of her child? You betcha. And I'm not
7 going to tell you that any of those choices are easy or
8 that the situation advocacy groups find themselves in if
9 Mom says, hey, this is happening; I need help; I need to be
10 protected but we dare not tell on the father or I don't
11 want to tell on the father. Where a child is involved, I
12 don't think that choice exists anymore.

13 MAJORITY CHAIRMAN MARSICO: Representative
14 Barbin.

15 REPRESENTATIVE BARBIN: Thank you, Mr. Chairman,
16 and thank you for your testimony today.

17 I was struck by your discussion, Dr. Christian,
18 about the fact that our current system doesn't allow us to
19 look at two related but not exactly identical problems for
20 children in our Commonwealth, and I was wondering, I was
21 reading your task force on where we're going to go with
22 this computer technology. Does any State in the country
23 allow for a person who has been abused or even a report
24 that has been founded, does any State's computer system
25 allow us to document not only what happened -- we need to

1 do what you're suggesting, the same number for this child
2 regardless of which computer system they're in. We need to
3 do that. But is there any current system that allows a
4 person that might be in New Jersey who has neglect, in
5 either system, and then comes to Pennsylvania, for those
6 facts to be known by whoever is going to be reviewing the
7 information, whether it's on the civil side or the local
8 policeman that gets the same report in Pennsylvania? Is
9 there any way for that person to know, the local policeman
10 to know what happened in New Jersey or Florida or anywhere
11 else?

12 DR. CHRISTIAN: There's no Federal system that I
13 know of. Right? There's no Federal system.

14 MR. KUTULAKIS: Unless there's a criminal
15 conviction, of course. But if we're talking just the civil
16 piece, I've been working for years with the Feds trying to
17 figure out the general definition that the nation could use
18 on what is child abuse and how do we track it. There is
19 none.

20 REPRESENTATIVE BARBIN: All right. So the
21 question is, if we're going to spend money to set up CACs
22 or these multidisciplinary investigative teams, shouldn't
23 we be coming up with a standard first? Because we did this
24 same thing twice before. In Pennsylvania, we established
25 an emergency-responder program, but nobody bothered to get

1 the same mechanisms of radio waves as to how we were going
2 to pass information back and forth between first
3 responders, and now we're surprised we've spent a couple
4 billion dollars at Homeland Security but our firemen can't
5 talk to each other. So shouldn't we be doing the
6 definition first before we start spending money on the CAC
7 or the MDITs or the computer system?

8 MR. HECKLER: Well, I think you're posing two
9 things that aren't in opposition. This thing goes on all
10 kinds of -- you know, it's like the marshalling yard with
11 all kinds of tracks. I think the people you should hear
12 from on that rather than anybody who's here is probably the
13 Department of Welfare would be the most knowledgeable, as
14 well, perhaps to some extent, the State Police, and, well,
15 Welfare is familiar with what the local municipalities do
16 or local counties do but especially in a large county like
17 Philadelphia or Allegheny, because that kind of
18 recordkeeping is largely within the civil system.

19 At this point, we're asking that, A, it be
20 expanded and that it be maintained so that law enforcement
21 can reach into it in appropriate circumstances rather than
22 that it all be seamless. You've got a great analogy and
23 certainly we're pulling out our hair, you know, down home
24 with those issues, but I don't know that it's exactly the
25 same. Because as a prosecutor, I don't want to just be

1 able to punch up everybody whose family has had some kind
2 of GPS services. If I've got something short of probable
3 cause but a reason to believe, typically a police report,
4 that a child may be endangered, then I want to be able to
5 go to them and say, hey, I need any information you have
6 about this child, about if there's a named perpetrator, so
7 it's not quite the seamless communication situation.

8 MR. KUTULAKIS: And if I could further that.

9 If the question is, should you wait to begin the
10 regimented development of CACs and ensuring MDITs are
11 sophisticated with well-trained professionals, there cannot
12 be any other answer than absolutely not. This needs to
13 happen. Children are being victimized.

14 The CACs, there's a national accreditation
15 process for CACs. They have to be a nonprofit, and there's
16 a lot of structure that's available for them and they're
17 proven to work. Dauphin County, their CRC, which it's a
18 type of CAC but it's the Children's Resource Center here,
19 has been in effect for 20 years servicing thousands upon
20 thousands of children effectively so they don't have to --
21 they get to tell their story. If there's a child abuse
22 case there, we figure out who did it and there's swift
23 prosecution in appropriate ways.

24 Equally important, they figure out if the child
25 abuse did not occur. We don't put people into the system

1 that should not be in the system. This is a proven,
2 effective tool, and to wait and not streamline money for
3 this process would be the worst thing that could come out
4 of this report.

5 REPRESENTATIVE BARBIN: If I was suggesting that,
6 I apologize for that suggestion. What I was really asking
7 was, don't you really need to have a standard that's the
8 same at every CAC and a standard that's the same in every
9 District Attorney's Office on these things first in order
10 so that there aren't differences as we go down the road?

11 MR. KUTULAKIS: And I think that's an important
12 point; I think it's a good point.

13 Right now, the task force that's handling the
14 Criminal Justice Act? the Child Justice Act? The
15 Children's Justice Act moneys, they have a task force that
16 they are developing uniform protocols for the MDITs and the
17 CACs. The CACs generally operate under the national
18 nonprofit structure, but I can tell you, I've looked at the
19 protocols. Unfortunately, our authority, we ran out of
20 time. We had a proposal we were going to try to
21 incorporate into this report. We just simply ran out of
22 time for that.

23 But I agree with you. The answer to that is yes.

24 MS. BERNARD: And, Representative Barbin, if I
25 could just say, too, that my understanding of the various

1 CACs that are operating across the Commonwealth is that
2 they are very specific to what the needs are in the
3 community. So even though we can have accreditation
4 procedures put in place, the CAC has to directly address
5 the needs of a particular community. So they all kind of
6 look a little bit different maybe, but there are certainly
7 already protocols in place for what each one has to have in
8 order to be considered an accredited CAC.

9 And the MDIT should be spearheaded by the
10 District Attorney's Office. And they as well, some
11 counties are going to have county detectives who are going
12 to lead every child abuse investigation; some counties, the
13 expert for those investigations is going to lie within the
14 local police departments. So I think the District
15 Attorneys are in the best position to understand where
16 their strengths lie and which personnel are going to be
17 best capable of handling those in conjunction with the
18 child abuse investigators for CYS.

19 MR. KUTULAKIS: And Ms. Taylor has just reminded
20 us that all but two of our CACs in Pennsylvania are
21 nationally accredited. So in order to receive that
22 accreditation, they have to have this uniform process and
23 protocol in place. The other two are in the pipeline, so
24 they're going through the process. So that's one issue.

25 And then you have the issue of, should the

1 protocols for the MDITs from each county be uniform? I
2 think the answer is probably yes.

3 DR. CHRISTIAN: One other thing. If you have an
4 accredited CAC, you already have law enforcement, the
5 prosecutors, Children and Youth, often with a health, like
6 a medical component, working together. All right?

7 We also want to be clear that we never believed
8 -- and I think I speak for everybody -- that we really need
9 67 CACs, okay? Because in some rural areas, you won't have
10 as many cases. You don't need that one county to have a
11 full CAC, but you may want to have regional CACs for some
12 of the rural areas, but then when you have, you know,
13 high-population counties, you'll need a CAC in each of
14 those counties.

15 So again, not 67, but more than we have now to
16 make it better for both the children and for the
17 investigators.

18 MAJORITY CHAIRMAN MARSICO: Okay. Thank you very
19 much.

20 Finished? I think Members are finished asking
21 questions.

22 I do want to say the Judiciary Committee is
23 having a meeting on February 4 and also February 11 to
24 consider many of the recommendations -- not all, but some
25 of the recommendations -- that have been submitted to us by

1 the task force. Our staff went right to work right after
2 we got the report, and I want to give thanks and also
3 acknowledge Tom Dymek, our General Counsel and Executive
4 Director of the Committee, and the other legal staff that
5 are here.

6 And I just want to say thank you to your staff,
7 Mary Taylor and Jim Anderson, for your expertise and your
8 help with this task force.

9 You know, the Members of the Committee and the
10 General Assembly and the Governor and all the people of
11 Pennsylvania, we can't thank you enough for what you have
12 done -- the time that you have spent, the energy, and your
13 passion. It's obvious the passion you have for the
14 children of Pennsylvania, so we thank you very much.

15 There is lots to get done, much to get done, as
16 we said earlier, so let's get to work. Thank you.

17 MR. KUTULAKIS: Thank you.

18 DR. CHRISTIAN: Thank you.

19 MAJORITY CHAIRMAN MARSICO: Do you want to say
20 something?

21 MAJORITY CHAIRMAN WATSON: Just briefly, first of
22 all, I would like to echo Representative Marsico. I'm new
23 to being Chairman of Children and Youth. I rely on the
24 gentleman over here, Mr. Scarpato, who also attended all of
25 your task force meetings. So I'm very fortunate to have

1 that, to have him by my side.

2 I may be new to the Committee; I'm not new to
3 some of the issues and have been a person who has advocated
4 for children, perhaps from my background as an adopted
5 child who is the parent of an adopted child, and both of
6 us, luckily, have never suffered abuse. But the stories
7 that I have heard, I consider myself very lucky from the
8 bad start that I had and the family that I ended up with,
9 so that gives me something of a passion.

10 I will work with my Chairman, Representative
11 Bishop, in a bipartisan way. We have already started.
12 We've parceled out ideas and bills and been meeting. I've
13 only been on the job -- 2 weeks, John, I've made your life
14 miserable? But whatever.

15 DR. CHRISTIAN: We made his life miserable, too.

16 MR. HECKLER: Yes. We broke him in for you.
17 He's a good man. You're going to be well served.

18 MAJORITY CHAIRMAN WATSON: All right.

19 I will announce then, and I've already said
20 "John, we need a timeline," so we have a Children and Youth
21 Committee, an informational meeting, on February 12, 9:30,
22 and that's in room G-50 in the Irvis Building. We'll
23 discuss the child welfare system in Pennsylvania.

24 We have many new Members on our Committee, so I
25 want to help us all have a good basis for understanding so

1 we can come to a better understanding in creating and
2 crafting legislation. We're going to have a special focus
3 on the response with the child welfare system to child
4 abuse. It will give us the foundation we need.

5 And we're scheduling meetings during what is
6 referred to as the "Appropriations break." While
7 Appropriations hearings are going on in this room, we will
8 be having some Children and Youth meetings for our
9 Committee in any other location we can find in the Capitol.

10 So we will be busy. We will get to work. We
11 very much look forward to working with the Judiciary
12 Committee. And we have heard you, we have read what you've
13 had to say, and we are planning to act.

14 MAJORITY CHAIRMAN MARSICO: Thank you,
15 Chairperson Watson, and we look forward to working with
16 your Committee as well.

17 You know, we talk about staff, and we have a
18 great staff. Staff just pointed out to me -- Counsel
19 Dalton -- that I gave the wrong Committee dates, meeting
20 dates. February 6 and February 12 are the Judiciary
21 Committee meetings.

22 Chairman Caltagirone for a final comment.

23 MINORITY CHAIRMAN CALTAGIRONE: Thank you,
24 Mr. Chairman.

25 And my dear friend, Dave, it's good to be back

1 with you. You all did a great job.

2 Just to let you know, my new Chief Counsel,
3 Lauren Orazi, worked very closely with Tom Dymek, and the
4 package of bills, answering a lot of the questions that you
5 raised here today, will be ready. And it's a shared
6 package, both Democrats and Republicans, that was parceled
7 out.

8 And Ron and I work very, very close together, and
9 you can rest assured that we're not going to duck these
10 issues. We're going to face them; we're going to try to
11 get this rolling for you. Thank you all.

12 MR. HECKLER: Well, we're certainly confident of
13 that. And I think you get a sense from all of us, if
14 there's anything we can do to help in this process and to
15 just engage in it in a dialogue. My brain dumps, so I have
16 to go back and remember what we did, but these folks know
17 better. We're happy to be of any help we can.

18 Thank you.

19 MAJORITY CHAIRMAN MARSICO: Thank you very much.

20

21 (The hearing concluded at 12:20 p.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

5
6
7 Debra B. Miller

8 Committee Hearing Coordinator/

9 Legislative Reporter

10 Notary Public