

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bill 1709

Creating the Office of Children's Ombudsman

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House Children and Youth Committee

Main Capitol Building
Room 418
Harrisburg, Pennsylvania

Thursday, November 1, 2007 - 12:00 p.m.

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BEFORE:

Honorable Louise Williams Bishop, Majority Chairman
Honorable Rosita Youngblood
Honorable Phyllis Mundy
Honorable Rick Taylor
Honorable Thomas W. Curtis
Honorable Jewell Williams
Honorable Carole A. Rubley, Minority Chairman
Honorable Karen Boback
Honorable Julie Harhart
Honorable Susan C. Helm
Honorable Duane Milne

KEY REPORTERS 717-764-7801

1 ALSO PRESENT:

2 Tom Hiller
Majority Executive Director

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4 Takesha Latham
Majority Research Analyst

5 Heather Walsh
Majority Legislative Assistant

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7 Janelle Lynch
Minority Executive Director

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1 MADAM CHAIRMAN BISHOP: I'm Louise Williams
2 Bishop, the Chairwoman for the Children and Youth Committee.
3 I thank you for being here today, and I certainly before we
4 begin would like to give the opportunity to the committee
5 starting with my left to introduce themselves to you.

6 REPRESENTATIVE MUNDY: I'm Representative
7 Phyllis Mundy from the 120th District in Luzerne County.

8 REPRESENTATIVE RUBLEY: Representative Carole
9 Rubley representing a portion of Chester and Montgomery
10 Counties and the Minority Chair of the Children and Youth
11 Committee.

12 REPRESENTATIVE BOBACK: Good afternoon.
13 Representative Karen Boback. And I represent parts of
14 Luzerne, Lackawanna and Wyoming.

15 REPRESENTATIVE HELM: Representative Sue Helm
16 from the 104th District of Dauphin County.

17 REPRESENTATIVE TAYLOR: Rick Taylor, Montgomery
18 County 151st Legislative District.

19 REPRESENTATIVE YOUNGBLOOD: Representative
20 Rosita Youngblood, Philadelphia County, 198th Legislative
21 District.

22 REPRESENTATIVE HARHART: Julie Harhart, Lehigh
23 County, Northampton County, 183rd District.

24 MADAM CHAIRMAN BISHOP: Thank you. I'm having
25 trouble hearing. Are we coming through out there? It seems

1 like they're very light to me. We'll move and try to adjust
2 it later.

3 The goal for today is to be informed about the
4 issue concerning the creation of the Office of Children's
5 Ombudsman, the concept of an independent office
6 consisting -- assisting those who feel that they have been
7 failed by the very system which should be protecting and
8 serving them. It has a great deal of support, and
9 Representative Petri has proposed House Bill Number 1709
10 which seeks to bring the concept into reality.

11 And today we are going to hear a broad range of
12 testimony. Some of the testimony will underscore the need
13 for it. Other testimony will provide insight as to how such
14 an office must be designed in order for it to function
15 correctly.

16 I am joined this morning, of course, by Minority
17 Chairwoman Carole Rubley, whom you have already been
18 introduced to, and at this time we'd like to ask if you'd
19 like to make some remarks.

20 REPRESENTATIVE RUBLEY: Thank you very much,
21 Chairman Bishop, and I would like to commend you for
22 agreeing to have a hearing on this bill that's looking at
23 the need to create a children's ombudsman in Pennsylvania.

24 I think this is a very important issue we're
25 looking at. Bills have been introduced for a number of

1 sessions, but this is a great opportunity to really get the
2 parties together and say what is needed and how we should go
3 about doing this. So thank you again for doing this.

4 MADAM CHAIRMAN BISHOP: Thank you. And
5 unfortunately Representative Petri is not here today. He
6 had an emergency so his statement is going to be read by
7 Janelle Lynch.

8 MS. LYNCH: Thank you, Madam Chair on behalf of
9 Representative Petri. House Bill 1709 provides for an
10 ombudsman to protect our most vulnerable children. It
11 creates a system of accountability where none presently
12 exists. For instance, the Portia Bennett case. She would
13 probably still be alive if any one of the following
14 agencies' departments did their jobs properly:

15 1. Philadelphia School District failed to do
16 anything about the truancy of Portia's older sisters even
17 though they were truant.

18 2. The Philadelphia Police Department did
19 nothing to prevent the Bennett girls from living with a
20 known Megan's Law offender even though it appears that the
21 police were aware that an uncle with such a record was
22 residing with Portia and her two sisters.

23 3. The Department of Human Services failed to
24 respond to a complaint of abuse which came over the hotline.
25 Even though required, no one responded in the 24 hours to an

1 anonymous call. A worker falsified the records and reports
2 which indicated that a response was made but no one was
3 home. Investigators indicated that there was a high level
4 cover-up within DHS of this false report.

5 An ombudsman is the minimum amount of protection
6 needed to safeguard children from the repeated and ongoing
7 failures of the entire system. An independent ombudsman
8 will create a watchdog for the benefit of our communities.

9 I would like the comments of Teri Heimbaugh,
10 Esquire, to be entered into the record as they are poignant
11 and detail suggestions which are typified by the Portia
12 Bennett case. She will submit her comments after the
13 hearing is closed.

14 During the appropriations hearing I asked if
15 there was funding within the Department of Public Welfare
16 for an ombudsman and was assured by Secretary Richman that
17 there was funding in the present budget for this office. I
18 would like to thank the chairwomen and the Committee for
19 considering this legislation.

20 MADAM CHAIRMAN BISHOP: Thank you very much.
21 And at this time we would like to welcome our first
22 testifying person who happens to come with a great bit of
23 notoriety from the children's advocate group. The Executive
24 Director of the Children Support Advocate Group is none
25 other than Mr. Frank Cervone. Good morning and welcome.

1 MR. CERVONE: Good morning, Madam Chairman and
2 Members of the Committee. I appreciate your being with us
3 tonight -- today and certainly appreciate the invitation to
4 speak to this very important issue.

5 The Support Center for Child Advocates is
6 Philadelphia's volunteer lawyer program for abused and
7 neglected children. The Support Center for Child Advocates
8 is Philadelphia's lawyer pro bono program for abused and
9 neglected children. We offer the skills and dedication of
10 lawyer-social worker teams and we represent more than 800
11 children each year.

12 Our work is focused on five core programs, abuse
13 and neglect, medically needy children, kinship care,
14 adoptions and child advocacy leadership. For more than 30
15 years we have served as a resource to this legislature and
16 its staff, and I thank you for the invitation to serve in
17 this role once again.

18 When asked, we attempt to offer you a balanced,
19 candid and constructive assessment of what our children need
20 and how we're all doing for our kids.

21 As you may be aware, the creation of a
22 children's ombudsman was recommended by the Advisory
23 Committee to the Joint State Government Commission's Task
24 Force on Services to Children and Youth. It was my honor
25 and pleasure to serve as chair of this Advisory Committee.

1 As you know the task force and its Advisory Committee were
2 created almost eight years ago and served under the
3 leadership of then Senator Charles Dent and Representative
4 Julie Harhart and included the service of Representative
5 Phyllis Mundy, a co-sponsor of House Bill 1709.

6 In the advisory committee more than 50
7 child-serving professionals and lay members of the community
8 from across the Commonwealth worked with diligence, patience
9 and creativity to explore the needs and opportunities of our
10 child welfare system. Our 292-page report was delivered to
11 the General Assembly in November of 2002. We appreciate the
12 invitation of Chairman Bishop and Chairman Rubley to join
13 you and to return to this important topic.

14 I appear today in my own right, I want to be
15 clear, and not as a spokesman for the advisory committee.
16 The theme of accountability permeated the work of the
17 advisory committee. The committee report ultimately made
18 numerous recommendations targeted at improving the
19 performance of the child welfare system through performance
20 review, local case monitoring, the creation of local
21 complaint resolution functions or customer service capacity
22 within each county agency, some data collection
23 recommendations and greater public access to the process of
24 child protection.

25 The creation of a function for public advocacy

1 and the investigation of complaints from the public at
2 large, the children's ombudsman, may be the most significant
3 of these recommendations because of its potential prominence
4 in a landscape that is traditionally unexamined and often
5 unknown.

6 Why is accountability important to the advisory
7 committee? One must acknowledge that child welfare services
8 are little known and often forgotten to most of the public
9 at large. It's often said that child abuse lives in the
10 shadows of our lives. The same could be said of the systems
11 and services that are provided to children and the families
12 needing them. They often live without account. Certainly
13 there are systemic oversights like the regulatory schema,
14 the licensure process and the budgeting process. But when
15 the child welfare system acts in a manner that is
16 questionable or suspect or even abusive, citizens and
17 consumers presently have little recourse outside the system
18 that is arguably aggrieving them. Individuals need a place
19 to turn. The public at large needs assurance that this is a
20 system they can trust.

21 The Advisory Committee Report notes that at
22 least 13 other states had some version of the children's
23 ombudsman. You might be aware that New Jersey has since
24 that date created the Office of the Child Advocate in a
25 similar kind of function. Each was studied closely along

1 with academic literature and the respected recommendations
2 on the subject by the American Bar Association. In our work
3 we tried to capture the best elements of these, and House
4 Bill 1709 largely mirrors our recommendations.

5 The authority to investigate is the key. The
6 children's ombudsman can investigate problems, complaints
7 and other issues that come to its attention. This combines
8 the classical individual complaint resolution mechanism of
9 many ombudsman functions with an important capacity for
10 systemic advocacy. The Committee might recall the problems
11 of county agencies not communicating with their local
12 prosecutors or the failures to provide notice to parents
13 when changing a case goal or countless other issues which
14 laws, litigations and tragedies would eventually highlight.

15 Two recent stories that I've been involved with
16 elucidate the need for a children's ombudsman. First, a
17 small town tale. Two weeks ago I received a call from a
18 lawyer who learned from a sister of a friend -- of a sister
19 of a friend with a Children and Youth problem in a rural
20 Pennsylvania county. That was on Monday morning. That
21 prior Saturday night a mid-20s single mother was house
22 sitting for a friend. So she's in a community that's not
23 her own. In the middle of the night her three-year-old boy,
24 who I'll call Richie, left his bed, opened two latched doors
25 and wandered onto the street.

1 The next morning Mother wakes and frantically
2 searches for Richie. Thankfully he had been found by a
3 passing motorist who called police. He was fully clothed.
4 She had let him sleep in his clothes because they were
5 visiting this house that they were house sitting in and they
6 stayed up watching TV and then she put him to bed with his
7 clothes on.

8 But because he was a stranger to this town, he
9 was placed in protective service of foster care. It was
10 Sunday morning. They didn't know him. That made sense.
11 The mother eventually hears from -- she calls the police and
12 they put her in touch with the child welfare people and they
13 have one ugly conversation after another. The mother told
14 me she felt pressured to sign a so-called voluntary
15 placement agreement or lose the child in court.

16 The voluntary placement agreement or VPA gives
17 an agency 30 days to act. And I can tell you from my
18 subsequent inquiries that the agency planned to use most of
19 those 30 days.

20 In most communities this child would have been
21 home the next day. But 10 days later, 10 days later he was
22 still in care. Only with some outside calls from my office
23 did the child even have one visit in those 10 days with his
24 mother. There were never any signs of child abuse. Neither
25 mother nor child had any prior history with the Children and

1 Youth Agency in her home county, yet no family members were
2 contacted, to serve as placement resources. There's a
3 boatload of really good people who they might have asked to
4 care for this child that Sunday or Monday.

5 The worker didn't even meet with her supervisor
6 until Thursday to shape a reunification plan. Conversations
7 such as occurred between the worker and the mother are
8 rarely witnessed, we have to know this, so we can't be
9 certain of all that transpired. I can attest, however, that
10 this very upset and entirely innocent mother felt
11 railroaded, disregarded and abused.

12 Second, a large story of a child death. Front
13 page headline, Thursday, October 25th, just last week. New
14 Jersey Agency Faulted in '06 Slaying of Infant. New
15 Jersey's child welfare system failed to protect a 25-day-old
16 Camden boy who died last year after he was stabbed and
17 thrown down a set of stairs according to a report released
18 yesterday by the State Office of the Child Advocate.

19 In most counties in Pennsylvania there is no
20 place for Richie's mother to call. And in Pennsylvania,
21 unlike New Jersey, the story of the system's failure to
22 protect the infant boy would never, could never be told.
23 There's no office in Pennsylvania to conduct such an
24 investigation and no authority to publish such a report.

25 To achieve the kind of transparency we need in

1 Pennsylvania, I hope you will loosen the confidentiality
2 provisions of the bill before you. To be clear, I hope you
3 will consider going further than even our advisory committee
4 recommended and that House Bill 1709 provides.

5 As proposed, all matters under investigation and
6 records of the Office of the Children's Ombudsman are to be
7 treated as confidential. In my own experience, however, and
8 as a professional community we remain uncomfortable with the
9 burdens of accountability and transparency. My own
10 recommendation is that you give the children's ombudsman
11 discretion to make public its investigative report and its
12 annual report.

13 Earlier this year I served on Mayor John
14 Street's Child Welfare Review Panel which was appointed in
15 November of 2006 following publication of some notorious
16 deaths of children who had been served by the Philadelphia
17 Children and Youth Agency. We should note that what gave
18 rise to that crisis was not the children's deaths, per se,
19 tragic as they were, but that their deaths had been
20 forgotten.

21 Consistent with the rules -- with state rules,
22 each fatality had been studied. And the panel found that
23 that study process to be sound and thorough, their
24 recommendations honest and challenging, but those
25 recommendations went nowhere. They were lives unrequited,

1 their deaths unredeemed. Without that leadership meltdown
2 and a tremendous investment of public will, the many
3 deficiencies in that system would never have seen the light
4 of day. That dead-end secrecy is an all too common reality
5 of child welfare work across the Commonwealth and around the
6 country.

7 We should make clear that there is much that is
8 good about our system, its people and its practice. We
9 confirmed that in the advisory committee and in the mayor's
10 panel. The ombudsman will not erode confidence; rather it
11 will build confidence that these are systems we can trust.

12 We note that neither House Bill 1709 nor the
13 advisory committee's recommendations make provision for
14 court jurisdiction to enforce the mechanisms of the
15 Children's ombudsman. So, for example, in the event a
16 subject of an investigation fails to respond or fails to
17 provide access to information, there is no pathway to seek
18 enforcement of the action. This could hamstring the
19 investigative function.

20 If you believe that the child welfare system is
21 self-correcting, that it is sufficiently safeguarded with
22 regulations and the oversight of the licensure process, that
23 its good people are good enough, then perhaps there is no
24 need for a children's ombudsman. The experiences of
25 countless families and children tell a different story. You

1 will hear that confidentiality is needed to protect children
2 and families. My concern is that secrecy protects bad
3 systems and bad practice.

4 I commend Representative Scott Petri and the
5 other sponsors of House Bill 1709 and the hearing -- and for
6 hearing the concerns expressed by the community in the
7 several years since we all first addressed this topic.
8 Accountability and transparency make for good government.
9 They will also make for safer kids and a better system to
10 serve them. Thank you.

11 MADAM CHAIRMAN BISHOP: Are there questions?
12 Madam Minority Chair.

13 REPRESENTATIVE RUBLEY: Thank you, Madam Chair.
14 And thank you, Mr. Cervone, for sharing with us your
15 expertise. You certainly have been involved and I
16 appreciate hearing your point of view.

17 In the case of Richie, had we had a child's
18 ombudsman in place, what would have changed? How
19 would -- what role would you play?

20 MR. CERVONE: That's a great question. I think
21 he would have done what I did, which was pick up the phone.
22 Of course, I didn't get the case until several days later.
23 She was -- they didn't know where to go. But I picked up
24 the phone and I called the director of the agency. Found it
25 on the internet. You know, don't know the person, didn't

1 have any experience with the county. I wasn't even sure
2 exactly, to be honest, where the county was because I'm a
3 Philadelphian, we don't know anything about just about
4 anything outside of Philadelphia.

5 I get a receptionist. They say they're going to
6 take a message. I wonder if you could allow me to speak to
7 someone in intake. I wade through intake, and four
8 connections later I get the worker who was responsible for
9 the intake. And she responded that they were working
10 according to the regulations, that she explained to the
11 mother the meaning of the VPA, that she could have gone to
12 court.

13 I said did you talk to her about losing her
14 child to adoption. Well, yes, I had to, that's what our
15 policy says. Adoption? When are we having a visit, do you
16 think you could -- I wasn't so brusque about it -- are you
17 thinking about having a visit. Yes, we're trying to set up
18 a visit with the mother and the father. It's going to
19 happen next week.

20 It's going to happen 10 days after they've taken
21 the kid, three years old. So I talk them through, it and
22 the next day a visit was set up. That's what would have
23 happened.

24 REPRESENTATIVE RUBLEY: And if I may, one of my
25 concerns would be you're in a rural area, you have a mother

1 visiting in town, she's not familiar with -- she wouldn't
2 know who to call, she wouldn't even know that there's an
3 ombudsman out there. How would you get word out that there
4 is a contact and contact needs to be made that the people
5 are closer?

6 MR. CERVONE: Yes, the advisory committee
7 recommended a public relations campaign to get the word out,
8 that -- but certainly the Blue pages of phone books, area
9 community groups, the police and local Children and Youth
10 Agency would provide a number. You know, for folks who have
11 internet access, as so many do, we have that pathway.

12 REPRESENTATIVE RUBLEY: Thank you again for
13 sharing your expertise.

14 MR. CERVONE: Thank you.

15 MADAM CHAIRMAN BISHOP: Are there other
16 questions? Representative Harhart.

17 REPRESENTATIVE HARHART: I commend Scott Petri,
18 Representative Petri for doing this. I know after the fall
19 report was handed over from this house hearing, the Advisory
20 Committee handed their report over, I did put the
21 legislation in this thing for the ombudsman office but at
22 that time there just was no money. I mean I couldn't get
23 money dedicated into the budget for it.

24 So what kind of -- and I'm going to tell a
25 little story here. You had three young people who gave

1 testimony at the last task force hearing, and they said if
2 it were not for the advocacy centers they wouldn't have
3 survived. So that kind of got my wheels spinning a little
4 bit.

5 Can I ask a question? Would the advocacy
6 centers, which I do have a bill out there trying to help
7 them acquire some money, what is the difference between what
8 the advocacy center would do than an ombudsman office would
9 do?

10 Because we have one in the Lehigh County area,
11 and they have from the police officer to the judges, the
12 doctors, I mean it's all set up to meet the needs if
13 somebody comes in and falsely accuses a parent or if there
14 are mishaps such as this, and if they are notified, they
15 immediately get that resolved working hand in hand with
16 Children and Youth. So what is the difference? I mean what
17 would be different between the advocacy and having this
18 board --

19 MR. CERVONE: I can speak to that. So the
20 device that Representative Harhart is speaking about are
21 called Children's Advocacy Centers, CACs, and this is a
22 national movement started in Georgia many years ago and
23 sweeping the country in the right way.

24 CACs are collaborative investigative devices.
25 They are both a place and a process. And so there's a bunch

1 across the Commonwealth that have opened, six or eight I
2 think at least now in Pennsylvania, and they are the place
3 where the children and youth agency, the police department,
4 the medical program and often the district attorney all
5 meet.

6 You can imagine it's a physical building and
7 it's both a process or a protocol by which those four
8 entities share information. They are typically not seen as
9 complaint resolution devices. Though the good ones that
10 have all of the cases -- that have jurisdiction over all the
11 cases in a system can certainly play the role as you said
12 Lehigh does on occasion. The Lehigh County CAC has become
13 in a sense the place to go. It's the gate into the entire
14 system. It's the gate. All right?

15 The Philadelphia CAC would have to be -- I had
16 served on the board of the Philadelphia CAC -- it's called
17 the Philadelphia Children's Lives -- since 1991 so I know a
18 lot and I visited about 20 of these places around the
19 country just along the way.

20 The Philadelphia system by contrast is not the
21 gate. It's just a small portion of the total number of
22 cases, and they don't have any complaint resolution device.
23 The advocacy that they're doing is within the context of
24 those four entities to make sure that the information is
25 brought forward. They're not advocates -- and I don't mean

1 any disrespect, but they're not advocates in the classic
2 sense.

3 The children, the young people that you were
4 referring to and remembered so well were former clients of
5 our office whom we brought to testify. They're members of
6 our Client Advisory Board at the Support Center for Child
7 Advocates, three young people that have all been in the
8 system, and they were, of course, eloquent. They had all of
9 us in tears. Representative Mundy knows as well.
10 And what they talked about was having an advocate in their
11 lives.

12 REPRESENTATIVE HARHART: So they weren't talking
13 about the center itself?

14 MR. CERVONE: They weren't talking about CACs.
15 They were talking --

16 REPRESENTATIVE HARHART: About you.

17 MR. CERVONE: They were talking about -- right.
18 They were talking about us. You might think of that more
19 classically as having a child advocate lawyer in their lives
20 or perhaps a CASA, and we all know that there are CASAs in
21 some counties that serve a similar kind of function. That's
22 helpful.

23 REPRESENTATIVE HARHART: Yes, that is. That is.
24 Because I guess when I found it difficult to really push or
25 get the dedicated funding for the ombudsman office and I had

1 a tour with the Lehigh Child Advocacy Center, I thought to
2 myself, well, my goodness, this is like a one-stop shop.
3 And if we can maybe allot throughout the whole state to have
4 advocacy centers, maybe not as sophisticated as Lehigh
5 County, but I know they're self-running as well and it
6 wouldn't be that difficult to maybe get some funding for
7 them. But I'm still going to work on that.

8 MR. CERVONE: You remember -- you remember, just
9 to follow up on that, the other recommendation of the
10 committee and task force was that each county have its own
11 complaint resolution device.

12 REPRESENTATIVE HARHART: Right.

13 MR. CERVONE: And that would kind of mirror what
14 you're -- I think what you're referring to. So that
15 Richie's mom has a place to call that isn't the worker who
16 she feels just chewed her out, whatever due respect we want
17 to give to that worker. Again, we weren't there.

18 REPRESENTATIVE HARHART: But I certainly am
19 going to help in any way I can with Representative Petri to
20 see and help to see if we can, you know, make this ombudsman
21 office a reality. But thank you for coming again. I
22 appreciate it.

23 MR. CERVONE: Thank you.

24 MADAM CHAIRMAN BISHOP: Thank you very much.

25 Our next question comes from Karen Boback.

1 REPRESENTATIVE BOBACK: Attorney Cervone, I'm
2 all for transparency, but I'm more concerned with protecting
3 our children and good parents that -- maybe in terms of
4 confidentiality. So how do you have your cake and eat it
5 too?

6 MR. CERVONE: Yeah. So some children's
7 ombudsman programs are strictly open and state governments
8 have made a decision that openness is the rule. They are
9 dealing with the same classes of cases, the same
10 sensitivities to confidences and privacy that we are. So we
11 would -- we would certainly not be the first if we were to
12 have a very open investigative process. In a sense taking
13 it to the extreme. Our -- but I recommend something in a
14 sense in the middle and that is that the children's
15 ombudsman have discretion to release the report to the
16 public.

17 You would be investing -- essentially you would
18 be investing a fairly high-level professional with an
19 important function. You're not bringing in somebody who is
20 in it for the politics. They're in it for exactly the
21 sensitivities that we all have.

22 There's not a person -- in my experience there's
23 hardly a person in this business who comes to it for the
24 wrong reason. They all come because they're concerned about
25 kids and families. We all have different ideas about how to

1 get there. And I would recommend that you invest, in a
2 sense trust this function to make the reports public when
3 they believe it important to do so.

4 New Jersey goes even further. As you saw
5 there's no speed bump. They get to make it public whenever
6 the ombudsman elects. It may actually be mandatory that
7 their reports are public. I know the State of Rhode Island
8 you can go on the Web and read their investigative reports.
9 So people are doing this.

10 MADAM CHAIRMAN BISHOP: We would like to call
11 upon the Chairman Phyllis Mundy.

12 REPRESENTATIVE MUNDY: Thank you, Madam
13 Chairman. Thank you, Frank Cervone for being here today and
14 for all your work over all the many years on our children's
15 issues.

16 I'm going to ask you a macro question to begin
17 with about the task force report that you referred to. To
18 your knowledge have any of the recommendations of the task
19 force to date become law?

20 MR. CERVONE: I haven't kept score, but I don't
21 think the score's very high.

22 REPRESENTATIVE MUNDY: I'm not aware of any.
23 Maybe Representative Harhart can help me. It has been an
24 incredible uphill battle to get anything done with regard to
25 children, the most vulnerable people in our society in my

1 view, because at least older people, you know, have family
2 members who care for them, you know, they're more visible in
3 the community.

4 I just -- it just baffles me why we can't make
5 this investment because we're obviously making an enormous
6 investment in our prison system. Every time I turn around
7 there's a new prison being contemplated. And that's what
8 happens when we -- well, I'm going to get off my soapbox for
9 now. I just -- it just frosts me that we can't do more to
10 protect these kids and to make sure that they get what they
11 need.

12 About the children's advocacy centers, can you
13 explain a little bit about how they're currently funded?

14 MR. CERVONE: Well, they're funded through
15 the -- well, they're funded through public charity. Private
16 charity one might call it. In the parlance of the business
17 they're public charities. They're all 501(C)3's by and
18 large. Many of them have contracts with their local county
19 government. In Philadelphia there's a contract with the
20 Department of Human Services so it goes through the
21 needs-based budget process. And that rationale is that they
22 are part of the investigative function. They're
23 facilitating the investigative or protective function of the
24 county agency.

25 In other parts of the country they're actually

1 devices of law enforcement. I visited the Houston program
2 and that's led by the district attorney's office and so on.
3 But here it's a mix of public and private dollars. They all
4 struggle charitably. They're clearly committing a public
5 service but doing so kind of with a short stick.

6 REPRESENTATIVE MUNDY: Okay. And in the rural
7 counties -- I mean we heard about the one in Lehigh County,
8 I know there's one in Philadelphia. There's probably one in
9 Allegheny County. I know there's Kids Voice. Is that a
10 CAC?

11 MR. CERVONE: No. They're like us. They're a
12 law office for children. Now, across the country people do
13 multi-county programs. They become, again, a place and a
14 process. The leadership of the various law enforcement and
15 Children and Youth entities get together and decide how they
16 will share information. It's protocol sharing. It's
17 interview guidelines. We haven't even talked about that.

18 CACs are best at interviewing kids. This is
19 their forte. They're best at interviewing kids. They get
20 accomplice forensic investigators who do a neutral
21 evaluation -- a neutral interview and they're often alone
22 with the child in the room and everyone else is watching the
23 interview on videotape. So it's seen as a child-friendly
24 approach.

25 REPRESENTATIVE MUNDY: I'm not going to ask you

1 about -- I wish that Mr. Petri were here today because I
2 notice in his testimony he talks about funding available in
3 the department within DPW for this. That would be nice.

4 MR. CERVONE: I imagine you'll have opportunity
5 to ask that question of a later witness.

6 REPRESENTATIVE MUNDY: And I think I certainly
7 will. I guess I'm going to leave it at that for now except
8 to say that, you know, I hope that you and the child
9 advocates around the state aren't becoming so increasingly
10 frustrated that you will ever give up because there just are
11 so few.

12 We just had a conversation on the House floor
13 about grandparents' rights the other day. When it's the
14 adults' rights that we're talking about, there is no end to
15 the support for that. But when it comes to the kids
16 themselves in these situations where they're removed from
17 their own homes -- think of this little three-year-old boy
18 who's been ripped from the arms of his family and put in the
19 care of complete and utter strangers and not even allowed to
20 see his family for more than 10 days. And I mean, please,
21 what did the caseworker or the agency know about that
22 situation except what they saw with their own eyes, the
23 child on the street fully clothed and in the middle of the
24 night. I mean I just -- it just is incredible to me that we
25 don't pay more attention to these things.

1 So I promise I won't stop working on it. I know
2 there are other members of the committee who feel the same,
3 and I thank you again for all your work on these issues.

4 MR. CERVONE: Thank you.

5 MADAM CHAIRMAN BISHOP: Thank you. I want to
6 recognize some of the members that have arrived.
7 Representative Milne is here, Representative Thomas is here,
8 Representative Williams.

9 And I will get back with questions, but I'd like
10 to ask a couple before we go to our next testifier or to our
11 next member. I recognize that Representative Thomas wants
12 to ask questions, but I want to ask you since you're here to
13 just bear with me for a moment. I want to look at a couple
14 of things.

15 Number one, I want to look at the name
16 ombudsman. Is that a good name? Does it tell people what
17 it really stands for? The average person in Philadelphia
18 who are involved and need services, and I believe it will be
19 no different in the rural country -- counties, will not even
20 understand what your mission is. Is that a good name even
21 if we got the change?

22 MR. CERVONE: It's a great question. It's a
23 clunky, old name. We actually did the research. I wish I
24 could remember it. But we actually came to know its origins
25 in the study, and there may be some analysis in our report

1 of it. I would say like most things about language, it
2 depends.

3 MADAM CHAIRMAN BISHOP: If someone is in deep
4 trouble and fumbling through the phone pages trying to find
5 someone that can help them with their problem --

6 MR. CERVONE: I'm assuming that we have
7 complaint in big capital letters, right. Here's what I'd
8 say about it. As you'll hear from at least one other
9 witness today, the experience of ombudsmen, the
10 availability of a place to go is actually quite common in
11 our culture. Many government entities, public radio has an
12 ombudsman. WHY Y has an ombudsman and he comes on
13 periodically and invites people to send in comments. Now,
14 of course, they own the radio so they have the ability --

15 MADAM CHAIRMAN BISHOP: WHY Y appeals to an elite
16 kind of listener.

17 MR. CERVONE: That's right. So that's really
18 the one side of it, that there is a historical context to
19 it. I think you might very well ask folks who are serving
20 in the ombuds role if they've had any problem.

21 New Jersey went the other way. So you can see
22 what they're called, the Office of the Child Advocate. Very
23 accessible, very understandable kind of phrase. We would
24 have -- being one, a child advocate, I would feel a little
25 concerned that parent problems might be dissuaded in a

1 sense. If you're a parent you think all they're doing is
2 worrying about the child, my child, and they're not
3 respecting my rights. Who would you call. So that might be
4 a hitch.

5 MADAM CHAIRMAN BISHOP: My next concern is if
6 this bill would pass it would be under the Department of
7 Welfare, the same department that it has complaints about.
8 How could it be better than what we already have?

9 MR. CERVONE: Ombudsmans are often under but
10 apart from the organization that in a sense sponsors them.
11 So it's not entirely unusual. We recommended a kissing
12 cousin to this, that it be in the Office of the Executive
13 Branch, in the Office of the Governor. That was the
14 Advisory Committee's recommendation. The third place we
15 looked was the Auditor General function.

16 In my experience, I guess at the end of the day
17 of that analysis its independence has to be protected by
18 statute and by funding because wherever it is somebody is
19 going to beat it up. So you have to structurally protect
20 it.

21 I'm not troubled that it's in -- that it reports
22 to the Secretary of Public Welfare because I don't think you
23 get it much better when you go to these other places.
24 Because we did the analysis. They each have their pros and
25 cons. I wouldn't argue strenuously over another.

1 MADAM CHAIRMAN BISHOP: So you're comfortable
2 with where it is?

3 MR. CERVONE: I'm comfortable with it there.

4 MADAM CHAIRMAN BISHOP: Representative Curtis
5 Thomas.

6 REPRESENTATIVE THOMAS: Thank you, Madam
7 Chairman. I guess I have two questions, somewhat
8 dovetailing on some comments Representative Mundy made.
9 And one of them is is it correct to say that the future of
10 children in the Commonwealth of Pennsylvania is dismal at
11 best? And, if not, what improvements have you noticed in
12 the last twelve months? Or in the next twelve months if we
13 have an office of ombudsman, what assurances do we have that
14 things can get better for children in Pennsylvania?

15 MR. CERVONE: Representative, I've been known to
16 be an optimist. I think the future is bright for kids
17 because I have every hope that children such as we have in
18 the room today will rise to the occasion in a sense despite
19 their predicament.

20 REPRESENTATIVE THOMAS: Even in light of current
21 state of affairs?

22 MR. CERVONE: That said, your city and mine is
23 failing miserably with many of its kids. And across the
24 Commonwealth, this isn't just a Philadelphia or a big city
25 problem, across the state we have a tremendously high

1 dropout rate, dramatically high among children involved with
2 the courts. We obviously are swept by violence, and I'm
3 coming back Monday for the Speaker's Forum on Children and
4 Violence and what education might do to stem that tide.

5 This is a fearsome undertaking. It's a totally
6 fearsome undertaking. If you were to measure it, you'd walk
7 away. We're losing the battle as much as we're winning.
8 But I'm not one to in a sense to stop, and I think this is a
9 roomful of people who are friends of children who likewise
10 are not willing to stop.

11 But the answers -- the answers are in some ways
12 clear to us, but the mission large. As an advocate for my
13 entire professional career, I'm 25 years out of law school
14 this year, for my entire professional career I've heard that
15 government cannot fund human service and cannot fund public
16 education at the level that we need. And yet government
17 finds money when it needs to.

18 REPRESENTATIVE THOMAS: I'm optimistic also, but
19 when I look at the roadblocks and I have to say to myself
20 even to these kids here, how do I give them hope with what
21 I've seen thus far.

22 The second part of my concern is even though
23 things are real bad in Philadelphia County, there's
24 something that goes on in Philadelphia County which I think
25 needs to be adopted by the State and maybe made a part of

1 the responsibility of this ombudsman, and that is that I
2 think that there should be a biannual report made to the
3 public and definitely to the General Assembly on the state
4 of affairs of children in the Commonwealth of Pennsylvania
5 with some specific, measurable recommendations arising out
6 of the evaluation.

7 Philadelphia under the current mayor through
8 Safe and Sound provides an annual report. And whether you
9 like it or don't like it, you at least know what is going on
10 and is able to focus your attention on either one area or
11 several areas.

12 And so my question is as an advocate, is that
13 something that you would recommend, a biannual report --

14 MR. CERVONE: Yeah, you're right on. You're
15 right on, Representative. There is -- as I said in my
16 testimony, there are two -- there are actually three forms
17 of ombudsmans, but there are two that are relevant to this
18 conversation. One is about individual complaint
19 investigations, like one in Richie's mom's situations. The
20 other is systemic published reports of macro-conditions.
21 Like the third is -- again I don't want to get into it.

22 So this ombudsman has the opportunity but not
23 the explicit charge to do the latter, to do the macro
24 report. And I would strongly urge you to embrace that
25 concept.

1 There's lots of great data. What we found in
2 Philadelphia, and this has got to be true around the state
3 is that they have lots of data and no information. They're
4 collecting data like crazy. We are a data-hungry
5 generation. But we're not -- we're not always learning from
6 it or guiding policy because of it.

7 REPRESENTATIVE THOMAS: Yeah. And I think that
8 that kind of an evaluation and I think that kind of
9 statutory responsibility on an ombudsman would serve the
10 Commonwealth of Pennsylvania and especially our children
11 much better. Because one of the reasons I think that
12 services for Children and Youth gets lost is because the
13 information in terms of what is happening to children and
14 youth is fractionalized. There is no consistency or
15 continuity to make information available and then developing
16 systems to do something with that information. So I think
17 that's how they end up getting lost. Whereas, somebody
18 else, another system will have the information, will have
19 recommendations arising out of the information and will have
20 a passionate commitment to do something with the
21 recommendations.

22 And so, Madam Chair, I want to thank you and I
23 want to add to the record that if we go forward with this
24 office of ombudsman that along with this investigatory
25 responsibility that it also has a responsibility to report

1 to the people of Pennsylvania and make specific
2 recommendations as to how we can move from A to B from year
3 to year with however amount of resources we have. Whether
4 it's two dollars or two million, we need to know that we're
5 getting something back on the investment that we make.

6 MR. CERVONE: I would recommend you again to our
7 study, the work of the -- the outstanding work of the Joint
8 State Government Commission staff I think is worth your
9 reading. This is a topic that is rather technical in some
10 ways, but it is quite learnable.

11 The third of those devices is in a sense child
12 death study or other particular charges of study. You'll
13 see some ombudsmans, Rhode Island's focuses on child deaths.

14 MADAM CHAIRMAN BISHOP: Any more questions? I
15 want to in closing, Mr. Cervone, thank you for your
16 information and ask the last question.

17 In your study and in your work as a child
18 advocate, a children's advocate, has there been any work
19 done, any studies done on behalf of families rather than
20 just children?

21 It seems to me that it's cruel many times to,
22 just because there's been a report, snatch a child away from
23 its family and maybe the incident was not as bad as it
24 appeared to be and then try to reconnect. So I would like
25 to see some studies done on repairing families rather than

1 just the child advocate.

2 If there is a home where a child is being abused
3 and neglected, by all means that child should be separated.
4 But I can tell you many cases where the child was pulled
5 from the home unnecessarily where an incident appeared to be
6 one thing and it turned out not to be what they thought it
7 would be.

8 As a matter of fact, I can tell you a child that
9 died because she went to school that morning and was smacked
10 that night in the mouth because she had gotten a little
11 fresh and she was in the home of an old lady that the mother
12 had given her to, and the mother because of her freshness
13 smacked her in the mouth with a heavy set of rings which
14 older folk wear and scratched her lip.

15 And when she got to school she asked the teacher
16 what was wrong -- the teacher asked her what was wrong. She
17 said she had been smacked in the mouth. They called the
18 police department.

19 The police came out and the captain came out and
20 they wanted him to arrest her and finally the captain said,
21 I'm not going to arrest a 75-year-old woman. The deal was
22 she was supposed to have gone through some counseling, and
23 she did not go through the counseling, was put back in the
24 home where the drug-addicted mom had given her away and a
25 few weeks later a crack bomb was thrown into the house and

1 she burned to death.

2 So I'm saying that police -- there need to be
3 some effort to bring the police into this. There needs to
4 be in a police department in every district someone there
5 who can also assess the situation who's been trained so that
6 they know when it's a serious case.

7 If there had been a policeman in that police
8 department when that three-year-old child had wandered away,
9 chances are he would or she would have found a home that he
10 came out through questioning before he was caught up into
11 the system.

12 So I think more has to be done. As much as
13 we're doing, I think the advocates have to join us in
14 looking at ways to set up a department. It can never be
15 childproof, but we would like to work as hard as we can to
16 make sure it is with all of those who are involved.

17 But as long as we snatch children out of the
18 house because there's been a report and don't put it in a
19 place where its comfortable and so it still has
20 communication, I feel it's going to create some problems for
21 us. And I would like to work with you should this bill go
22 through later for some kind of amendment that would bring in
23 families instead of just being child advocates. Thank you
24 for coming.

25 MR. CERVONE: Yes. Thank you. I would just say

1 in closing on that point, what we learned in the
2 Philadelphia study, and in a sense we've reminded the entire
3 state, is that we have to be about safety first. What we
4 see in the story of Richie is that we quickly have to be
5 about families and about what's right for this individual
6 child in the context of his family.

7 These are not in a sense polar opposites. They
8 go in the same direction. We always have to be about child
9 safety, but we also have to recognize that kids want and
10 need to be with their families. And there are lots of us in
11 the business who recognize that, and I know you do.

12 MADAM CHAIRMAN BISHOP: Thank you.

13 MR. CERVONE: Thank you.

14 MADAM CHAIRMAN BISHOP: Our next testifier this
15 afternoon will be Mr. Bruce Bayer who heads up Heads Held
16 High organization. Mr. Bayer, welcome.

17 MR. BAYER: Ladies and Gentlemen, I'd like to
18 start by thanking you for the opportunity. My name is Bruce
19 Bayer. I'm the chairman of Heads Held High, a children and
20 family advocacy nonprofit organization. Heads Held High
21 came to be and I came to be due to what I consider a lack of
22 checks and balances in the system.

23 Progress is being made at many levels because
24 many know it's needed. But the child welfare system
25 throughout the nation is known to be broken. Hillary

1 Clinton and Tom Delay agreed on this. These are two people
2 that never agree on anything. One could possibly be
3 considered the most liberal, another could be considered the
4 most conservative, yet they both agree.

5 The federal government did an audit three years
6 ago. Not one state passed. There were seven simple
7 questions on that question. Not a state in the union
8 passed. The highest grade was three. Pennsylvania scored a
9 two. And we're in the lower third of the country.

10 With that said, why are we here today? We are
11 here today to see if we can all work together to improve our
12 standard of care and lack of checks and balances. Are we
13 brave enough to meet this challenge?

14 I spoke with the director of Children and Youth
15 once from Erie County. Everybody could probably know it's
16 about the Brittany (phonetic) kids there, another
17 unfortunate death. We talked about a couple of cases, mine
18 being one of them, and I asked them how could this happen.
19 The reply from the administrator of Children and Youth was
20 sometimes it becomes about winning and not about justice.

21 He's right. States like to win to keep my
22 children. I fought to win to get them released. It becomes
23 a battle. Children and Youth kept the battle up. My wife
24 who will give you particulars later, but after 41 days of
25 incommunicado the children were given back to my wife and

1 myself.

2 This should be enough said. A judge of the
3 Commonwealth stated that Children and Youth was wrong. So
4 why did 41 days happen? Why were they incommunicado for 41
5 days if the judge was never going to give you dependency,
6 give them right back now, don't wait for an order from the
7 bench.

8 These questions need to be answered. Because we
9 did not simply agree to whatever they said and we demanded
10 our constitutional rights they fought us. We have laws in
11 place we have gone over in detail. And they're good laws.
12 We're talking about the child protective service laws.
13 They're very good laws. But when a few rogue people don't
14 want to follow the rules and circumvent them for their own
15 wishes, this is the reason we need an ombudsman.

16 To put it in simple terms, you need a referee or
17 an umpire to play any game. The same goes for
18 constitutional protections. If a state agency that has a
19 12-million-dollar budget is allowed to attack a family of
20 modest means, who is going to protect the families if
21 something goes wrong?

22 That's what this is all about. It's not about
23 new laws. It's about protecting each side, the children,
24 the family and the agency. Nothing can go wrong -- well, it
25 can. Don't get me wrong. Nothing's perfect. But an

1 ombudsman can break down a lot of the problems. We can take
2 out the who wins and put justice in.

3 We all hear about children that have died and
4 children that have been abused and that is why the need is
5 so great for this agency. Unfortunately, there is no room
6 for error. A family is attacked if a mistake is made, it is
7 destroyed. You can't just make it up and say, okay, go
8 home. I will say that if you tear a child out of a family
9 at least two generations of that family are going to have
10 some problems. And it's going to cost the state a lot more
11 money.

12 Think of the awesome pressure that Children and
13 Youth is under. Caseworkers are underpaid and the agency's
14 understaffed. That is the sad reality with most jobs like
15 firefighters, police officers, FBI agents. But people must
16 adhere to the law. That is the bottom line. So if we add a
17 layer of protection for both sides, both sides win.

18 In my situation I was very naive. I was brought
19 up in a home with high morals and allegiance. And I watched
20 Superman -- truth, justice and the American way -- on TV
21 every day. I graduated from my home at age 17 into the
22 United States Marine Corps which instilled further in me
23 allegiance, morals and dedication and protection of our
24 country. I believed our entire government ran that way.

25 Today I stand before you having had that belief

1 shaken. With a government -- I will not just haphazardly
2 trust anybody with a government title. Ronald Reagan put it
3 best when he stated the nine most dangerous words in the
4 English language are I'm from the government and I'm here to
5 help.

6 The past is the past, and nothing can change
7 what has already happened, but we can learn from the past
8 and make a better future. And, ladies and gentlemen, this
9 is a journey I believe we're going to embark upon today.
10 Finger pointing, screaming, yelling will not solve nothing.
11 It will only instill what the director had told me, it's
12 about winning.

13 This is not about winning. This is about
14 preserving one of our country's greatest assets, the
15 American family. Who among us don't feel a little bit
16 happier when you see a little child smile. Who here doesn't
17 feel a little sadder when you see them cry.

18 An independent eye should not be seen as a
19 danger, but as an opportunity. At Heads Held High we turn
20 away more than 50 percent of the people who come before us.
21 We do so because we do background checks, investigations,
22 and basically we do an ombudsman's type of job. We look at
23 the situation from all sides, and I'm sorry,
24 sometimes -- and it's been said here -- families need to be
25 separated for a while. But sometimes they don't. It's 50

1 percent of the people who come to us we turn away, you can
2 tell.

3 Children and Youth for the 2003 had an 85
4 percent unfounded rate. That meant that 85 percent of the
5 cases that they spent money on are wrong. So why do we hold
6 kids for 30 days, 60 days, 90 days? Well, that's because
7 when the federal government money kicks in at 90 days.

8 We're wasting that money. What we do now is we
9 punish the victim. I say remove the perpetrator. Leave the
10 victim alone. Keep the family together. I'm sorry. That
11 wasn't in what I wrote in my note. I fly off the cuff
12 sometimes.

13 The people of the Committee here, you have
14 accountability. You have thousands of ombudsmen. When you
15 go to the polls, an ombudsman votes for you, are you doing a
16 good job or not. Heads Held High or any job you work at
17 your boss is your ombudsman, are you doing a good job or
18 not.

19 I just got a recent insurance policy thanks to
20 my beautiful wife. Even the president has the Supreme
21 Court, by the way, to check him out. I got put on an
22 insurance program through Liberty something in the State of
23 Pa. It's a fantastic program. They can't do anything
24 wrong. They help me with medications, they help me with
25 several things, and they can't possibly do anything wrong

1 because they're there just to help me. Ladies and
2 gentlemen, they have an ombudsman in all the counties.

3 If they can't make a mistake -- again, I'm sorry
4 to use that as such a loose term, but if they do make a
5 mistake, they're not going to hurt anybody, they're not
6 going to give you the money to put a ramp on. If you take a
7 child out, they've hurt somebody. You need an ombudsman.
8 It's not a question of do we need one. It's when are we
9 going to get one.

10 I have three children here today. If you want
11 to talk to them, they love to chatter. Two of them were
12 separated from their brother for 41 days. Madam Chairman,
13 you asked what happens if a child is removed for 10 days
14 without talking to the parents because somebody made a
15 charge. What happens to children when they're removed for
16 41 days and there never was a charge. Just return the
17 children.

18 Thank you for listening to me. If you have any
19 questions, I'd be happy to answer them.

20 MADAM CHAIRMAN BISHOP: Are there any questions?
21 Madam Rubley.

22 REPRESENTATIVE RUBLEY: Thank you for sharing
23 your story with us and your advice. Where is your agency
24 located?

25 MR. BAYER: We are throughout the state. Our

1 home base is in Monroe County where I live. We have
2 chapters in Erie and in Pittsburgh.

3 So we take calls. We average 250 to 300 hours
4 a month on the phone with people calling for advice. And as
5 far as getting the word out to people, a caseworker comes to
6 a child, they should be handing out a Miranda card to
7 parents of their rights and where they can go and they'll
8 know about the ombudsman then.

9 REPRESENTATIVE RUBLEY: Thank you for what
10 you do.

11 MADAM CHAIRMAN BISHOP: Thank you so much for
12 joining us. This story is bone chilling. Thank you.

13 Our next testifier is Deputy Secretary Richard
14 Gold who is from the Office of Children, Youth and Families.
15 And he has with him Cathy Utz, Bureau of Policy and Program
16 Development. And we're going to have an opportunity to
17 question both of you. Both of you will be testifying
18 together.

19 Let me just say that Deputy Secretary Richard
20 Gold is new to the Children and Youth Department and
21 families and I'm delighted to have him with us and we look
22 forward to hearing from you.

23 DEPUTY SECRETARY GOLD: Good afternoon, Madam
24 Chairwoman, Representative Rubley, Committee members and
25 staff. I am Richard Gold and I serve as Deputy Secretary

1 for the Office of Children, Youth and Families in the
2 Department of Public Welfare.

3 I appreciate the opportunity to testify before
4 you today regarding House Bill 1709. As discussed
5 previously, House Bill 1709 proposes to create the
6 Commonwealth Children's Ombudsman Act by establishing a
7 children's ombudsman that will provide oversight and a venue
8 for investigation of complaints with regards to children's
9 services. This will allow an independent entity to respond
10 to complaints regarding child welfare services.

11 Accountability is a vital part of the
12 relationship between the child welfare system, its clients
13 and the broader public where the health, safety and
14 well-being of children are at stake. The public has the
15 right to firm assurance that the system is doing its job.
16 At the same time accountability inevitably raises delicate
17 issues concerning assignment of blame. Perceived unfairness
18 in applying accountability standards can result in low
19 morale and difficulties in recruitment and retention of
20 child welfare staff.

21 Before commenting on the bill itself, I'd like
22 to take the opportunity to describe the current process for
23 investigating and responding to complaints. OCYF has four
24 regional offices throughout Pennsylvania. Among their
25 responsibilities is to ensure county and private agency

1 regulatory compliance by investigating complaints and
2 conducting annual inspections.

3 OCYF's process for responding to complaints is
4 outlined in a policy and procedures bulletin that applies to
5 all complaints received, the services and programs provided
6 by organizations which OCYF licenses, funds and/or
7 supervises.

8 Reports of alleged child abuse are handled
9 according to the requirements of the Child Protective
10 Services Law and attending regulations. Policy states that
11 all complaints lodged with DPW headquarters here in
12 Harrisburg or the regional offices shall be investigated
13 unless it is clear that the complaint is outside the legal
14 responsibility and authority of the office.

15 In practice the four regional offices that
16 maintain oversight of the 67 counties address each complaint
17 that is received regardless of format or nature to
18 adequately assess the validity of the report and address the
19 issues posed. The goal of complaint investigations is to
20 discover jointly with the complainant and subject of the
21 complaint the facts of the situation being reviewed and to
22 assure that agencies and organizations supervised, licensed
23 and/or funded by OCYF provide services which foster the
24 health, safety and well-being of children and their
25 families.

1 Complaints are referred to central office staff
2 as well as the regional offices. These complaints are
3 submitted in various forms, including verbal and written
4 formats such as phone calls, letters sent by US mail, faxes,
5 walk-ins and electronic mail correspondence. While the four
6 regional offices can receive these complaints directly,
7 often times they are received through either the Offices of
8 the Governor, the office of the Secretary of Public Welfare,
9 my own office or through the central office.

10 When a complainant presents an allegation
11 through a telephone call to the central office staff,
12 factual pertinent and relevant information is gathered,
13 summarized and transmitted to the appropriate regional
14 office to conduct an investigation as necessary. If the
15 complaint is received in a written format, it is entered
16 into a central log, given an assignment number and forwarded
17 to the appropriate regional office for investigation and
18 follow-up.

19 Complaints that are reported directly to the
20 four regional offices are entered on a complaint
21 registration in follow-up form, entered onto a regional log
22 and routed to the regional director and/or supervisor.

23 Upon receipt of the complaint, the director or
24 supervisor screens and assesses the information so that
25 appropriate action can be taken. A degree of risk to a

1 child or children and the corresponding action is
2 determined. If there appears to be an imminent threat to
3 the health, safety or welfare of the child or children, an
4 investigation commences within 24 hours of receipt of the
5 complaint, including a site visit.

6 I would note that these kinds of complaints and
7 these kinds of investigations I'm sorry to say occur when
8 there is a complaint that a child who's already been removed
9 from a child's home and is in placement. Whether it be in a
10 foster home, a group home or an institution licensed by
11 OCYF, the allegation is that that child is being abused. At
12 that point my office has to do the investigation instead of
13 the county child protective services office. So from my
14 perspective these are -- these children have already been
15 traumatized once and for that they've been removed. This is
16 alleging another trauma which I take very seriously and to
17 heart. I'm sorry.

18 When no threat to life and safety of a child or
19 children is determined but there is a possible violation of
20 applicable regulations or funding agreement violations, an
21 investigation commences within five working days and a site
22 visit occurs within ten working days or as soon as possible
23 there afterwards. The complaint is then assigned to a
24 regional program representative to conduct the investigation
25 accordingly.

1 To begin the investigation the program
2 representative advises the agency or facility head that a
3 complaint has been filed, makes an appointment with minimum
4 notice to discuss the allegations. In the event of imminent
5 danger to a child or children, we make a decision on whether
6 it would be more beneficial to conduct an unannounced visit.
7 I will tell you that I err in having such unannounced visits
8 again because these are already children in the state's
9 custody.

10 The program representative gathers information
11 by interviewing the complainant or the citizen, witnesses
12 and the individual or individuals who is the subject of the
13 complaint. If the complainant has requested anonymity, that
14 request is respected when talking with the witnesses and the
15 subject of the complaint. Not only the identity -- not only
16 the name but as much information to make sure that the
17 identity of the person also is unknown.

18 The outcome and recommendations of the complaint
19 investigation are shared with the agency in question so that
20 the situation can be appropriately remedied. If there are
21 regulatory violations discovered, the program representative
22 will prepare a Licensing Inspection Summary or LIS for
23 issuance to an agency or facility so that a corrective
24 action plan can be submitted, reviewed for approval and
25 monitored accordingly.

1 If the investigation determines that a
2 regulatory violation was egregious in nature, increased
3 monitoring and/or an enforcement action may be required by
4 OCYF against the agency. An enforcement action could
5 include the issuance of a provisional license, the immediate
6 closure of admissions or possible revocation of the license.

7 The program representative closes the
8 investigation process by completing an investigation report
9 and/or file note as necessary. If it is determined through
10 the investigation that the complaint is valid, a copy of the
11 report is kept in the agency file or within a centralized
12 file within the regional office. These findings are also
13 documented within the regional log or headquarter log
14 depending on how the complaint was received and/or
15 assigned.

16 The regional offices respond to the complainant
17 as necessary using telephone, letters and/or electronic mail
18 correspondence. Copies of that communication to the
19 complainants are shared with my office as well as the office
20 of the secretary.

21 Case-by-case supervisory oversight occurs
22 throughout the process to ensure completeness,
23 professionalism, timeliness and responsiveness of the
24 complaint investigation process. Supervisory staff provides
25 direction to the program representatives on the expectations

1 of OCYF in conducting an investigation. They also offer
2 guidance on presentation and content of responses to
3 complainants and agencies alike. Administrative staff also
4 assists to ensure that investigations are conducted in a
5 timely manner and that correspondence has been addressed as
6 necessary.

7 There are a multitude of issues that are
8 presented to OCYF regarding operations of public and private
9 Children and Youth agencies and/or issues related to court
10 orders or court actions. Some of the most frequent
11 complaints submitted for investigation to OCYF relate to the
12 operation of private agencies, including lack of
13 supervision, insufficient staff/child ratios, violations of
14 children's rights and/or inappropriate behavior of staff.

15 The major areas of complaint regarding the
16 operations of a county Children and Youth Agency include
17 lack of responsiveness by county Children and Youth to
18 families and service providers, failure of caseworkers or
19 other staff to provide client-friendly assistance, services
20 not being provided in a timely fashion, not addressing the
21 concerns of a noncustodial parent, unjustified removal of
22 children from the household by the agency, issues regarding
23 frequency of visits between children in placement and their
24 families, improper investigatory processes related to child
25 protective services in general, protective services

1 referrals, and issues surrounding foster care, both kinship
2 and nonrelative or adoption proceedings.

3 Again, I'll just make a statement that many
4 times or on a weekly basis I respond myself to several of
5 these complaints that I receive before sending them to a
6 regional office just for my own education of the problems
7 that are being presented, and many times my impression after
8 speaking to the complainant, who are always surprised to
9 receive a phone call from me, is a lack of respect and
10 dignity regardless of what the substance of the complaint
11 is. Just a kind word of respect, someone talking, not
12 interrupting, not telling them they're wrong before you even
13 know what the facts are.

14 Maybe my qualifications for this job is that I'm
15 a good listener, and sometimes that's a skill that's lost,
16 especially amongst many professionals. But I like to
17 listen. I like to listen. Whether the complaint has merit
18 or not, everyone has the right to have their complaint
19 heard. And I haven't had a complaint person hang up on me
20 or not even thank me for calling and being surprised that
21 someone has read their complaint. So I'll keep doing it.

22 In regard to issues with court actions or court
23 orders, the various complaints that are received most
24 commonly involved a complainant who was seeking intervention
25 with court orders based on dependency and child custody

1 actions, lack of appropriate legal representation, and
2 allegations of untruthful or misleading information
3 presented by county Children and Youth
4 agencies to achieve desired court actions.

5 While the regional offices do a good job
6 carrying out their investigatory responsibilities, I believe
7 and it's our position that there is a role for a child
8 ombudsman to increase accountability, especially for clients
9 that are dissatisfied with OCYF itself. For this reason it
10 is essential that the ombudsman operate independently and be
11 located outside of the department.

12 Our research found that there are 27 other
13 states that have an ombudsman office. Of these offices, 20
14 specifically focus on child welfare issues, while the other
15 7 have oversight of all state agencies. By looking at the
16 ombudsman offices that only oversee child welfare services,
17 it was found that the average annual budget in 2005 was
18 \$560,000. These offices received an average of 495 calls
19 during 2005 and investigated an average of 90 complaints.
20 The average number of employees in these offices for 2005
21 was eight.

22 It was further found that 27 ombudsman offices
23 were housed in varying locations, 7 were a direct part of
24 the agency that they oversaw, 9 were part of either the
25 Governor's Office or a part of the legislative branch, and

1 11 were private independent contracted agencies.

2 DPW recommendations. House Bill 1709 proposes
3 that the ombudsman be appointed by the Secretary of Public
4 Welfare and establishes the ombudsman as an autonomous
5 entity within the Department of Public Welfare.

6 We believe that it is important for the
7 ombudsman to be able to operate independently of the
8 department and the regional offices. As a result OCYF
9 favors the use of an independent third-party contractor to
10 provide ombudsman services over having the ombudsman located
11 in the same agency it is in effect overseeing. To
12 accomplish this OCYF would outline the powers, duties and
13 responsibilities of the ombudsman and would issue a request
14 for proposal to select an independent entity to administer
15 the program.

16 OCYF also recommends adding a section for
17 qualifications of the ombudsman, defining the term
18 complaint, adding additional circumstances when the
19 ombudsman can decide to not investigate complaints and
20 adding information for developing and distributing
21 information materials for public awareness about the role of
22 the ombudsman. We are more than willing to discuss specific
23 recommended language for these amendments if requested.

24 House Bill 1709 will have a fiscal impact on the
25 department. From researching other state ombudsman

1 agencies, the fiscal impact greatly varies. By looking at
2 data available from 2005, annual operating budgets for
3 ombudsman agencies and other states range from \$120,000 to
4 \$1,160,000. The number of calls these agencies received
5 ranges from 87 to 19,000. The number of complaints
6 investigated by these agencies range from 13 to 17,000. The
7 number of employees in each agency range from 3 to 13.

8 These numbers are representative of other state
9 ombudsman agencies that oversee all state agencies in
10 addition to agencies that oversee just child welfare
11 specific agencies.

12 I thank you and appreciate the opportunity to
13 testify today and will happily answer any questions that
14 anyone has for me. Thank you.

15 MADAM CHAIRMAN BISHOP: Representative Mundy.

16 REPRESENTATIVE MUNDY: Thank you. I appreciate
17 your testimony. I refer to Representative Petri's opening
18 remarks as read by our staff person. And he is quoted here
19 as during the appropriations hearing, I asked if there was
20 funding within DPW for an ombudsman and was assured by
21 Secretary Richman that there was funding in the present
22 budget for this office.

23 And I'm very confused by that because I'm not
24 aware that there's any money floating around DPW that's not
25 being spent. I obviously wasn't at the hearing. I'm not on

1 the Appropriations Committee any longer. But can you
2 address the issue of funding? Is there currently just in a
3 pot of money in the DPW somewhere that could be used for
4 this purpose or would we require a separate appropriation?

5 DEPUTY SECRETARY GOLD: Representative Mundy,
6 I -- my personality fault is that I sometimes respond with a
7 joke and it keeps me in good stead because this is a tough
8 job and if I can smile during the day it keeps me going. So
9 my answer to you is if you know where that pot is, you'll
10 let me know because I've been looking. I've walked on every
11 floor looking for that pot of gold. Because lots of people
12 have told me that it exists.

13 I too was not at the appropriations hearing.
14 I'm happy to say I was just really getting my feet wet,
15 having joined the department in late April. My
16 understanding in preparing myself to come before this
17 committee is that the Secretary stated that she would work
18 with Representative Petri to find those funds.

19 I can assure you, having studied and study on a
20 daily basis my budget, that I don't have discretionary
21 funds. I will not be unaware of where my funds are being
22 spent. And I can tell you that I don't have either the
23 amount or the high amount that hasn't been allocated for
24 some purpose, whether it's to counties, whether it's for
25 direct staff of the WDC program that the Office of Children

1 and Youth operates itself or for our own vendors, including
2 but not limited to our SWAN contract that does the adoption
3 services statewide. So I don't know of any. And that would
4 be that.

5 REPRESENTATIVE MUNDY: Okay. Then I would just
6 offer a comment. I am very supportive of the office of
7 child ombudsman, and I am more than willing to try to find
8 additional funding for DPW. And I would recommend, suggest,
9 encourage those who truly support this bill to be ready to
10 do the same. One thing to propose new mandates on state
11 government and new offices. It's another thing to support
12 them in the budget. And those two things in my view are
13 inseparable.

14 So when you're being supportive, then it's time
15 to put your money where your mouth is and pay the bills.
16 That's an important part of this process. And I stand
17 willing and ready to do that because I think this issue is
18 just too important. So I thank you very much for your
19 responses.

20 DEPUTY SECRETARY GOLD: I would welcome that
21 office and pledge to work closely with such an ombudsman. I
22 believe in the power of checks and balances. I believe that
23 if there's any area that needs as many eyes and ears, it is
24 the area of children and families.

25 MADAM CHAIRMAN BISHOP: I thank you very much,

1 Secretary -- Deputy Secretary Gold. I want to be very clear
2 so I want you to answer yes or no. Are you saying that the
3 Department of Welfare with Secretary Richman's blessing
4 supports House Bill 1709?

5 DEPUTY SECRETARY GOLD: Yes.

6 MADAM CHAIRMAN BISHOP: Do you support it in its
7 present form or do you support it with certain amendments?

8 DEPUTY SECRETARY GOLD: With the qualifications
9 and/or amendments discussed in my testimony such as
10 contracting it out, having that independence, and the
11 funding issue is obviously paramount.

12 MADAM CHAIRMAN BISHOP: Okay. Thank you very
13 much. And our next question comes from Chairwoman Rubley.

14 REPRESENTATIVE RUBLEY: Thank you. And thank
15 you, Mr. Gold, for your detailed testimony today. It's very
16 helpful to hear just how things are handled in your office.

17 You're recommending that it be -- this position
18 be independent, and I tend to agree with you. Where would
19 you suggest that an ombudsman be housed?

20 DEPUTY SECRETARY GOLD: In other words,
21 Chairwoman Rubley, are you asking which office within DPW?

22 REPRESENTATIVE RUBLEY: Well, if it's going to
23 be outside of DPW, where -- what other agency would it be
24 good to have under or should it just stand alone all by
25 itself?

1 DEPUTY SECRETARY GOLD: It should stand alone.
2 And its mission should be investigating complaints dealing
3 with child welfare issues. I agree with Frank Cervone's
4 comments and Mr. Bayer's comments that, you know, there are
5 problems within the system that I administer. And such an
6 office, such a person can go in and give a different
7 perspective. That perspective will always be reviewed and
8 respected by the department.

9 So if, for example, the funding was put into the
10 secretary's office that the contract would then be let, or
11 the RFP would then be let from the secretary's office. If
12 it was placed under OCYF, the RFP would then be issued by my
13 office and the bills would be sent to my office and paid for
14 by my office.

15 REPRESENTATIVE RUBLEY: But you would not have
16 control over the person?

17 DEPUTY SECRETARY GOLD: That's right. I would
18 recommend a multi-year contract so that you could have that
19 impartiality regardless of who's sitting in this chair and
20 who is sitting anywhere.

21 And there are examples of that within the
22 Commonwealth. For example, the Disability Rights Network,
23 DRN, that's an entity that is empowered by statute to
24 investigate any kind of allegation of persons with
25 disabilities and the treatment they're getting. Again, they

1 issue reports and many -- sometimes that report would be of
2 a disabled child within OCYF. I got such a report just this
3 week and immediately said I wanted to find out what's going
4 on with this agency.

5 REPRESENTATIVE RUBLEY: Thank you very much.

6 MADAM CHAIRMAN BISHOP: Representative Judith
7 Harhart.

8 REPRESENTATIVE HARHART: Thank you, Deputy
9 Secretary Gold, for coming and testifying.

10 First of all, Representative Mundy has asked has
11 anything been done with the report or have you moved with
12 any of the recommendations. I'm not going to say without
13 trying, we have tried, but nothing has occurred. I have
14 done two studies. And one was 67 counties and this was
15 Senator Dent and myself or Congressman Dent, the second
16 study was a statewide, it took two-and-a-half years. In one
17 of the studies the whole purpose is to get these kids,
18 especially the at-risk kids out of the system, through the
19 system a lot quicker. And that was the intent, to see how
20 we can do that with recommendations.

21 I don't mean to be a doubting Thomas and I don't
22 mean to, you know, be skeptical here, but one question I'm
23 going to ask you is do you believe that this office, if put
24 in place, would get the children through the system a lot
25 quicker, resolutions resolved a lot quicker? Would it do

1 the job it's supposed to do?

2 DEPUTY SECRETARY GOLD: There would be a period
3 of adjustment. I'm being very honest.

4 REPRESENTATIVE HARHART: A year, two years,
5 three years, ten years? I'm not trying to be --

6 DEPUTY SECRETARY GOLD: No. I don't -- I
7 don't -- I respect both the doubting Thomas and the skeptic.

8 REPRESENTATIVE HARHART: That's okay. I don't
9 want to put you on the spot as far as that.

10 DEPUTY SECRETARY GOLD: Let me just answer that
11 I'm in a position that hasn't had a -- a history of
12 longevity. I am the fifth deputy secretary in three years
13 for Children, Youth and Families. So when I say to my
14 stakeholders, and some of them are sitting in the room
15 today, whether it be providers, counties, advocates, that I
16 have committed myself for at least three years and six
17 months, they don't believe me. And so I'm wondering if it's
18 going to take them three years to believe that I do want to
19 effectuate change. So I am as skeptical and doubting
20 Thomas.

21 What I pledge is my support because there will
22 need to be doors opened to those first investigations
23 because there will be resistance.

24 Representative Boback asked about
25 confidentiality, and it is a -- it is a tremendous balance

1 how much transparency and how much do we want to disclose
2 very, very intimate and personal information about children
3 and families. So every time that decision is made, it has
4 to be made in a balance. So there will be skepticism that
5 this person will keep it confidential.

6 And each step my partnership will be with that
7 office even if the investigation is of my office. That
8 sounds like are you sure. I happen to believe in the system
9 of advocacy. I happen to believe that the more heartfelt
10 advocates -- and again I look at all the stakeholders, and
11 each and every one is an advocate. So I think it can only
12 help the system.

13 It's not the magic pill. It's not the silver
14 bullet. But it's an important tool in the tool kit that I
15 need in order to be able to come back to this committee
16 again and again and answer Representative Thomas's question,
17 has anything gotten better within the last twelve months.

18 REPRESENTATIVE HARHART: Well, can I -- I don't
19 want to defer from this, the ombudsman bill that's in front
20 of us, but with the first report, you know, on how to get
21 kids through the system a lot quicker it was recommended
22 that there be a computerized system set up in all 67

23 counties connected with the Department of Welfare. What's
24 it called? PACWIS. I don't know if you're familiar with --

25 DEPUTY SECRETARY GOLD: The PACWIS system. I'm

1 very familiar with it.

2 REPRESENTATIVE HARHART: And that would help get
3 the kids through the system a lot quicker. Well, they were
4 working on this and working on this and working on this, and
5 three years later they said that we couldn't do it, it
6 failed. I don't know why it failed. I know we can send
7 people to the moon, but we cannot connect our departments to
8 computers?

9 DEPUTY SECRETARY GOLD: Representative Harhart,
10 I feel like sometimes I'll get data quicker from the moon.
11 So you're absolutely right. I can share with you the
12 failures of SACWIS across the country.

13 REPRESENTATIVE HARHART: It's SACWIS. I'm
14 sorry.

15 DEPUTY SECRETARY GOLD: Our version was going to
16 be called PACWIS. But the federal money to do such a data
17 system as you described was called SACWIS. And there are
18 states that proceeded with SACWIS. And after spending more
19 than a hundred-million dollars, now they realize they still
20 don't have that communication system to move the children
21 along the system.

22 So the good news, although it's not
23 satisfactory, is that my office and the federal government
24 has reached an agreement on how to proceed with looking at
25 what we need. Now it is --

1 REPRESENTATIVE HARHART: Is that still on the
2 table then?

3 DEPUTY SECRETARY GOLD: It is on the
4 table -- it's more than on the table. We are actually
5 proceeding. And we have biweekly telephone calls with the
6 Administration for Children and Families and Department of
7 Health and Human Services, and they're giving us technical
8 assistance. We're accepting it and working with the
9 counties, working with the providers, working with the
10 advocacy committee -- or community to get going.

11 You're absolutely right, PACWIS was tried,
12 tried, tried, failed, then stopped. I can only say since
13 April we've started again. And by July we expect -- it is
14 on a fast track. By July '08 we expect to have
15 recommendations, that's both our recommendations and federal
16 recommendations, on the system that you're discussing.

17 REPRESENTATIVE HARHART: Do you think that we
18 can get some kind of report on how that's doing?

19 DEPUTY SECRETARY GOLD: Absolutely.

20 REPRESENTATIVE HARHART: And when I say report,
21 I mean I've asked for a report already and I got stacks of
22 papers.

23 DEPUTY SECRETARY GOLD: Not by the pound.

24 REPRESENTATIVE HARHART: Just a small little
25 brief, you know.

1 DEPUTY SECRETARY GOLD: I told counties that I'm
2 not funding these based on the thickness of their submission
3 so that they -- I'm not doing it by the pound.

4 REPRESENTATIVE HARHART: Well, I'll tell you I
5 do want to thank you. And I'm sorry. I didn't want to put
6 you on the spot there, but I --

7 DEPUTY SECRETARY GOLD: Not yet. We'll have to
8 have lunch.

9 REPRESENTATIVE HARHART: Okay. That will be
10 fine. But I really -- however we can help these children
11 get through the system a lot quicker, whether it's through
12 the ombudsman office or through child advocacy centers, I
13 don't care how it is. I think we really need to be very
14 serious about getting them through the system, not getting
15 them caught up until they're 18 years old.

16 And I really think of it and it really was
17 compelling testimony back when Mr. Cervone brought his
18 three. It's something that always sticks in my mind. It
19 really does. And it sticks in my mind, and I think that
20 they were doing well for what they've been through.

21 DEPUTY SECRETARY GOLD: Well, it's just --

22 REPRESENTATIVE HARHART: I just really want to
23 keep working on it. I think it's important we work on it.

24 DEPUTY SECRETARY GOLD: I may be criticized for
25 taking my work time, but on a monthly basis I meet with

1 about a half a dozen different kids who are either in my
2 system or have graduated from my system and we go out for
3 lunch. And the entire -- the reason for this is just for me
4 to listen to them. And I ask them to tell me their stories.

5 And it's not as an august meeting as this, but
6 it's probably my most important meeting of the month because
7 when I turn to one young, beautiful young lady and I had
8 asked the question how much money do you think this
9 system -- after I went around and said give me a grade,
10 based on your experience how would you grade my system.
11 They understand about grades. When I went around and asked
12 how much do you think we spend, and at the end I told them
13 how much is in my budget, the young lady turned to me and
14 said, if you spend \$2 billion, why could I never get a pair
15 of shoes that fit.

16 And that was -- that was telling because we need
17 to get back to the basic needs of the children and the
18 families. And they are very, very informative as to what
19 was missing with the -- and they're also very quick not to
20 blame. It's very interesting.

21 And I told this group this week how much -- how
22 I admired them for their strength, for their resiliency.
23 And not many people have told them that they admire these
24 kids. But I truly do because I'm not sure if I would have
25 had the strength and had the same kind of outlook about the

1 future because each and every one does believe that they
2 have a good outlook and a good future.

3 REPRESENTATIVE HARHART: Thank you.

4 MADAM CHAIRMAN BISHOP: Representative
5 Youngblood.

6 REPRESENTATIVE YOUNGBLOOD: You have to forgive
7 me. I'm having really bad allergies.

8 DEPUTY SECRETARY GOLD: I have to forgive you
9 because you're my representative.

10 REPRESENTATIVE YOUNGBLOOD: We need to talk in
11 private.

12 DEPUTY SECRETARY GOLD: I promise I put my trash
13 out right out on time. I don't do it that day before. I do
14 my recycling. I promise. I'd love to have -- I'd love to
15 have that fancy recycling where you get the Starbucks
16 coupons, but my neighborhood doesn't have that.

17 REPRESENTATIVE YOUNGBLOOD: Well, you're lucky.
18 I went through three recycling cans because the recyclers
19 take it and I've purchased two.

20 DEPUTY SECRETARY GOLD: And, Representative
21 Youngblood, every week I go out and clean my own front part
22 and I don't complain to the streets department.

23 REPRESENTATIVE YOUNGBLOOD: Well, I don't
24 complain either. I just keep buying the recycling
25 containers. They just take them.

1 DEPUTY SECRETARY GOLD: And I pass your office
2 every Saturday when I go to the Coleman Regional Library.

3 REPRESENTATIVE YOUNGBLOOD: Joe Coleman was my
4 godfather. Thank you for coming before us today. I had
5 several questions.

6 Do we ever receive -- does the legislature ever
7 receive a report on how many complaints you handle and what
8 were the findings of those particular county by county?

9 My second question, kinship care through all 67
10 counties, I had spoke with the chair, we need an update to
11 see how well the program itself is working and if the
12 information is being provided to the relatives or the
13 certain degree of a relative. Because it's my understanding
14 it's still a problem, not just in Philadelphia County
15 because I get a lot of calls since I was the prime sponsor
16 of that all across where people are still having problems,
17 they still get a welfare check, don't even bother.

18 My third and last, your contracted agencies, the
19 per diem that they get, is it their job to keep the children
20 in placement or unification with a member of the family?
21 Because as I see it, it's the job to keep the children in
22 placement instead of unification.

23 DEPUTY SECRETARY GOLD: To answer all three of
24 your questions, I don't believe that we provide a report to
25 the Legislature on any basis as to the number of complaints

1 that my office handles by county, by region and the
2 resolution of those complaints.

3 The second question about kinship care,
4 Representative Youngblood, I will tell you that it is a top
5 priority for me. In fact, I'm sad to say that I had to put
6 two counties on provisional licenses because they were
7 refusing as late as this year to implement kinship care.
8 I'm happy to say that the results of those two provisional
9 licenses is that kinship care is now in 67 counties. Is
10 it -- are there errors intentional or not intentional,
11 absolutely. I too get complaints from kin who are caring
12 for loved ones who are being told they can't get kinship
13 care.

14 Do we investigate? Absolutely. One of the
15 things that my system has to make clearer, vis-a-vis kinship
16 care, is that there's a quid pro quo for the kinship care.
17 They have to also recognize that we have to come on a
18 regular basis like we have to do with another foster home.
19 Even though that family's home is not available for
20 strangers, by taking the kinship care per diem, that child
21 is in our custody and the same requirements and the same
22 visits have to occur.

23 Sometimes the result that I get back is that the
24 kin wanted the child with them but didn't want the
25 intrusiveness, which it is, of that monthly visit or that

1 unannounced visit. And a lot of times it's communications,
2 it's explaining why we're doing this. It's not really
3 questioning your integrity or your willingness or your
4 honesty, but rather it's required. And now it's being
5 required by the federal government.

6 So we have to do a better job of making sure
7 that everyone's rights, including kin, are explained at the
8 front door and repeatedly explained.

9 And your third question about --

10 REPRESENTATIVE YOUNGBLOOD: How do they really
11 support you? First, let me say that I am an adoptive parent
12 and I've been a foster parent. I am now a newly grandparent
13 and that's an issue we're going to discuss because I'm still
14 furious about that entire situation. What do they do?

15 Because usually when you talk to these provider
16 agencies, they'll tell you, oh, no, that's not our
17 responsibility, that's the responsibility of Children and
18 Youth. Is their responsibility only to receive the per diem
19 for having the child placed at the agency and the agency
20 themselves (sic) find a foster parent?

21 DEPUTY SECRETARY GOLD: One of the challenges as
22 the Deputy Secretary in this Commonwealth for the child
23 welfare system as the administrator of 67 individual
24 counties is that we don't contract with providers. We
25 license provider agencies. Our licensing requirements are

1 the minimum as probably all licensing requirements are. The
2 contract that is done by each county sets forth the
3 requirements of what's expected from each provider.

4 And let me just step back and say many times we
5 don't take the opportunity to talk about how rich our system
6 of private providers in Pennsylvania is. And we need to
7 step back and say that other states envy our resources and
8 unfortunately use our resources because we get a lot of kids
9 from out of state in state, many, many -- in much higher
10 proportion than we send kids out of state. So our private
11 provider community is one that's really respected
12 nationwide.

13 Do we need -- do I need to be more accountable
14 to this Legislature? Yes. And one of the things that I
15 proposed just last week to the county administrators is what
16 I'm proposing for fiscal year '08-09, and that is that we're
17 going to have stated outcomes for both counties and
18 providers and those outcomes are going to include
19 reunification within less than 12 months, and 6 months and
20 12 months once the service is ended is the family still
21 together, is the child attending school, has there been a
22 reabuse or rearrest in the area of delinquency matters. And
23 so we can really learn, number one, what are we getting for
24 what we're spending, and, secondly, what's the impact of
25 that service.

1 Too many times we're told I don't understand why
2 this child didn't do well at home, he did so well in
3 placement. Well, if we're not -- if we're not helping the
4 family with the family's problems and it's the same problems
5 that we removed the child about, then it doesn't -- it's not
6 rocket science to say that when the child's returned the
7 same problems are there.

8 So one of the things that I'm encouraging and I
9 think that it's odd -- I think that I'm viewed as odd for
10 many reasons, but for one reason being if you have to take a
11 child out of the home, I want you the counties and you the
12 providers to start intensive services in the home the same
13 day you remove the child.

14 MADAM CHAIRMAN BISHOP: Okay. We have to hurry
15 on.

16 DEPUTY SECRETARY GOLD: I apologize.

17 MADAM CHAIRMAN BISHOP: I have one more question
18 coming from Representative Mundy.

19 REPRESENTATIVE MUNDY: And it's not as much of a
20 question as it is an apology to Representative Harhart if
21 she in any way took my comments as a criticism of her or her
22 efforts. She has been steadfast, along with many other
23 members of this committee.

24 I do see, however, that as a legislature we have
25 failed to address the needs of foster children in this

1 state. And I know that Julie and I will continue, along
2 with again other members of this committee, to work on these
3 issues. So I did not mean in any way to be critical of
4 Julie or any of the people who served on the task force or
5 who serve on this committee and who do very good work with
6 regard to children. So I do apologize.

7 MADAM CHAIRMAN BISHOP: We certainly want to
8 take this opportunity again, Secretary -- Deputy Secretary
9 Gold, thank you for coming. And I do want to say
10 unfortunately I've got to move. We are too far behind with
11 three more testifiers to go so please excuse me.

12 REPRESENTATIVE THOMAS: I feel left out being
13 the only male.

14 MADAM CHAIRMAN BISHOP: Well, we have ten women
15 on this group so we're sorry. I'll let you take a minute,
16 but we are way behind. Please be brief.

17 REPRESENTATIVE THOMAS: I'm going to follow up
18 with Mr. Gold, but I want to thank Mr. Gold. He's probably
19 the first person that I think is really looking at what's
20 going on in Pennsylvania. It makes no sense to me to take a
21 child and send him back to a home where there's no food and
22 there's no leadership and we don't have an understanding of
23 what is going on.

24 And so, real quickly, one question. I like your
25 support for the ombudsman. Question. Is Secretary Donna

1 Cooper on board?

2 DEPUTY SECRETARY GOLD: Yes. Yes. Any other
3 secretaries, they're on board with you. My secretary,
4 Estelle Richman, is very much on board.

5 REPRESENTATIVE THOMAS: Well, I know she's on
6 board with this. I know a lot of times with this
7 administration there is like an ombudsman in the Governor's
8 Office for Health and Human Services, Economic Development,
9 I now see a housing czar and there's another czar, but
10 that's his organizational model. So I know a lot of times
11 you make decisions but then when it gets to that ombudsman
12 out of the Governor's Office, something else happens. So I
13 was just curious about that.

14 DEPUTY SECRETARY GOLD: Thank you very much.

15 MADAM CHAIRMAN BISHOP: I simply want to thank
16 you again and tell you that there is a wind of change.
17 There are seven women on this group now. And while the men
18 did a great job, we are going to be in your face day and
19 night until we get what we want for the children of the
20 Commonwealth of Pennsylvania.

21 DEPUTY SECRETARY GOLD: What a pleasant picture
22 that I have.

23 MADAM CHAIRMAN BISHOP: Thank you. Our next
24 testifier will be Cathleen Palm, who's President of Cathleen
25 Palm and Associates.

1 MS. PALM: Good afternoon. First of all, I
2 reached to Tom to say could you say change my title because
3 I don't think anyone, including my three-year-old daughter
4 thinks I'm president of anything. But I just wanted to
5 before I start with my testimony -- you know, there's been a
6 lot of what hat do you wear, are you a child advocate, are
7 you a family advocate, and I just want to stress because I
8 think this is an important part, that we absolutely
9 positively -- I don't think that any person who is so
10 steadfast in what are we doing on behalf of children is
11 turning a blind eye to families.

12 And so I think it's very important to know that
13 if a woman's being battered in her own home, I want to make
14 sure that both the woman who's being battered is receiving
15 services but that the safety of the child is assured as
16 well. So what I view myself as is when the scale isn't as
17 balanced because sometimes we adults have a tendency to
18 focus on we adults, that I want to make sure that the voice
19 of children is always recognized. So I put that out there.

20 MADAM CHAIRMAN BISHOP: Cathleen, your testimony
21 is rather lengthy. In essence of time could you paraphrase
22 it a little for us?

23 MS. PALM: Actually, Frank pretty much gave it
24 for me. Then Richard kind of piggybacked so we're in good
25 shape.

1 But one of the things I was thinking when I was
2 coming here when asked by Tom to come was how could I really
3 concretely start to suggest how I think and why I think that
4 this is important. And I thought about the last three or
5 four years where some of us have really been trying
6 to -- actually a decade trying to get some level of
7 standardized county-based reviews when a child dies and to
8 get there be a greater sense of urgency at the Department of
9 Public Welfare.

10 As an advocate I've had my own advocate friends
11 say to me, well, what's it matter, I mean it's death, I mean
12 the child is dead. And so there hasn't been a sense of
13 urgency to pass the child fatality legislation. And yet the
14 fatality legislation is a really key teaching tool because
15 if you start to see trends where 40 kids are dying a year
16 and a quarter of them die because mom was suffering maternal
17 depression, hello, the red flag might go off, do we have a
18 strategy for maternal depression.

19 If you start to see a strategy where, you know,
20 a quarter of the kids are dying because they were in the
21 system, we returned them home and the return home might not
22 have been inappropriate but the lack of services once the
23 child returned home wasn't there and so the safety net fell
24 out from underneath them. And so as I was thinking about
25 this, I was thinking if it had been someone other than a

1 nagging mother sitting in Berks County, like myself, who
2 kept saying what are we doing about child fatality
3 legislation, if you look at the annual child abuse report it
4 doesn't seem to square with articles in the newspaper and
5 how do we count child deaths.

6 And so there was a lot of questions that people
7 asked, and it was in that process that I found myself
8 turning back and saying there's really no place to turn to
9 when you have questions. And if you are the parent whose
10 child's been taken and you're concerned, there's no place
11 for you. If you're the child who wonders why it is that you
12 can't get a pair of shoes, there's no place for you to turn
13 to. If you're the advocate who's worked on behalf of the
14 child, there's no place to turn to.

15 So there really is in looking at the child
16 fatality stuff, which hopefully our Senate friends will move
17 since you all have done it, and you can hope the Senate will
18 come to that we assume and get it done, it revealed that,
19 first, we lack something that's an independent entity. We
20 lack something where people can pick up the phone and call.

21 And I'll give you a quick experience. I have a
22 six-week-old baby in my house. And I had lived in a
23 community that's having some rough upheaval, the
24 demographics are changing and there was a family that was
25 always struggling. And my husband and I went back and forth

1 about it and we struggled, but there was a family we felt
2 that the only choice was to make a call to Children and
3 Youth. It was pretty clear we had made the call because we
4 had interceded in that family on several times based on the
5 violence spilling out into the street.

6 So I come home with this beautiful five-week-old
7 baby and there's a knock on my door one day and it's a
8 Children and Youth worker. And I happen to sit on the
9 County Children and Youth Advisory Board so I thought, oh,
10 this is somebody coming, and they said, no, we're not
11 here -- we're here because there's a complaint about you.
12 There was a complaint that you and your husband had a fight
13 and that you let the door hit your child in the head.

14 Well, I'm with this lively thrilled
15 five-week-old baby in my house going -- scared to death.
16 And I knew the system. And for 24 hours I was panicked of
17 what if they take my child, what do I do.

18 I knew to call my pediatrician. I took my
19 daughter immediately to the pediatrician so that there could
20 be a confirmation there was nothing wrong. The folks at
21 Children and Youth, I knew they had a job to do, but I was
22 terrified because my greatest joy had happened. I had had a
23 child.

24 And if it had not been for Frank Cervone who I
25 could call and could help to kind of reassure me, Cathy, let

1 the process work. But I was smart. I was educated. I was
2 in a different spot and I was petrified.

3 So think of all the moms out there who are faced
4 with losing their child or worse, the child is gone and
5 there's no place for them to turn. We have to -- if we care
6 about kids, we have to care about those moms as well.

7 So there's a lack of an independency. There's
8 also -- it's hard to get data on the system. I can't
9 remember if it was Frank or Rich who said we've got tons of
10 data and yet not lots of good information.

11 Accountability. It really is hard to get
12 accountability in the system. But that's not just about the
13 providers, it's not just about the counties; it's frankly
14 about all of us. It's about the community. It's about this
15 General Assembly. It's about what pieces of legislation you
16 pass or you don't pass. It's about whether or not the
17 government puts money in budgets.

18 I'll pull the data, but I could have sworn the
19 Secretary confirmed to Representative Petri that she had
20 money this year for an ombudsman. But I don't want to put
21 her on the spot. Not today anyway.

22 So one of the things that I think is worrisome a
23 little bit about House Bill 1709 is that it is housed inside
24 DPW. Right now, you know, they're making a commitment, you
25 hear a commitment from Secretary Richman, you hear a

1 commitment from Deputy Secretary Gold, but both of them live
2 a life that's short term inside of DPW. Who knows what the
3 face looks like tomorrow. So this General Assembly really
4 has a responsibility to children and families to say we will
5 make sure whatever we put in place can be independent, it
6 can actually have authority to investigate and not
7 investigate just for the sake of investigation, but what can
8 you do.

9 I think House Bill 1709 lacks the ability to
10 resolve concerns versus just the ability to look at
11 concerns. And I think that would be just as frustrating.
12 As that mom with that six week old, if I had called someone
13 and they listened to me and it was a very nice ear but then
14 they said there's nothing I could do for you, I would be at
15 wit's end.

16 So we have to make sure we don't set up a trap
17 for families or providers or people who are concerned that
18 there is not a place to be heard, now we say there's a place
19 to be heard but that's it. Not to resolve your issues, just
20 to be heard. So we have to be very cautious about that.

21 That ties into confidentiality. And again,
22 Representative Boback, I think we really do need to balance
23 this. But we also have to look beyond the ridiculous. When
24 a child dies in this Commonwealth and it's all over the
25 media and the media's reporting it and we can't then go and

1 ask the Department of Public Welfare for basic things like
2 can you give us a listing of county child -- the county the
3 child died in, the age of the child and the circumstances of
4 the death, meaning suffocation, drowning or whatever, and
5 that's deemed confidential, that's insane. It's insane. And
6 we can't let confidentiality be what helps to tear down the
7 credibility and the confidence in the system.

8 We also though cannot swing open the door to say
9 every element of that person's personal laundry, especially
10 where there are siblings, because even if you think the
11 adults have kind of made their bed, let them live in it, not
12 on behalf of that sibling, not on behalf of that child. But
13 we have to look at the confidentiality on this front
14 particularly in the child death front, but in -- but on this
15 front. Because, again, if you have someone pick up the
16 phone, they think someone's going to listen to them, and
17 then they say, well, my hands are kind of tied, I can't do
18 anything.

19 And Deputy Secretary Gold's recommendation,
20 which I think actually is an interesting one of potentially
21 having the arbitrator be outside of the department
22 potentially even through a contract, the challenge there is
23 you have to make sure you write the legislation very, very
24 strong that that ombudsman doesn't say, well, you want part
25 of the access to confidential information hierarchy so you

1 really can't do your job.

2 And the only other thing that I'll say so that I
3 can move your time along is there are about 27 states now
4 that have something called an ombudsman or an advocate. I
5 think you can tell from the tension and the passion in my
6 voice I believe that if you do something along this
7 line -- I think part of the reason many of advocates for
8 children have tied ourselves onto something like an
9 ombudsman is this is a state that is in dire need of voice
10 and vision for children, especially vulnerable children.

11 The ombudsman is not a magic cure. It's not a
12 magic pill. It's not a panacea. But for god's sake it's at
13 least a step in the right direction. And so I think that
14 one of the things I would really ask you to do, whether it's
15 an ombudsman, whether it's, you know, a bill of rights for
16 children, whether it's child fatality legislation, that we
17 always look and say can we be doing a better job of
18 advocating for children and families.

19 And so I would really hope we wouldn't have an
20 ombudsman or an office that -- or you do something separate
21 that allows us to both have a conversation that there's a
22 checks and balance when people didn't get what they should
23 have gotten or children weren't served most appropriately
24 but there's also a why don't we get it, where is the voice
25 to say why don't you know what is going on in terms of the

1 funnel of more than a billion-dollar industry in this
2 universe, in this state.

3 And so the child abuse report is nice, but it's
4 not a really good tool and it's not information for you to
5 really make informed decisions, and so I would ask you and
6 us to say how do we do more to advocate on behalf of
7 children.

8 That will be very complex because that will mean
9 we'll have -- we'll have to look at the very complex nature
10 of families, poverty, drug and alcohol abuse, maternal
11 depression. I mean there by the grace of god -- I say this
12 all the time -- every one of us is capable of hurting a
13 child. Thankfully very few of us do. But then there is an
14 element of our population that in a very depraved way would
15 hurt our children and so we really have to make sure that
16 every parent has the confidence and the competence.

17 This Commonwealth has not increased the family
18 central line items since 1992. We are -- you can't sit
19 here -- we can't sit here and talk about how do we improve
20 the well-being of children, how do we have less children --
21 I don't like it but snatched from their homes when in fact
22 you say we haven't in 15 years put any additional dollars
23 into really strong proven family support programs.

24 So I'll end it there. You guys have always been
25 great in doing good work individually and collectively. I

1 wish other folks had the same sense of urgency and passion.
2 We're working on it. But whatever you do, whether it's the
3 ombudsman legislation or anything, I would just really hope
4 that it has advocacy at the core and that we finally get
5 some kind of -- get beyond our disparate strategies.

6 This is a state with great leadership. You have
7 some extraordinary folks gathered in this room today. The
8 problem is everything we do is disparate. We have
9 no -- Richard, I trust him. I'm one of the few people who
10 trust he's going to be here three years. And I think it's
11 great because it's been -- to me it's a crying shame that we
12 live in a state that in five years you had five deputies in
13 one administration. That speaks volumes about the fact that
14 either somebody didn't want the job or no one was really
15 paying attention to care if anyone had the job.

16 These are the most vulnerable children in this
17 Commonwealth. We take them out of their homes. They become
18 our responsibility. We have to pay attention to them more
19 than we do.

20 MADAM CHAIRMAN BISHOP: Thank you so very much.
21 Are there questions? And if you have any written
22 suggestions as we move along with the bill, please --

23 MS. PALM: You can be assured. Tom will know.

24 MADAM CHAIRMAN BISHOP: Thank you so much. At
25 this point we're going to invite Mr. Charles Songer, who is

1 the Executive Director for the Pennsylvania Children and
2 Youth Administrators, and we say welcome.

3 MR. SONGER: Good afternoon.

4 MADAM CHAIRMAN BISHOP: Good afternoon.

5 MR. SONGER: And Richard may not believe this,
6 but I too believe that he will be here for three years.
7 I'll also admit to that thought keep me up nights, but not
8 in a bad way. It's exciting because I think -- I think we
9 do have a tremendous opportunity now to move the agenda
10 forward and we look forward to that.

11 Okay. I'll dispense in the interest of time
12 with all the introductory stuff if that's helpful. We do
13 have some concerns, however, that we're not convinced that
14 an ombudsman office and not if it's housed in the Department
15 of Welfare will in fact improve the safety, permanency or
16 well-being outcomes for children.

17 We have concerns about the language of the
18 remedial action, and we've offered some comments about that
19 as to what a more reasonable standard might be and it
20 happens to be a standard that is already in place in DPW
21 Regulation 3130.62.

22 We have concerns about the current level of
23 oversight at the county agency is already considerable.
24 Perhaps there are things that we could at these different
25 levels be doing better. I don't question that. But again

1 does that mean that we need to move forward with another
2 office, particularly at the level of cost as indicated by
3 Deputy Secretary Gold in his research.

4 We have also a concern about the -- in the third
5 item in my testimony about the fact that the ombudsman does
6 not require that a complainant exhaust other means of remedy
7 before going to that level. And we're concerned that
8 ultimately can frustrate or impede or even delay the other
9 agencies that might have jurisdiction or a role to play in
10 the conflict resolution or the investigation that it
11 may -- it may make that process more difficult.

12 We have been looking at some of the other states
13 that are doing ombudsman work and have been doing it for
14 some time. We're still researching that, and we're
15 certainly willing to work with the Legislature, with the
16 department, with the providers, with the advocate community,
17 which we consider ourselves a part of, to look at what is
18 the most effective way to deal with the complaints that
19 inevitably come up.

20 And they should. They need to be addressed. We
21 need to know where we can improve. We also need to know
22 when we can be more clear so that the complaints may not be
23 generated in the first place. A lot of the listening that
24 Richard referred to is something that we all need to do more
25 of.

1 But in its present form the Pennsylvania
2 Children and Youth Administrators Association does oppose
3 House Bill 1709, but we are certainly willing and ready to
4 talk with the Committee and others to find the best way to
5 deal with this because it's clearly an issue. And if the
6 complaints are not being handled satisfactorily now with all
7 of the systems that we have in place, how do we fix those
8 systems or what is the best way to move forward. And I can
9 pledge to you our support in finding the best way to deal
10 with that. I'll stop there.

11 MADAM CHAIRMAN BISHOP: I would begin by asking
12 would you work with us on amendments if necessary?

13 MR. SONGER: Absolutely.

14 MADAM CHAIRMAN BISHOP: Or new legislation if
15 necessary --

16 MR. SONGER: Absolutely.

17 MADAM CHAIRMAN BISHOP: -- to put in place some
18 of the things you feel that can make a difference? Other
19 questions? Questions? Thank you so much for coming, and
20 you will be hearing from us.

21 Our next testifier, and I do apologize to all of
22 you for keeping you past the 2:00 hour, is Miss Bernadette
23 Bianci, Executive Director Pennsylvania Council of Children,
24 Youth and Family Services. Welcome.

25 MS. BIANCI: Thank you. Good afternoon. Again,

1 in the interest of time, I will abbreviate the testimony.

2 You have it in writing before you. And kind of beginning at
3 the top of Page 2 we would like to be on record as
4 supporting the intent of this proposed legislation to
5 elevate public accountability and responsiveness within our
6 system. But we do, however, have a number of questions
7 related to the scope of who can bring the complaints and the
8 parameters of the complaints that would be addressed at this
9 ombudsman level.

10 There are also questions that we've identified
11 as to how best to maintain autonomy of this proposed office
12 and what efforts will be made to coordinate activities with
13 other levels of investigative and operational authorities so
14 as to avoid duplication of effort or diffuse the impacts of
15 the resources to be dedicated to this new office.

16 We've identified questions in our testimony and
17 I'll just reference them quickly. We share the concerns
18 about the location of the office of ombudsman, and again
19 it's in an effort to ensure the autonomy of this new office.
20 For it to be effective, we believe that it must be
21 independent of and not subject to any entity that it may
22 hold accountable. Housing this office within the Department
23 of Public Welfare would compromise this autonomy and be
24 contrary to one of the basic characteristics of an ombudsman
25 role. We recommend that this office be situated in another

1 arm of state government to ensure objectivity.

2 Questions around the scope of issues to come
3 under the purview of the authority of the children's
4 ombudsman office are also identified. We request clarity as
5 to the scope of grievances and complaints that are
6 envisioned as being most appropriately addressed by this new
7 office, specifically who can complain and about what issues.

8 Identification of issues and complaints by this
9 office need to be clearly defined so as not to duplicate
10 existing efforts of the Office of Children, Youth and
11 Families, and as providers we experience many of those
12 efforts through regulatory enforcement and licensing
13 actions.

14 Keeping these points in mind, we again ask if
15 the efforts of this new office will be primarily focused on
16 investigating complaints and concerns around actions,
17 policies and interpretations of the Office of Children,
18 Youth and Families itself, of county children and youth
19 agencies, of all licensed providers, and there are over 1400
20 licensed entities listed within the department. Does this
21 option potentially present an opportunity for private agency
22 directors to address concerns related to the actions of a
23 county or the Department of Public Welfare? Is that the
24 true intent? And yet with as broad a definition as is
25 offered in the current proposed bill, conceivably that could

1 occur.

2 We raise a number of questions around potential
3 duplication of effort and the need for coordination with
4 what's already in place. Private agencies are required to
5 share grievance and appeals processes with Youth and
6 Families as they are accepted for service through our
7 agencies. These protocols already create a structure which
8 encourages that concerns be addressed at the lowest most
9 direct level possible, while still presenting more
10 sequential options and alternatives to ensure resolution.

11 We want to make sure that this is that kind of
12 process that efforts are to be made to resolve issues and
13 address concerns at the lowest level possible without always
14 rising to the level of an ombudsman office. Clarity and
15 coordination as to the roles, responsibilities and
16 expectations of this office as it relates to already
17 existing protocols for problem resolution and investigations
18 is critical to its implementation and success.

19 We ask how will this proposed office coordinate
20 its roles and responsibilities with those of state and
21 regional OCYF offices. Will this office support established
22 protocols for problem resolution or does this present an
23 opportunity that could be perceived to circumvent those
24 efforts to directly address these issues at a provider or
25 county level?

1 And then we always have questions about funding,
2 and we've heard a number of these today. As with any new
3 initiative, there are concerns that existing resources might
4 be diverted to fund operations at this new office, and so we
5 ask has dedicated funding, in addition to the current
6 appropriations, been identified to support this new office.
7 And we ask that with all due respect, given the financial
8 constraints in our current system.

9 The Pennsylvania Council of Children, Youth and
10 Family Services represents over 125 private providers. We
11 are part of the private provider community in Pennsylvania.
12 We have the direct involvement with children and families.
13 We are certainly committed to ongoing quality assurance,
14 quality improvement, responsiveness, inclusion of families
15 and youth in addressing concerns that are identified, and we
16 are committed to working with the committee to refine this
17 piece of legislation to really serve what we believe is its
18 intended purpose.

19 MADAM CHAIRMAN BISHOP: Are there questions? We
20 thank you very much for coming, and you can be assured that
21 we will be calling you as we move forward with this looking
22 for suggestions and amendments, if necessary.

23 MS. BIANCI: Thank you.

24 MADAM CHAIRMAN BISHOP: Thank you. Our last
25 testifier this evening -- or this afternoon, and I do want

1 to apologize for running a bit over time, but all of the
2 testimony -- ones who have been testifying have been so good
3 that it has been very difficult to move with the kind of
4 speed that we were scheduled to move with, but we thank all
5 of you. And our last testifier, Anne Marie Lancour, from
6 the American Bar Association, and she brings us what we can
7 do and what we cannot do according to the law that we all
8 make. Thank you.

9 MS. LANCOUR: Good afternoon and thank you very
10 much for having me. Madam Chairperson and Members of the
11 Committee, I'm Anne Marie Lancour. I'm the Director of the
12 State Projects for the American Bar Association Center on
13 Children and the Law in Washington, D.C. It is my distinct
14 pleasure to be here, and I do thank you for the opportunity
15 to provide testimony.

16 I'll try to do this briefly, but the American
17 Bar Association is the world's largest volunteer
18 professional organization with a membership of over 400,000
19 lawyers, including a broad spectrum of attorneys,
20 prosecutors, judges and defense counsel. I feel I have to
21 say this because I work for the ABA, but the ABA
22 continuously works to improve the American system of
23 justice. I work for the section on Children and the Law.
24 We have been in existence since 1978.

25 I would like to commend the Chairwoman, this

1 Committee and the sponsors of House Bill 1709. It clearly
2 demonstrates the Commonwealth's commitment to children and
3 family. The American Bar Association is a staunch supporter
4 of children's ombudsman's programs. The ABA created and
5 adopted standards for the establishment and operation of
6 ombuds offices in February of 2004. Since that time we've
7 actively worked with children's ombudsman's programs around
8 the country, as well as providing technical assistance on
9 these issues.

10 Since 2003 I've directed the Pennsylvania
11 Permanency Barriers Project which is sponsored by the Office
12 of Children, Youth and Families. The goal of our project is
13 to reduce the amount of time children spend in foster care
14 by sending them home sooner if it's safe or by helping
15 children achieve permanency more quickly.

16 And so as a member of the American Bar
17 Association, on behalf of our president William Neukom, we
18 believe we have some Pennsylvania specific experience as
19 well as a national perspective of ombudsman programs. We
20 believe this bill is yet another example of Pennsylvania
21 demonstrating its proactive nature to try to help children
22 in foster care.

23 My intention today is to provide a general
24 overview of the purpose and scope of authority for the
25 children's ombudsman's programs in the United States.

1 Twenty-seven, potentially twenty-eight to date -- because I
2 just heard yesterday Missouri recently passed legislation
3 and New York actually is looking at this but hasn't passed
4 yet -- have some form of child ombudsman or child advocate's
5 offices. These were mostly created through state
6 legislation and are responsible for resolving complaints as
7 we've heard today.

8 Depending on what legislation is enacted, these
9 programs advocate for a broad scope of power. The programs
10 are charged with monitoring child-serving agencies to ensure
11 that state and county agencies are complying with federal
12 and state laws to serve and protect children.

13 The U.S. Ombudsman program's models contain a
14 couple common elements. One being a direct link to the
15 public, telephone hotlines, you know, Web access and ads;
16 receptiveness and responsiveness to written complaints
17 received in however way as possible. That's something
18 that's really key to this kind of program. And I heard it
19 discussed, and I was very happy that that was raised. There
20 has to be investigative capacity, of course, and then the
21 ability to demand and assist in improvement in the
22 governmental systems.

23 Unlike child protective workers, ombudsman
24 staffs aren't first responders. They don't go out in the
25 case of emergency, but rather monitor the agencies that do,

1 and, as well as other agencies, provide important services
2 to children and families.

3 If a citizen is concerned that a child-serving
4 agency has failed to meet its obligations towards a child or
5 that child has been wrongfully denied a service, it's the
6 ombudsman's job or where there's a child's advocate,
7 depending on the state you're in, to examine what may have
8 gone wrong, work on resolving the matter and prevent similar
9 problems from happening in the future.

10 I'd like to briefly -- two examples of offices
11 that have pretty broad powers are just in the nearby states
12 of Connecticut and New Jersey. And New Jersey created their
13 office in 2003, and they set a high example of the office
14 with a great scope of authority. And both Connecticut and
15 New Jersey have proven very effective in how they do their
16 work.

17 Some of the powers and authorities of U.S.
18 offices of ombudsman -- there is some bullets listed in my
19 testimony so I'll go through them kind of briefly. The
20 powers that are most necessary would be access to all state
21 agency and county records and files on children; the ability
22 to issue subpoenas to acquire records and information or to
23 compel attendance and testimony of witnesses is key; the
24 ability to inspect, monitor and review foster homes,
25 detention centers and any other out-of-home placement for

1 children; the ability to interview children about their
2 experiences; provide training and technical assistance to
3 states and counties; to recommend systematic changes;
4 issuing public reports; recommending or drafting proposed
5 legislation; demanding corrective action from other agencies
6 that are falling down in their jobs; to intervene in
7 important court cases that involve children; to file friend
8 of the court briefs and to initiate litigation of behalf of
9 individual classes of children. Those are some of the
10 powers that we see in other states' ombudsman's offices.

11 These powers allow the ombudsman access to
12 needed information and the authority to act and make
13 necessary inquiries.

14 These offices are playing increasingly important
15 roles in the United State child welfare system. They
16 provide a mechanism to help ensure that children are safe
17 and that these systems charged with serving children and
18 families do so in a meaningful and effective way.

19 My testimony this afternoon is designed to be
20 broad in its overview. And I want to communicate the ABA's
21 unequivocal support of ombudsman's programs. We have an
22 ABA-wide policy and the Center on Children and Law also
23 supports this.

24 Again, I commend the authors and the Madam
25 Chairperson and the Committee for looking at this important

1 issue. There are folks back at my office who are even more
2 versed and much more well versed in ombudsman's programs
3 than I am, so we would be happy to work with your committee
4 to answer any specific questions to address any changes that
5 you might want to make in ongoing legislation so I'd like to
6 offer the services of the ABA to help you, and thank you
7 very much for allowing me to testify this afternoon.

8 MADAM CHAIRMAN BISHOP: We thank you for coming
9 up here. Yes.

10 REPRESENTATIVE HELM: I'd just like a quick
11 history lesson being the first time on this committee.
12 Twenty-seven other states have such an office, and it sounds
13 like we worked on this for a number of years and haven't put
14 anything in place. Has funding been the main object that we
15 can't proceed with this in Pennsylvania?

16 MS. LANCOUR: I'm assuming it is, but I'm going
17 to say it's always an issue because, you know, coming from a
18 place at the ABA I always worried about funding. Funding is
19 always an issue. And so you have to make sure that that's
20 in place. I would agree that has to be one of the issues.

21 MADAM CHAIRMAN BISHOP: Chairman Mundy.

22 REPRESENTATIVE MUNDY: Thank you. Thank you
23 very much for coming all the way from Washington, D.C.

24 MS. LANCOUR: My pleasure.

25 REPRESENTATIVE MUNDY: In your -- in your

1 testimony on Page 1 you reference the ABA created and
2 adopted standards. And are those the bullet points that you
3 enumerated or is there a more extensive list of standards
4 that you have? And would it be -- would it be all right for
5 you to give those to the Chairman to disseminate and to help
6 us work on this bill?

7 MS. LANCOUR: I just so happen to have a copy
8 with me. And the American Bar Association House of
9 Delegates adopted the revised standards for establishment
10 and operations of ombuds offices dated in February of 2004.
11 I just want to say that this is for general all ombuds
12 offices because with the ABA we don't work on -- the Center
13 on Children and the Law works on children's issues, but the
14 ABA looks at the broad legal perspective. So certainly many
15 of the bullets came from that.

16 Also, one of our employees who we now hired
17 started up -- worked when they started up the New Jersey
18 Office of Child Advocate, and he also developed some of the
19 recommended bullets that you see in my testimony. So it's
20 kind of a mixture of both. It's a mixture of ABA policy and
21 what the center knows that works.

22 REPRESENTATIVE MUNDY: Well, would the
23 ABA -- could the ABA identify -- you say there are what, 27
24 now other states that have these ombudsmen? Could you give
25 us what you consider -- what the ABA considers to be the

1 best practice with regard to those states' programs?

2 MS. LANCOUR: Yes. We would be happy to do
3 that. We'd be happy to submit that to the Committee. I'm
4 certain you don't want it right now because that would take
5 me awhile, but we'd absolutely be happy to outline for you
6 what we think are good examples and best practices.

7 It's kind of what the center is all about.
8 We're a best practice kind of center wearing that symbol.
9 It's kind of a group of lawyers that will give you what we
10 think can happen in practice.

11 REPRESENTATIVE MUNDY: And do you have an e-mail
12 address that you could share with us? Because I see an
13 ABA -- American Bar Association address on your cover sheet
14 here. Is this where you can be reached at this phone
15 number?

16 MS. LANCOUR: No. I will give you my direct
17 phone number, and I will give you my e-mail address. My
18 direct phone number is 202-662-1756. My e-mail address is
19 my last name, so Lancour, L-a-n-c-o-u-r, and then with
20 an "a" for the and, at staff, s-t-a-f-f, dot, ABAnet.org.

21 REPRESENTATIVE MUNDY: Thank you very much.

22 MS. LANCOUR: Thank you.

23 MADAM CHAIRMAN BISHOP: Thank you again for
24 coming. I wanted to ask you, you mentioned that -- and
25 Representative may have touched on it, I was busy,

1 engaged -- in the 27 states where there are already the
2 ombudsman's programs at work, would you say all 27 of them
3 have been successful?

4 I think she asked you what was their strengths,
5 what some of the things work. Have they been successful
6 with that?

7 MS. LANCOUR: I think a general theme of success
8 would be allowing a veil that doesn't necessarily have to be
9 on children's issues -- cases to be lifted. And I think
10 whenever you have another layer of accountability and you
11 have someone else taking a look at something, that's going
12 to help you.

13 So I think that that would be an example where
14 all 27 have been successful. The ABA -- and to the best of
15 my knowledge the last time the ABA, and we worked with the
16 NCSL, National Council on State Legislatures, did a study
17 was back in 2004. And so I don't think we've done a
18 comprehensive study on whether they work or don't, but we
19 certainly do have recommendations of what does work
20 throughout the states and I'd be happy to provide that.

21 But I think generally where you have
22 independence, where you have the investigative and then the
23 follow-up ability to issue subpoenas and then follow that up
24 with potential either lawsuit or other kind of
25 implications --

1 MADAM CHAIRMAN BISHOP: Have they had lawsuits
2 already?

3 MR. LANCOUR: Yes.

4 MADAM CHAIRMAN BISHOP: Did they win?

5 MS. LANCOUR: Yes. An example from New Jersey
6 is -- comes to the front of my mind is the horrible case
7 where those seven children were severely malnourished in
8 foster homes, the Office of Child Advocate followed up on
9 that, helped bring in someone to issue litigation and they
10 were successful. So there are examples where this kind of
11 group or organization, if you will, can help affect
12 children's lives.

13 MADAM CHAIRMAN BISHOP: We certainly want to
14 thank you. We will be in touch.

15 Are there any more questions? We want to thank
16 you for coming and sharing today. Again, we thank other
17 testifiers who have come today. Deputy Secretary, we thank
18 you for being patient with us today. But I can assure you,
19 you have not heard the last of us. We will be back to talk
20 to you again and again and again. Thanks to all of you.

21 And thanks to all of the members that are left.
22 Again, I apologize for holding you, but the information was
23 something that we just couldn't resist.

24 (Whereupon, the hearing was concluded at 2:58
25 p.m.)

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

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Pamela L. Packer

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Court Reporter-Notary Public

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