
Public Meeting

of

ASSEMBLY ADVISORY COUNCIL ON WOMEN

“Testimony on issues relating to the safety of children including Internet use, which is the subject of P.L.1998, c.126, issues involving criminal invasion of children’s privacy, and related matters”

LOCATION: Committee Room 15
State House Annex
Trenton, New Jersey

DATE: December 4, 2000
10:00 a.m.

MEMBERS OF COUNCIL PRESENT:

Assemblywoman Rose Marie Heck, Chairwoman
Assemblywoman Marion Crecco, Vice-Chairwoman
Assemblywoman Linda R. Greenstein
Assemblywoman Nellie Pou



ALSO PRESENT:

Miriam Bavati
*Office of Legislative Services
Council Aide*

Deborah K. Smarth
*Assembly Majority
Council Aide*

Christine Scullion
*Assembly Democratic
Council Aide*

***Hearing Recorded and Transcribed by
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TABLE OF CONTENTS

	<u>Page</u>
Thomas Manahan, Esq. Prosecutor Union County, and Representing County Prosecutors' Association	2
Daniel K. Hurley Detective Sergeant First Class High-Technology Crimes and Criminal Investigations Support Unit New Jersey Department of Law and Public Safety	14
Thomas Fiskien Deputy Attorney General Prosecutors and Police Bureau Division of Criminal Justice New Jersey Department of Law and Public Safety	34
B. Stephan Finkel Senior Deputy Attorney General Legislative Counsel Office of the Attorney General New Jersey Department of Law and Public Safety	36
Anthony V. D'Urso, Psy.D. Supervising Psychologist Audrey Hepburn Children's House, and Vice Chair Child Fatality and Near Fatality Review Board	52
APPENDIX:	
Memorandum plus attachments addressed to Members, Assembly Advisory Council on Women from Miriam Bavati	1x
lmb: 1-75	

ASSEMBLYWOMAN ROSE MARIE HECK (Chairwoman):

We're going to begin. Assemblywoman Nellie Pou is on her way. She's stuck in traffic. This is Vice-Chair Marion Crecco.

We have a number of reasons why we'd like to address these issues, particularly, at this time of the year. I think it's important again to bring everybody's awareness to the season that's such a holiday season, that some terrible things can happen during the holidays, during the rush, during the shopping times in the department stores, etc., when children are running around. Strange people are out there all the time, ready, willing, and able to cause problems.

I had received a note from a former aide of mine, Sue Kosel, that she was very concerned that this summer-- She was on the beach noticing a man taking pictures of children as they played in their bathing suit attire. It attracted her attention, because he was there for so many hours doing this. And she went up to him and said, "Are you with a magazine or a newspaper?" And he said, "No." He said, "There's no reason why I can't do this." And then the next day, when she and her husband came back, he was there again doing the same thing. She wrote a note to one of the newspapers expressing her concern that no one thought that this was peculiar -- that a grown-up man was spending his days taking pictures of little boys and girls playing on the beach.

The letter that returned to the newspaper by this person was written in such a way as to again provoke her concern. Because in his response, he mentioned that there were no laws on the books that could or would prevent him from doing this and what he did with these pictures in the privacy of his own home was his own business. He mentioned, within the

context of the whole matter, Avenel, which again triggered a red flag for Sue Kosel. And subsequent to that, we learned that the man did not use his true name when he wrote to the newspaper. She found that out later, which again added to her concern.

There are no laws. And Miriam Bavati showed me a piece of legislation that George Geist had put forward. And this, of course, gave me concern, because there has to be a way to protect our children in the larger sense. We're talking about, again, the holidays. We're again talking about the Internet. You know, we held a hearing of Policy and Regulatory Oversight a couple of years ago which resulted in a piece of legislation -- our first addressing the Internet -- and Parry Aftab came to speak to us at that particular hearing. And there was a fine balance between protecting children and -- this is what she said -- a person's civil rights to use the Internet.

I think it's time to again look at that very carefully. And we know that we have police alerted and training taking place, and a couple of Assembly people putting bills in for money to retrain or to train other law enforcement people to alert the public and other police officers. And they do a lot of traffic control of pornographic material on the Net and elsewhere. And that's what precipitated this particular hearing at this busy time of the year, because it's such an important issue to all of us, and of course, to the protection of children.

Our first person to speak is Tom Manahan, the Union County Prosecutor. If you would come forward, please?

T H O M A S M A N A H A N, ESQ.: Good morning, Madam Chairwoman. Thank you for providing me with an opportunity to appear here

this morning on behalf of the County Prosecutors' Association. Your prefatory remarks were very much on point, particularly in regard to the anecdote about the man taking photographs of young people on the beach. It is one of the telling signs of a pedophile. And I can tell you without knowing the specific facts that what that individual did with those photos was most likely transmit them in some form to other children, or individuals he thought were children, most likely through the use of a computer.

It is an ongoing problem. We all agree that our children are our most vulnerable and valuable members of society. They are trusting. They are caring. And it is for this reason it makes them more vulnerable to the exploitation by computer sex offenders. Why are they more vulnerable, particularly young teenagers? They're the most likely to use a computer while unsupervised. They're more likely to participate in on-line discussions regarding relationships or those containing explicit sexual conduct. They're most likely to have their own E-mail accounts.

How do the preferential sex offenders use the computer to try to lure our children? I call them preferential sex offenders, because they are. Pedophilia is a medical condition. We use preferential sex offenders when dealing with these type of people in the legal sense. First of all, these preferential sex offenders seek validation. They're looking to find other people with similar interests.

Secondly, and we find this, by the way, when we come upon them, they're compulsive record keepers. They keep detailed records of their contacts and detailed records as to where they have their materials. It's a faceless and, many times, nameless crime. So they're communicating with

their potential victims because they believe there's a minimal risk of being identified. And also, with the utilization of the Internet, they can send pornographic material freely and easily and transmit it.

In the Union County Prosecutor's Office, in my office, almost two years ago, we established a high-tech crime unit. That unit monitors the Internet, not just for this type of conduct, but for all types of fraud and crime. Because frankly, any type of crime that can be committed, can be committed through the use of a computer. I don't think I can say this any more graphically, and I'll try to remember to be tactful about this, but I was invited into the room one day to show what was being transmitted by a preferential sex offender to who he thought was a 13-year-old teenage girl home sick.

You can have a computer with a camera mounted on it in which you can send your image across the computer. That is what this individual was doing -- very graphically exposing himself while in the chat room telling, who he thought, again, was a 13 year old girl, what he would like to do. When I asked if this was out of the norm, since it was so repulsive to me, the detective in the unit said, "We can get one to ten of these a day." It's just that prolific.

As a prosecutor, we not only want to stop this, prevent this from occurring -- because that's the key -- we want to prosecute effectively those who engage in this conduct. Now, we have some problems with that. Let's start out with the example that I just gave you. And I'm sure that the representative from the State Police High-Tech Crimes Unit -- I don't mean to steal his thunder -- but he'll probably get into this as well. What we do is, we set up what's known as a reversal -- a reversal or a sting operation. In trying to eradicate drugs, we've done this by having an undercover police officer

appear as a drug dealer or a drug buyer. That's the simplest explanation I can give you in terms of reversal.

But in terms of these reversals, we have highly trained detectives, expensively trained detectives, I should add, reaching out to chat rooms. It's like throwing a line in the water where there are a lot of fish. Actually, fish is a polite word. I'd call them sharks or piranha. If you go on-line and you get into a chat room and you say, "Hi, I'm a 13-year-old girl. I'm home sick from school today," she'll start getting hits like you can't believe. And most of those hits don't come from other 13-year-old girls who are also home sick from school that day. They're coming from individuals who want to reach out to these young people.

Because the Internet is literally international, the person or persons on the other end of the chat room, or who they're speaking to, could be in Boise, Idaho, could be in London, England, or it could be down the street. Now, as a prosecutor, obviously, we don't prosecute too many people from London, England, or Boise, Idaho. It's a little bit out of our jurisdiction, but we would like, at least, to identify who these people are and how they are using the Internet.

Well, we do have examples where within the State of New Jersey people are trying to make contact with who they think is a young girl. I can give you, without mentioning any names, a recent case that we had. We had a case of a young girl in one of my municipalities in Union County -- was contacted in a chat room. She was astute enough to call it to the attention of her parents, who called it to the attention of the local police department, who also had two well-trained officers dealing in this area. And they somehow got

on-line with him pretending to be this girl. They arranged for a meeting. The individual came down, had some materials in his vehicle, also had condoms that he was going to use with this young girl, or who he thought was a young girl. Among other things he was charged with under our statute: attempted sexual assault.

But if you think about that, it was an attempted sexual assault with not a real person, at that point, because it was a detective posing as a 13-year-old girl. When this case comes to trial, I will tell you, it will be met with some scrutiny, not only by a judge, but by a jury, as to the particulars required to prove that crime. There are other statutes, of course, that we could utilize -- endangering the welfare of a minor, using our obscenity statute -- but these are difficult statutes to prove.

I believe it would very important for this state to get into the 20th century within the very near future, because we're in the 21st century next month. We don't have what's known as a traveling statute. It's a colloquial term. It simply means that if someone, a preferential sex offender, agrees to travel to meet someone by word or conduct, that element alone, combined with others -- I shouldn't say alone, but combined with others -- would be enough to charge him with, hopefully, would be at least a second-degree crime, which would carry a penalty for up to 10 years. I don't need to get into specifics. I do chair the prosecutors' legislative committee. I do know we have representatives here from the Attorney General's Office. We certainly will work with the Assembly and work with you, too.

ASSEMBLYWOMAN HECK: I believe it's very important to upgrade as many statutes, or even introduce new laws, as possible, because they're getting more and more creative as they go along--

MR. MANAHAN: Correct.

ASSEMBLYWOMAN HECK: --as this man who was photographing the children on the beach.

MR. MANAHAN: Yes. So you're absolutely correct. Just for your information, in 1999, the University of Dayton School of Law proposed a revised model state computer crimes code, which I learned about through the use of the Internet. So, you see, you can learn good things on the Internet as well. But among the many provisions-- And this, by the way, deals with a myriad of crimes, not just the crimes against children or exploitation, but among his proposals would be the crime of soliciting any minor through use of a computer, and the use of a computer to lure a minor. I just think it would be very helpful and be glad to provide it to the Committee (*sic*), because I found it very helpful in doing a little research before my appearance here today.

ASSEMBLYWOMAN HECK: I would appreciate that.

MR. MANAHAN: I don't want to take up any more time except to say that, Madam Chairperson, when you mentioned the issue of funding, that is something that is very appropriate. What we have formed in my office is a high-tech crime unit. We're trying to expand that now to have other law enforcement officers within my county come and work in our unit and to be trained to work specifically in this area. It is a specialty area. It is something that requires training. We have to deal with issues such as what to say and

what to do. And it's not just in this area, but in other areas. You have to understand the intricacies of the computer, how they work, what to do when you seize a computer to make sure that no evidence is destroyed. But the reason I'm making this pitch is that we need more bodies to work in this area. Right now, I have three detectives, which I have designated to work full time in this area.

ASSEMBLYWOMAN HECK: In the Prosecutor's Office?

MR. MANAHAN: In the Prosecutor's Office. I could probably use 10, but obviously, funding is not available for that.

ASSEMBLYWOMAN HECK: Even though we're focusing on children's safety, what does your high-tech crime unit encompass? Does it -- more than just children?

MR. MANAHAN: Yes. Yes. But we do spend tremendous amounts of time in that area, but we also-- Our technicians, and again -- I'm sure the witness from the State Police, the Sergeant from the High-Tech Crimes Unit would be able to get into this -- you're called upon many times. Our people now being trained are called upon to get in and check hard drives, to literally get into the computer and search it. That requires a tremendous amount of time. We've had cases dealing with illegal gambling operations through use of the computer. Fraud is rampant to the computer. Internet sites that want your financial information for, obviously -- to steal your identity.

ASSEMBLYWOMAN HECK: When children are involved, do you have the ability to get into that computer easily?

MR. MANAHAN: Into the child's computer? The technicians would best know how to do that, yes, but there are--

ASSEMBLYWOMAN HECK: No. I mean, legally.

MR. MANAHAN: There is an issue, too, where the child-- If the parent can't give permission, we still need probable cause to get into that, and we make applications to the court for that.

ASSEMBLYWOMAN HECK: Do you have any helpful material or information or wording that you think might enable you to move more quickly or more thoroughly in certain areas, not just this, when I'm looking at your high-tech crime unit? If you have any suggestions for us, we would appreciate it.

MR. MANAHAN: Sure. I can provide them in writing to you, if you'd like.

ASSEMBLYWOMAN HECK: Yes, we would.

MR. MANAHAN: Okay. The final note, in the absence of any questions -- training is the key here. We must be very careful not to destroy evidence. So any provision that would enhance the law, we would hope that there would be commensurate funding provisions that would allow for multijurisdictional task forces.

ASSEMBLYWOMAN HECK: Is yours the only one in the 21 counties?

MR. MANAHAN: I believe Monmouth County has one, and of course, the State Police have one.

ASSEMBLYWOMAN HECK: The State Police, I think, were first in that area.

MR. MANAHAN: Yes, they were.

ASSEMBLYWOMAN HECK: I think there was one person. When we held the first hearing, there was only one person throughout the entire state who was an expert in this.

MR. MANAHAN: And I'm sure that one person was the most overworked, overtired person, just given my brief experience over the past two years. It's something that I know that you want to encourage, and it's something that, as a prosecutor speaking on behalf of all 21 county prosecutors, we would like to see encouraged, because we need it.

ASSEMBLYWOMAN HECK: I just wanted to introduce, to my right, Assemblywoman Pou just came in, who is a member of the Council, and Assemblywoman Greenstein, who I think is sitting in for someone, aren't you?

ASSEMBLYWOMAN GREENSTEIN: A new member. This is my first meeting.

ASSEMBLYWOMAN HECK: Okay. New member, first meeting.

ASSEMBLYWOMAN POU: Madam Chair--

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN POU: --I just wanted you to know. I'm sorry I'm late. I got caught in traffic terribly, and I'm glad I'm here.

ASSEMBLYWOMAN HECK: Nellie, this is the head-- You're the head of the Prosecutors' Association?

MR. MANAHAN: I'm the Prosecutor of Union County, yes.

ASSEMBLYWOMAN HECK: Yes. And he's with the Prosecutors' Association, gave us some helpful information, will be giving us some material to look at, and then more material on his high-tech crime unit, which he believes should be funded throughout the state, I would assume.

MR. MANAHAN: Yes. I think statewide, at the very least. It's overdue. So, to some, we need better, more effective laws and -- better, not better training, but training for those who will need to implement them.

ASSEMBLYWOMAN HECK: Training and really, what you just said about when you go to court, you're going to be scrutinized as to this particular crime that you mentioned, and you have to prove it in such a way as to get a conviction.

MR. MANAHAN: Correct.

ASSEMBLYWOMAN HECK: And I noticed with that man on the beach with the article, he was very aware that there were no laws to stop him. And Sue Kosel was concerned, because people would not even -- putting themselves in a position where they would ask him, "What are you doing?" to kind of ward him off. She was kind of taken aback that this went on for hours and hours. And then when she went back the next day, again that same individual felt very safe in what he was doing. And then that article in the newspaper, again, very telling, very much a person aware of laws and the sexual offenders' prison at Avenel, and also giving the wrong name and being found out. Not a good thing.

MR. MANAHAN: No. We've found, anyone who deals in law enforcement knows that law enforcement has to be dynamic, because the criminals are dynamic.

ASSEMBLYWOMAN HECK: Absolutely.

MR. MANAHAN: They change their methods of operation every day, utilizing whatever they can to do it. One of the issues, too, that we'll have to grapple with is that not only that many times in these sting operations, it's

really a detective they're talking to. So the jury has a little trouble with that. There's no 13-year-old girl or boy. That's a little difficult. The other part is that they're now engaging in using what's known as morphs. And what that is, is a computer image. So they're not-- They believe that this is a way they can get around the obscenity law, by-- It's not a real person. It's a computer-generated person. And what that person who was taking photographs on the beach could do, for example, was take the body of one person and the face of someone else or construct a new face. And again, that's--

ASSEMBLYWOMAN HECK: This is rather frightening.

MR. MANAHAN: Yes.

ASSEMBLYWOMAN HECK: And in a world where would-be perpetrators are given such a benefit of the doubt, leaving our children at risk is of great concern to me, and I think all of us, because we're worrying about the rights of that perpetrator more than we're worrying about-- Well, not really, but because of the laws that are on the books, we don't have good enough tools to make them nervous or put them behind bars where they belong, or in some cases, being treated early on. Do you find-- You're saying one to ten incidents a day are picked up on average?

MR. MANAHAN: Yes.

ASSEMBLYWOMAN HECK: And then does that mean that you have to follow that through in a complete investigation? Do you have any convictions at all coming through that?

MR. MANAHAN: We have a few, and we have a few cases pending. But again, sometimes these individuals are many states away, a

country away, and they're even-- Some of them aren't looking to meet. They just want to chat. This is how they get--

ASSEMBLYWOMAN HECK: Get their kicks.

MR. MANAHAN: --their kicks. I was thinking. I have a 23-year-old son. He's my oldest. And when he used to go off to school as a little boy, I used to say to him, "Now, Shawn, remember what I told you." And he would say, "Yes, daddy, don't talk to strangers." Every day across this state we have children talking to strangers, and we really have to do something about it.

ASSEMBLYWOMAN HECK: A better job--

MR. MANAHAN: Yes.

ASSEMBLYWOMAN HECK: --of protecting them.

I appreciate that.

Any questions for the Prosecutor? (no response)

Thank you so much for coming.

MR. MANAHAN: Thank you very much.

ASSEMBLYWOMAN HECK: I know you have a busy schedule, and that just verifies the need and the importance to you to come here and tell us about your experiences.

MR. MANAHAN: Thank you. Thank you very much.

ASSEMBLYWOMAN HECK: Thank you very much. And you'll be sending things to us?

MR. MANAHAN: Yes.

ASSEMBLYWOMAN HECK: We appreciate it.

MR. MANAHAN: Just give me a contact person, also, Assemblywoman.

ASSEMBLYWOMAN HECK: Okay.

Detective Sergeant First Class Dan Hurley, State Police High-Technology Crimes and Criminal Investigations Support Unit.

Hi, how are you?

DETECTIVE SERGEANT DANIEL K. HURLEY:
Good. Yourself?

ASSEMBLYWOMAN HECK: Good.

DETECTIVE SERGEANT HURLEY: Good morning.

ASSEMBLYWOMAN HECK: Good morning.

DETECTIVE SERGEANT HURLEY: My name is Dan Hurley. My title is Detective Sergeant First Class with the New Jersey State Police High-Technology Crimes and Criminal Investigations Support Unit. I'm a little out of my environment in this setting, but I would like to start off by telling you that I speak about these topics with a passion of a parent with three children 12 and under, a strong passion. And also, I come to you as a detective for 22 years -- that since I've come to this unit, the High-Tech Crime Unit, the crimes I've seen involving children on the Internet have affected myself and the detectives that do these cases probably more than any investigations that I've seen in my entire career because of the nature of them, the vulnerability of the children. And what the Internet has provided to the child sexual predator, it has made an extremely useful tool for the predator to prey on the children.

If I could just let you know briefly about our unit and what it is. Ma'am, you're right. It was originally one individual -- I think his name was Michael Geraghty.

ASSEMBLYWOMAN HECK: Yes.

DETECTIVE SERGEANT HURLEY: I praise him for what he did years ago to have the insight to start such a unit, because he was ahead--

ASSEMBLYWOMAN HECK: It was absolutely amazing to hear him and to say, "I'm the only one in the entire state."

DETECTIVE SERGEANT HURLEY: He was ahead of his time, truly ahead of his time. Currently, we have nine enlisted detectives that conduct the computer investigations. As the prosecutor said, they're trained to conduct forensic analysis on computers that are seized as a result of search warrants either by the State Police, by the local police, county prosecutors' offices, and also Federal and out of other State Police agencies. So we receive hundreds of computers that we conduct analysis on to determine if there's evidence within them. A good portion of them are cases involving child pornography. Besides the detectives, they do the analysis. They also conduct criminal investigations, as the prosecutor referred to.

In addition, we've hired four civilian analysts who are trained and being trained continually in conducting these forensic analyses on computers. We do receive computers from throughout the state. We have an enormous amount that come in to us, and then the analysts, after being provided with a search warrant from that law enforcement agency, will go in and analyze the computer and see what is in it of evidential value. What I would say about

that is that the volume of child pornography that we've there, and I've seen over the years, is, in my opinion, overwhelming.

ASSEMBLYWOMAN HECK: Really.

DETECTIVE SERGEANT HURLEY: Overwhelming. And what you tend to see from some of these predators is, you'll see the same images of these children contained in different computers of the -- what I call perverts -- but sexual predators. In other words, they trade some of these photos almost like baseball cards. And we've had the sexual predators upon their arrest-- And at times, they've cooperated and given a statement, and they have indicated that that is what they do. They trade this pornography as if it's baseball cards.

If I could just relate, when you talk about taking the pictures or the images of the children on the beach, a very sad thing that could occur there and not necessarily be a crime is if the prosecutor said they could morph -- they could take the face of the child and morph it onto almost anything -- it could be pornographic; it could be in the act of some kind of sexual act -- send that image out over the Internet. And once that image is out there, it is gone forever. You'll never retrieve it.

ASSEMBLYWOMAN HECK: It just keeps going.

DETECTIVE SERGEANT HURLEY: Right. And that poor child, whether they might know it or not, but at some point, that poor child's face is basically gone forever into the Internet under some type of an image like that. And that's not an uncommon occurrence where that does occur. What we are trying to do, within our unit, to combat it as best we can, I will say--

ASSEMBLYWOMAN HECK: I'm getting chills when you say that, because the ramifications of something like that is frightening.

DETECTIVE SERGEANT HURLEY: Well, it is. There's no other way to say it, but it is very frightening. I don't know. It's a very difficult issue to address. What we're trying to do within the unit is to combat it in several ways. It is very hard statistically to say what percentage of computer crimes are related to children, child pornography, or to a child sexual predator. All we can say, from our position, is we're, to a degree, the clearinghouse for the State of New Jersey. We deal with the FBI's Innocent Images, the National Center for Missing and Exploited Children, CyberAngels, and Parry Aftab we work with, and all other State Police agencies outside of the state. And, I guess, our testimony would be that it certainly is increasing on an annual basis, what we're seeing as far as the child sexual predator, the child pornography, the different various Web sites that children are now being lured to. It certainly is not something that's getting better.

ASSEMBLYWOMAN HECK: I just had a thought. When they said there's no law on the books to stop them from taking photographs-- When you work for a newspaper -- you know, I was in the newspaper business for many years -- you're not allowed to use pictures of children or people indiscriminately. You have to get a release and have to sign a form. And because they're using it, the question is, how do you prove they're using it?

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN HECK: And that's kind of a very difficult crime or use to prove.

DETECTIVE SERGEANT HURLEY: It's extremely difficult.

ASSEMBLYWOMAN HECK: But there has to be a way of preventing people from taking pictures carte blanche of children, in particular.

DETECTIVE SERGEANT HURLEY: Yes.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN GREENSTEIN: When you talk about this morphing idea, that's putting the head onto some other body, right?

DETECTIVE SERGEANT HURLEY: Yes.

ASSEMBLYWOMAN GREENSTEIN: Now, does that mean that they might take a picture of a child who has not at all been involved in any of this?

ASSEMBLYWOMAN HECK: That's right.

DETECTIVE SERGEANT HURLEY: Yes.

ASSEMBLYWOMAN GREENSTEIN: Just finding a picture of a child and just--

ASSEMBLYWOMAN HECK: I don't think you heard the story I started with.

ASSEMBLYWOMAN GREENSTEIN: No.

ASSEMBLYWOMAN HECK: I received a letter, and actually a fax, from Sue Kosel, who used to work with us.

ASSEMBLYWOMAN GREENSTEIN: I know Sue, yes.

ASSEMBLYWOMAN HECK: And she was so upset, because she had been on a beach, and for hours this man was taking pictures of children. So she went up to him and said, "Are you taking photos for a magazine?" And he said, "No. These are for myself." She said, "I really don't think that's such a good idea." He says, "Well, it's not a crime. I can do what I want."

The next day, when she and her husband went back, he was doing the same thing. So she wrote an op-ed piece in one of the papers. And he returned his op-ed piece in such a frightening way, because he knew there was no crime involved. And he also mentioned he could do whatever he wanted with those pictures in the privacy of his own home, which again gave you a feeling of trepidation as to what he was doing with those photographs. And also within the same op-ed piece mentioned Avenel. So all of these precipitated-- And I felt terrible. She was really very thoroughly upset. And we're trying, along with that, to look at child safety in its entirety, not just the Internet, not just that area, but when they're in stores and shopping and so on, and so -- safety on many levels.

ASSEMBLYWOMAN GREENSTEIN: The reason I asked the question is that makes it so much the worse that--

ASSEMBLYWOMAN HECK: Oh, that's why it is so frightening.

ASSEMBLYWOMAN GREENSTEIN: --you can literally have children that--

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN GREENSTEIN: --you know, they'll say, "Well, we haven't done anything to them," and yet they're able to use it.

ASSEMBLYWOMAN HECK: Innocence. That's right.

And go and take another step. If that child is walking along a street -- and it's not impossible in this world today -- that she could meet up with a stranger who knows her face or his face -- because it's not a girl thing; it's also little boys who get into those situations -- and that could place that child in jeopardy.

DETECTIVE SERGEANT HURLEY: Well, I think we originally had heard this at the National Center for Missing and Exploited Children. And the position was, separate from the crimes that you're talking about, is the serious effect it has on the child just having that image-- Or the parent-- I think you can just picture the devastating effect that could have for your entire life if you were that child and then you grow up to become an adult at some point, that once that image is out there -- it, for all intents and purposes, is in the Internet world forever. You will not retrieve that.

ASSEMBLYWOMAN HECK: Yes. That's frightening.

DETECTIVE SERGEANT HURLEY: The way we're attempting to attack the problem, and it is an enormous problem, we investigate all computer crimes, and we receive on a daily basis hundreds of cases -- on a weekly basis hundreds of cases, whether it's fraud, hacking, identity theft. But when a case involving a child or a child sexual predator comes in, you almost have to almost triage computer crime. Everything stops, and that has to be done first.

We do reactive type investigations. An example there would be, a parent might check his or her child's computer and come across some E-mails that the content, obviously, puts up a red flag that there's some type of problem, or they may check the child's temporary Internet file and find some kind of -- something that is suspicious in nature where they would call us. Those are the types of investigation that's reactive, and we have had those that have led to arrests, numerous.

The second type, which was what the prosecutor was referring to, which is probably the most, I guess, publicized, is the proactive, where we go

into the chat rooms with the identity of a child, male or female -- it does not matter -- 14, 15-year-old, extremely generic. We put out a profile that is extremely generic, not suggestive in any way. And it is safe to say that when you go into these chat rooms, certainly not everyone that sends you a message on E-mail is a child sexual predator, but there -- it's safe to say that a percentage probably is. And we do these investigations as often as is possible, along with the FBI, which has the Innocent Images, and we work with a lot of the counties on these type of cases.

There's another Federal task force, which we're going to become a part of, which I feel is very helpful in this area. It's called the Internet Crimes Against Children Task Force. And what that allows is, different agencies from throughout the nation become part of the-- It's called ICAC Task Force. You receive some funding, which allows you to get training, which is uniform for all the agencies. And once you're part of that task force--

ASSEMBLYWOMAN HECK: It's not just here.

DETECTIVE SERGEANT HURLEY: It's nationwide.

ASSEMBLYWOMAN HECK: Nationwide.

DETECTIVE SERGEANT HURLEY: Just about every state has an ICAC member. Once you become part of that Task Force, if you get a case where you have either the victim or the suspect in your community, but-- Well, let's say you have the victim in your community, but the suspect is in another state, because very seldom do you see the child and the sexual predator from the same town, sometimes not the same county, sometimes not the same state. With the ICAC Task Force, we have been successful in-- So it's a phone call from another ICAC member. We stop everything and go and do these

type of cases. I guess the best way to show you how this works is give you one quick example, if I could, on a recent case, which was one of the most, to me, notorious ones we've seen.

This came from an ICAC law enforcement agency in Pennsylvania. They had a female detective, who had been on-line, undercover, as a 14-year-old female. An individual from Neptune began conversing with what he thought was the 14-year-old female. And as the prosecutor talked about, there was a luring process that began. You could just see the process begin as the sexual predator begins to try and court the child to the point where he gains his confidence and other type things. This individual sent over 200 images of graphic child pornography to what he thought was a child. It was the police officer. And then, ultimately, he was willing to travel from Neptune to Pennsylvania for what he thought was -- that he was going to be able to have sex and to molest this child. That's the most notorious kind. That's what, I think, the prosecutor's referred to the word traveler. That would be a traveler.

We then executed a search warrant at this individual's house on the same day and seized his computers. When we analyzed his computers, we came up with thousands of images of additional child pornography and videos, all the way down to infants in car seats that were being molested. In addition, there was information in there to show he might have molested other kids, both in his town and in some surrounding states. This is one of the worst that we had seen, and it's an example of how this working together with law enforcement can work. You have to work together, or you will not be successful.

ASSEMBLYWOMAN HECK: How old, generally, is the perpetrator -- this particular perpetrator?

DETECTIVE SERGEANT HURLEY: I guess-- I would be reluctant to, say, generalize it, but he was in his mid-30s.

ASSEMBLYWOMAN HECK: Mid-30s?

DETECTIVE SERGEANT HURLEY: Yes.

ASSEMBLYWOMAN HECK: Do you have very old, very young-- and mostly male, or a mix of male and female?

DETECTIVE SERGEANT HURLEY: We have mostly males. And again, I'm not looking at any statistics or anything, but it's mostly males, and the majority of them are in their 30s, 40s, or in that category. I'm not referring to anything statistically, but that's what it is.

ASSEMBLYWOMAN CRECCO: Madam Chairman, can I ask a question?

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN CRECCO: How do they get into the chat rooms?

DETECTIVE SERGEANT HURLEY: Well, what they do-- And this is another thing which we'll talk briefly about with the preventative aspect of it is-- But these sexual predators, they go out and they look-- Say, America Online, you can have a profile, and a lot of children have profiles. Unfortunately, a lot of children put accurate information in the profile. The sexual predator then can go, and he can kind of review the profiles and see if it fits his appetite. He then can put that profile on, say, his buddy list, which allows him to monitor the computer, and he'll know when the child comes

on-line, and then he can go into that chat room. It's not hard to go into some of the chat rooms.

ASSEMBLYWOMAN CRECCO: Because I have two grandsons who are always on the chat. They have their own friends in the area, and they're always on that chat line. And I said to my daughter, are you sure that -- are you careful about this? She said, "It's just that little group of kids that are in there," and I wondered about that.

DETECTIVE SERGEANT HURLEY: I would say, ma'am, it's hardly ever just that little group of kids, if it relates to an Internet chat room.

ASSEMBLYWOMAN CRECCO: That's what she thinks, anyhow, so-- We have to educate the parents also.

DETECTIVE SERGEANT HURLEY: Yes. I guess the last part that I was trying to say is what we're attempting to do, and I feel it's probably one of the most important, is the preventive aspect. Because as notorious as these crimes are, they also can be preventable, because it's not, per se, like a robbery or a burglary, which although you can take some precautions, you may not be able to keep yourself from totally being a victim. In this case, you're allowing that sexual predator to come in through the computer into your house to talk to your child. There really isn't any other way it can occur, if you think about it. So it is a preventable crime.

Along that line, we try and do presentations, which throughout the state we do to parent groups, teachers, civic groups, law enforcement. We've done PTO and PTA groups with as few as three parents show up to as many as three hundred show up. And now, I feel it's important that we're starting to do the presentations to the children, because sometimes the parents don't

always, as sad as it is, I guess, reflect on the danger involved. So we're trying to talk to the children in the schools also.

ASSEMBLYWOMAN GREENSTEIN: Madam Chair.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN GREENSTEIN: I'm ashamed to say I'm somewhat ignorant about these parts of the computer. I don't use them. But are there ways to block? Can parents completely block out the use of chat rooms that they don't want, specific chat rooms, or even all chat rooms?

DETECTIVE SERGEANT HURLEY: Well, there's a lot of different software. And I wouldn't want to-- I'm not an expert in that field, so I'd be reluctant to say. I mean, you can always block-- You can block almost everything out that you want to. The problem with some of the monitoring software is sometimes, depending on what words you put in, your child may not be able to get educational information either. If you put the word sex in, say, you may not be able to get anything from, say, Middlesex County, as an example. So it's just not an easy situation. I'm not really the one to have the answer for that.

ASSEMBLYWOMAN HECK: I do know, from other meetings and discussions, that one of the most important-- Because children know more about computers than most adults, and they know how to circumvent a lot of the blocks. They really do.

ASSEMBLYWOMAN GREENSTEIN: They do.

ASSEMBLYWOMAN HECK: And if you ask them particular questions about difficulties you're having, they know how to work it out.

ASSEMBLYWOMAN GREENSTEIN: Oh, I know. They're very knowledgeable.

ASSEMBLYWOMAN HECK: Oh, good.

ASSEMBLYWOMAN GREENSTEIN: Well, I just didn't know if there were ways around the blocks or not.

ASSEMBLYWOMAN HECK: No. But one of the safest things for prevention that a parent can do is keep that computer in a place where you can see it.

ASSEMBLYWOMAN GREENSTEIN: The problem is parents--

ASSEMBLYWOMAN HECK: Having a computer in a room with a closed door is not the best.

ASSEMBLYWOMAN GREENSTEIN: Right.

ASSEMBLYWOMAN HECK: It should be in a family -- or area that the mother or father can see.

ASSEMBLYWOMAN GREENSTEIN: That's obviously the ideal. The problem is, parents can't do that 24 hours a day. If there were a way to do a good block on a computer, that would be--

ASSEMBLYWOMAN HECK: But 24 hours a day is not necessary. What you have to do is give them the fear that you're going to walk through any minute.

ASSEMBLYWOMAN GREENSTEIN: Right.

ASSEMBLYWOMAN HECK: It was the same way with us when we were kids. Your parents would be driving by or stop into the soda shop or whatever. You never knew. You had to work at a situation where they never knew when, and you had a parent kind of Internet working--

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN HECK: --where you'd say, if you see my child, let me know. And then, when you can say to a child, oh, I knew you were at such and such a place, they don't know how you know. That kind of is a precautionary measure. And I think you can check out the computer as well, is my understanding. If you really want to, you can go in to see where your child has been that day, correct?

DETECTIVE SERGEANT HURLEY: Right. It is relatively easy, too. We urge the parents to don't feel you're invading the child's privacy or that he has a right. If it's your computer and the child is 13 or 14 years old, we urge you to--

ASSEMBLYWOMAN HECK: Go in to look.

DETECTIVE SERGEANT HURLEY: --have the child show you where he's at, and there's ways to go in and see--

ASSEMBLYWOMAN HECK: Absolutely.

DETECTIVE SERGEANT HURLEY: --what he or she is doing.

ASSEMBLYWOMAN HECK: To check that day where your child has gone on the Internet.

ASSEMBLYWOMAN POU: Madam Chair.

ASSEMBLYWOMAN HECK: Go ahead.

ASSEMBLYWOMAN POU: You started to describe the profile of a predator, and there were some questions asked with regards to some statistical information. I realize you don't have that in front of you, but is this information available that will describe what a typical predator's profile may be all about? For example, are we looking at a particular age group which was

something that you talked about, we're looking at a particular gender, we're looking at -- I don't know. Some kind-- Is there a pattern?

ASSEMBLYWOMAN HECK: I'm sure there is. There are stats on all of these things.

ASSEMBLYWOMAN POU: I imagine. But my next question is, if there is such information, is that information available so that we might be able to obtain that?

ASSEMBLYWOMAN HECK: There's information, you know that. There is data.

DETECTIVE SERGEANT HURLEY: We speak-- Although we deal with all the other agencies, the Internet is so enormous that it's hard to compile accurate statistics if you try to include everything. But from our perspective -- and we see a pretty good scope of the Internet crimes in the State of New Jersey -- I mean, there does appear to be kind of a certain group. At least all the ones that we've arrested in the past couple of years, I can tell you in an unofficial capacity, are males, and they're generally 30 to 40 and in their 50s.

ASSEMBLYWOMAN POU: Yes. What's the--

ASSEMBLYWOMAN HECK: One of the things that I think that you can safely say, Nellie, having been involved and looking at all of this for at least 10 years going with the stalking law, etc., etc. and the Wengert girl and the Megan's Law, etc., you do know that most times, whenever a predator is caught, they've been doing this for years and years.

ASSEMBLYWOMAN POU: True.

ASSEMBLYWOMAN HECK: It takes a long time to catch them.

ASSEMBLYWOMAN POU: Sure.

ASSEMBLYWOMAN HECK: And that's even not the imaging ones, not the computer ones--

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN HECK: --but sexual predators, pedophiles. They've been doing it for -- like they were grandfathers.

ASSEMBLYWOMAN POU: I agree with you.

ASSEMBLYWOMAN HECK: You're aware of that?

ASSEMBLYWOMAN POU: I agree with you, and I'm aware.

ASSEMBLYWOMAN HECK: So it's the same situation.

ASSEMBLYWOMAN POU: My reason for asking, Madam Chair--

ASSEMBLYWOMAN HECK: I don't think there's one profile that fits all.

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN POU: --is, it's a matter of educating the public, and especially as Assemblywoman Crecco mentioned, getting that information out. So, if there is information like this, it would be good for all of us to have. For example, is there a particular age group that these predators are looking to concentrate -- put their focus on when they're on the computer?

DETECTIVE SERGEANT HURLEY: I think as the prosecutor referred also, and it was quite accurate, is that female teenagers are extremely vulnerable, and I think we know for a lot of different reasons. The Internet provides them an opportunity to kind of-- It's their first going out and commingling with other individuals, and that makes them extremely

vulnerable. So female teenagers are very vulnerable with this type of individual.

ASSEMBLYWOMAN POU: This may have been said before. I did arrive late. So I apologize if this is a repeat. What, if any, are you aware of -- the penalties currently for the crimes committed by a predator right now? What are the penalties right now?

DETECTIVE SERGEANT HURLEY: Again, I would rather the prosecutor, or maybe the individual from the Division of Criminal Justice, talk on that.

ASSEMBLYWOMAN POU: Okay. Okay.

DETECTIVE SERGEANT HURLEY: But we generally use the statute of endangering the welfare of a child, unless there is actually a molestation that occurs. In other words, that changes it completely there. We usually -- generally use the endangerment and welfare of a child statute.

ASSEMBLYWOMAN POU: Okay. Thank you.

ASSEMBLYWOMAN HECK: Miriam Bavati, from OLS, said that in their packet--

ASSEMBLYWOMAN POU: It's included?

ASSEMBLYWOMAN HECK: --is a GetNetWise aid sheet that you can access. It's a dot-org -- what is it? -- dot-org, www.getnetwise.org. It's a safety guide to danger.

ASSEMBLYWOMAN POU: But Madam Chair, the problem with it, and this is good, but we're assuming that parents come on-line and are, in fact, pulling up this information. A good majority of the people are not doing that. Many of the parents are not going into the computers themselves and

getting information like this. So that's why I was asking, is there other forms of information or materials that are out there that we can provide for--

ASSEMBLYWOMAN HECK: I think what we're learning from the State Police and the Prosecutor's Office is that they need these high-tech task forces, and they need money to do that. You're saying you're going out into the community doing certain work.

DETECTIVE SERGEANT HURLEY: Yes. Any individual.

ASSEMBLYWOMAN HECK: And it's growing.

DETECTIVE SERGEANT HURLEY: I think we've probably done 60 up to this year.

ASSEMBLYWOMAN HECK: It's not getting-- Business is not slow since our first hearing. We held a Policy and Regulatory Oversight in '98 -- Wasn't it that? I held that one? I think it was '98. But we had learned about this, and then all of a sudden we met Parry Aftab, who had been studying it for quite some time, wrote a book about it, cautioning parents. It's an excellent book. She's with the U.N. Task Force, UNESCO, and it just keeps growing, because as we learn and learn prevention, they learn new ways to get around it.

DETECTIVE SERGEANT HURLEY: Right.

ASSEMBLYWOMAN HECK: So you have to be vigilant.

ASSEMBLYWOMAN POU: Sure.

ASSEMBLYWOMAN HECK: Absolutely.

DETECTIVE SERGEANT HURLEY: I guess if I can conclude, ma'am, there's a couple of other things that you also need to be aware of. I'll just throw it out for you guys, for the Committee to consider, is, also, we're

seeing children committing crimes on the Internet. And if I was ever to put a marker on where it began, I would say it was from the Columbine shooting at the high school. From that point on, we saw a dramatic increase in threatening E-mails, stalking, harassment--

ASSEMBLYWOMAN HECK: Teen to teen, is that it?

DETECTIVE SERGEANT HURLEY: All types. Teen to teen, teen to teacher--

ASSEMBLYWOMAN HECK: Oh.

DETECTIVE SERGEANT HURLEY: --teen to adult. So I would just-- As much as the children would certainly be victimized, we have a percentage of the children -- because they're so good at the computers, oftentimes better than the parents, and whether the intent is truly criminal or out of curiosity -- we do have them committing a percentage of crimes, which is also alarming to us.

ASSEMBLYWOMAN HECK: Because it will grow.

DETECTIVE SERGEANT HURLEY: Yes.

ASSEMBLYWOMAN HECK: Unless it's--

DETECTIVE SERGEANT HURLEY: And it's unfortunate. Every one of them is unfortunate.

ASSEMBLYWOMAN HECK: If you have any suggestions that you'd like to share with us, you can send us a note. I know you don't have a lot of time--

DETECTIVE SERGEANT HURLEY: I appreciate it.

ASSEMBLYWOMAN HECK: --but think in terms of your groups and ask them what would help them in their work to prevent crime--

DETECTIVE SERGEANT HURLEY: Okay.

ASSEMBLYWOMAN HECK: --or to put people on notice that this is a crime, and they're going to get -- that they get placed in jail sooner or later.

DETECTIVE SERGEANT HURLEY: I'll do that.

ASSEMBLYWOMAN HECK: We'd like to do that, because there's nothing better than getting them and making them accountable for what they've done and what they are doing.

DETECTIVE SERGEANT HURLEY: Well, we appreciate your help.

ASSEMBLYWOMAN HECK: And I do know, through our work from about 20 years ago before the Juvenile Justice Commission, before we did that particular bill, was the fact that if we catch kids early on when they begin to commit these little tiny infractions, and mostly in the sexual predator area, we can make a difference. We can turn them around. When they're 30, 40, and they like that lifestyle, it's very difficult to turn them around.

DETECTIVE SERGEANT HURLEY: I agree completely.

ASSEMBLYWOMAN HECK: They choose that as their preferred lifestyle. But if they're kids, we can do some changing--

DETECTIVE SERGEANT HURLEY: Absolutely.

ASSEMBLYWOMAN HECK: --and give them some treatment.

DETECTIVE SERGEANT HURLEY: I agree.

ASSEMBLYWOMAN HECK: Thank you.

DETECTIVE SERGEANT HURLEY: Thank you very much. I appreciate it.

ASSEMBLYWOMAN HECK: Thank you very much. And send my word back to our other -- the No. 1 guy--

DETECTIVE SERGEANT HURLEY: I will. He's my neighbor. I'll tell him.

ASSEMBLYWOMAN HECK: --when he worked all by himself, how much we appreciated all he's done over the years.

DETECTIVE SERGEANT HURLEY: Thank you very much. I will.

ASSEMBLYWOMAN HECK: He was a pioneer.

Thomas Fiskén, Deputy Attorney General, Prosecutors and Police Bureau. You're coming together. Oh, Steve Finkel. Okay. You can begin anytime.

THOMAS FISKÉN: Thank you. Good morning.

ASSEMBLYWOMAN HECK: Thank you.

MR. FISKÉN: I'm Deputy Attorney General Thomas Fiskén, of the Division of Criminal Justice. Before I start on the notes that I've made for the testimony, I just wanted to address a couple of other points.

As to the issue of the profiles of an offender, one thing, though, that the public needs to be wary of is that no matter what the age of that offender, one of the attractions of the Internet is that you can pose as anything else. The offender will often start out by telling the child that they're in touch with that they may well be 14 as well. They can even pose as another sex, so that that kind of a thing isn't as useful in warning a child. They may well think they're talking to another child first until they've already developed such

a friendship that at some point the offender feels that they can reveal their real age without that being cut off.

The other thing I wanted to just mention briefly before I forget was with your examples with the case of the photos on the beach. Taking the photos themselves, perhaps, there's nothing that would be able to be done about that. But with the Child Pornography and Child Exploitation Prevention Act, I think there are some things that could be done, if that offender then altered those photos to make them into sexually explicit photos.

That was one of the amendments, so that for instance, it included, as a second-degree crime, somebody who photographs or films a child in a prohibited sexual act or in the simulation of such an act who uses a device including a computer to reproduce or reconstruct the image of a child in a prohibited sexual act. And nudity, if depicted for the purpose of sexual stimulation, can be that act. So, if somebody went and used those photographs, you would possibly be able to prosecute them under that statute, if they altered them in some way.

ASSEMBLYWOMAN HECK: But what about the individual rights to privacy? I mean, one's image is one's own, and if we prevent newspaper people from using those and taking--

MR. FISKEN: There may be more reason to go beyond that, I guess--

ASSEMBLYWOMAN HECK: I think there is a lot of reason today.

MR. FISKEN: --with other statutes. But I did want to say that--

ASSEMBLYWOMAN HECK: No. No. I do know that. Well, some of us are aware. But what we're looking for are ways and means to better protect our children in, as was said by the prosecutor before, the 21st century. This is a different world in which we live, and the abuses are stranger than ever before. As the morphing -- I never knew about morphing until today. But knowing that, having knowledge of that, wouldn't that again red flag us to say we better stop those photographs from being taken indiscriminately of children who are just playing on a beach? We have to be very careful in this world. It just appears to me that we have to take information and make things safer for our kids.

MR. FISKEN: Well, I think our position on that was that we support the concept, but we're really still looking at details on things like that.

ASSEMBLYWOMAN HECK: Oh, I know. The devil is in the details, but does not mean that we should give up on a way of doing this. I know that Assemblyman Geist has this one bill that has not moved in a few years, but I would say take a look at it as a beginning point, and perhaps, come up with ideas on making it work -- very important.

B. STEPHAN FINKEL: I would like to bring to the Committee's attention, there is a bill currently pending in the Assembly, A-2397, which would expand the luring and enticing statute. This is Assemblywoman Vandervalk -- did a bill that would make it clear that it applies to use of the Internet to lure and entice, and also includes language that would remove the argument that Prosecutor Manahan mentioned, that whether it's actually a child on the other end of the line who you're luring and enticing. So it would clearly permit where there's a sting operation. It would permit a third-degree

crime to be brought against the person if they reasonably believe they were dealing with a child.

We had suggested amendments that Assemblywoman Vandervalk accepted, which would also expand it to-- Currently, the enticing law applies to luring or enticing a child to a structure, an isolated area, or into a car for purposes of--

ASSEMBLYWOMAN HECK: That was in one of our bills years ago.

MR. FINKEL: Yes, it was.

ASSEMBLYWOMAN HECK: It was a Heck-Garrett, I think.

MR. FINKEL: Right. And we suggested amendments to expand that to lure them to a meeting or to appear at any place. I mean, there's harm just in having a child be lured into an interaction with a potential predator. So we support that bill, and I just wanted to call it to your attention.

ASSEMBLYWOMAN HECK: Good.

MR. FINKEL: And I'll refer back to Tom now.

MR. FISKEN: Well, as you know, the problem with child exploitation through the Internet has grown almost as rapidly as the Internet itself. As more and more children use the Internet on a daily basis, it becomes an ever more attractive place for pedophiles. On the Internet, pedophiles are able to contact and interact with children in a private and unobserved manner that would be almost impossible in any other setting.

In New Jersey, we're fortunate to have investigators who've developed a great deal of expertise in investigating the misuse of the Internet and other computer technology to commit crimes against children. We have

an excellent computer crimes unit in the Division of Criminal Justice. You've already heard from the Division of State Police, which operates an outstanding High-Technology Crimes Unit.

Investigators also work for county prosecutors throughout the state, teaming with FBI agents to investigate the use of the Internet to victimize children. The FBI refers to it as the Innocent Images program, and they often work together to conduct undercover, on-line investigations that enable them to identify and prosecute pedophiles for attempts to endanger or assault children, thus preventing the victimization of children and saving families from years of suffering.

County prosecutors, FBI teams work well together, and they're an excellent example of law enforcement cooperation. Without giving away too much, and you've heard some of this already from the other people who testified today, these teams and other investigative units conduct undercover investigations by having a detective pose as an adolescent on-line. Many on-line conversations between undercover investigators and adults who believe them to be children do not result in behavior that warrants prosecution. However, there are a significant number of cases in which an adult, believing the investigator to be a child, seeks to arrange a sexual encounter with the child. Such cases are prosecuted to the fullest extent of the law. The evidence in such cases is often clear and well-documented because of the use of a computer. And when that occurs, those cases can be resolved with a guilty plea, quickly putting an end to the would-be pedophile's attempts to victimize children.

If, during the course of such an investigation, the pedophile crosses state lines to arrange an encounter with the child, the Federal government will decide whether to file Federal charges. However, most of these cases that are investigated by the county prosecutor and the FBI teams remain with the county prosecutor and are prosecuted under New Jersey law.

Now, one of the things I understood the Committee was interested in was how well the Computer Pornography and Child Exploitation Prevention Act, P.L. 1998, Chapter 126, has been working out. I spoke to, in preparation for this testimony-- I obtained some statistics on the number of convictions, under this law, from the Division of Criminal Justice's Research and Evaluation Unit. I also spoke to assistant prosecutors regarding their experience with prosecuting offenses under the Computer Pornography and Child Exploitation Prevention Act. The child pornography offenses set forth in this law fall under N.J.S.A. 2C:24-4(b). This act went into effect May 1, 1999. Convictions for 2C:24-4(b) offenses increased from 10 during 1998 to 21 in 1999. So far in 2000, there have been 12 convictions, but that only represents convictions up until October 2000. And while these numbers may seem small, it still must be kept in mind that there are also other cases in which charges under this act may be dismissed as part of a plea agreement, and yet those charges may have been a significant cause in inducing the defendant to accept an plea agreement. This is especially true since the amendments to P.L. 1998, Chapter 126, included some first- and second-degree offenses, which are heavy offenses and are the kind of thing that would lead people to be willing to plea to something less.

This law is also very useful in the types of undercover investigations that you've heard about today. In the course of such investigations, or in their efforts to seduce real children, pedophiles often transmit pornography, including child pornography, to the intended victim. They want to desensitize the victim to this kind of conduct and make the victim think that this is normal. And most adolescents, I mean, have some kind of curiosity about sexual matters anyway, so this is one way that they try to engage the children in such ideas.

As a result, indictments relating to exploitation of children and trying to meet with children, also, often include charges filed under the Computer Pornography and Child Exploitation Prevention Act. The assistant prosecutors I spoke to found that the revisions that went into effect in 1999 are very useful. They report that cases sometimes arise in which the amendments regarding the Internet, or a computer reproduction or reconstruction of an image, have allowed prosecutors to proceed in circumstances in which it would have been difficult to find an appropriate charge without these amendments. And as you said, there are many unusual cases. New things are coming up all the time, things that we wouldn't even have thought of.

One such example was related to me by a skilled assistant prosecutor in Middlesex County. In that case, a former coach had retained photos of boys that he had coached in past years. He was no longer coaching at the time, but he then used his computer to alter the photographs so as to create sexually explicit photographs. Prior to the 1998 Chapter 126 amendments, the assistant prosecutor told me that she probably would have

only been able to charge the defendant with possession of child pornography, which is only a fourth-degree crime. But being able to use the amendments, which included using a computer to reproduce or reconstruct an image, she was able to charge him with a second-degree crime under the act.

Although we're often able to find and prosecute pedophiles using undercover detectives, unfortunately, many victims are real children. The assistant prosecutor whom I spoke to in Middlesex County estimated the number of cases in that county with real victims, in which the endangering statute is used, at five to ten cases per year. Most of these cases result in guilty pleas and can be resolved without needing to further distress the victim by requiring testimony in court.

In conclusion, laws such as the Computer Pornography and Child Exploitation Prevention Act have given us some of the legal weapons we need to combat the attempts to exploit children on-line. Obviously, there's more that can be done. We already have some excellent units working on computer crime, and we have some cooperative programs between law enforcement units, but we need to continue to build on our successes and expand the number of trained investigators available to handle such cases, as Prosecutor Manahan emphasized earlier this morning.

Investigation and prosecution of these cases requires a high degree of both technical and legal expertise. The investigators have to be very knowledgeable about computers, and it is also not a simple legal task, often, to get the warrants to get the information that is needed when that information crosses state lines, and you may need to get the information from an Internet

service provider in another state or from, say, a service like America Online or the Microsoft service.

ASSEMBLYWOMAN HECK: Just a question. Do you think that we should be working with the Federal government to have that kind of interplay, as far as the states are concerned, because it is a nationwide problem, or do we have enough laws to help in that area?

MR. FISKEN: Well, right now, I mean-- I suppose it could be expanded, but we are working with the Federal government on that. Again, the county prosecutors do have teams. There's the Federal FBI Innocent Images program. The Federal government has what Prosecutor Manahan called the traveling statute already. We don't have one which is just based on traveling. But, for instance, if the offender crossed a state--

ASSEMBLYWOMAN HECK: Should we?

MR. FISKEN: Well, I think that that would be something that would be helpful to us, that would be helpful to prosecutors. For the Federal statute, once the offender travels across state lines to meet with the undercover agent, or they think to be a child, that in itself, that traveling, is an offense.

In New Jersey, what we have to do is we have to charge the offender with-- Since traveling itself isn't an offense, we have to charge him with either an attempt to endanger a child or an attempted sexual assault. Usually for an attempt, you need not just the intention to commit the offense, but also a substantial act and furtherance of that offense. We like to argue that traveling itself should be enough for that substantial act. But when there is no real child, when it's an undercover agent, the courts, as Prosecutor Manahan said, will look at it with more scrutiny in some courts, may wish to

see additional evidence that that person who's traveled to that location did intend to have a sexual encounter with a child. So that's something we could look at.

ASSEMBLYWOMAN GREENSTEIN: Prior to the Internet, these pedophiles were -- I hate to put it this way -- getting their kicks in some other way, and I presume it was through magazines. Was that how they did it? Assuming that it wasn't a real encounter, they were getting the visual stimulation through the use of photos or magazines.

ASSEMBLYWOMAN HECK: And the Sears catalog.

ASSEMBLYWOMAN GREENSTEIN: Could have been.

ASSEMBLYWOMAN HECK: I know.

ASSEMBLYWOMAN GREENSTEIN: Really?

ASSEMBLYWOMAN HECK: Yes.

MR. FISKEN: Child pornography, I guess, was generally more exchanged through the mails. I mean, pedophiles naturally wouldn't want to reveal themselves to other people and look for anonymous ways to do that.

ASSEMBLYWOMAN GREENSTEIN: The reason I asked is, I was trying to think in terms of the need for new laws of expanding some of the old laws. I'm new to this, because this is my first day on the Council. And you may have already discussed this, but I was trying to figure out what laws are in place that apply pre-Internet that could be expanded for these new uses. Because it really isn't that different, it's just another method of doing what they did before, it seems.

ASSEMBLYWOMAN HECK: I think if you track the hearings held years ago that precipitated Megan's Law, it just keeps growing. It started

with the Wengert young girl, and then two weeks later we had a bill in that wasn't moving for her, and then we dedicated to her, and then we went beyond that and beyond. So it's a kind of step-by-step basis. It's a growing concern. When we toured Avenel, many, many changes were made. That's why I'm saying catalogs. I shouldn't just say Sears, but they had one of the best catalogs out. They were there in the prison along with very big blowups of women's anatomy on the wall, because it was part of their training.

ASSEMBLYWOMAN GREENSTEIN: When you say Sears catalog, you mean they were looking at--

ASSEMBLYWOMAN HECK: Children's underwear--

ASSEMBLYWOMAN GREENSTEIN: Oh, I see what you mean.

ASSEMBLYWOMAN HECK: --etc. So the point is that they use anything at hand, but this is the best tool for pedophiles and predators that's come along ever, ever. The morphing piece is the most frightening.

MR. FISKEN: Yes. I mean, the way that works, they can be very difficult. In cases such as the one I described, if you have actual identifiable individual children, it solves some of your problems. You don't have to have the same problem of trying to prove what age they were. But if they've changed so much that you can no longer identify an individual, then there really becomes a lot more of a problem. Or if they've been circulated so far away, say, from the original photographer that maybe now they're on the other side of the country and it's passed through 50 hands and you really have no way to trace them back, it becomes more difficult to make cases.

ASSEMBLYWOMAN HECK: I would say that the State Police and the Attorney General's Office have been in tune over the years since we

did that original expose of Avenel and several other things, which I'll talk to you about afterwards. I think it's important for us to continue these kinds of hearings because of the sharing and the communicating of information and needs for prosecution and arrests. The thing that gave me a kind of concern was the word plea bargain. Plea bargains to me are upsetting in areas of pornography and children's areas and sexual areas. I think we just put in a bill for the elimination of that in rape cases, or it's being done now, as of the moment. We just learned that we should be doing that. It's a growing concern.

So I think we have to revisit. We really do, because you know how many bills have come out of this advisory board, including the OB/GYN. It's a marvelous way to get that information.

I think that your service on the Child Abuse and Neglect Task Force is another plus for all of us, because we get that information coming and going from a variety of sources, including educators and DYFS workers, and then you work on things. We're working on something now that the task force has put together, Nellie, the bill that we just put in about changing the wording, etc., in the law. Remember how long that has taken us.

ASSEMBLYWOMAN POU: Right.

ASSEMBLYWOMAN HECK: It's been -- what? -- two years, three years?

ASSEMBLYWOMAN POU: At least.

ASSEMBLYWOMAN HECK: You know the work that I mean.

ASSEMBLYWOMAN POU: Madam Chair?

ASSEMBLYWOMAN HECK: What?

ASSEMBLYWOMAN POU: I just want to ask a question. I'd like to go back to an earlier conversation -- the Attorney General's Office, I'm sorry. Can we just go back to the question of monitoring, and you spoke to someone with regards to how parents should be monitoring children--

ASSEMBLYWOMAN HECK: Oh, yes.

ASSEMBLYWOMAN POU: --and all that in terms of the use of the computer. How are we monitoring children using computers in public places? For example, let's say that a child goes to a public library and uses that computer continuously. I'm assuming many of these public places will have access to Internet systems and what have you. Are there a certain type of safe block systems in place that prevents them from being able to come on-line, or are they just as vulnerable in these public settings as they would be in their very own home -- be that in a school situation or a public library or any other type of computer facility of that type? How are we preventing something like this from happening to our children? Is there such a thing?

MR. FISKEN: Well, that would vary with all of the settings. One of the things, of course, those settings do is they usually keep the computers out somewhere where anybody walking by can see what is on the computer screen. So that's one area that discourages it. You're right, though. That can be a problem with public settings--

ASSEMBLYWOMAN POU: But a pedophile could be--

MR. FISKEN: --because even if the-- Yes. Even if a parent has perhaps found something on the computer and taken away privileges, sometimes a pedophile might tell a child to go ahead--

ASSEMBLYWOMAN POU: Absolutely. Go somewhere else.

MR. FISKEN: --and go use a computer somewhere else. Sometimes pedophiles will even do things on home computers such as provide an account number for Internet access to the child so that the child is able to, even after they've had some privileges taken away by the parent, use the account number of the pedophile that has provided to do that. A lot of that is a management problem, though, I think, for the different settings.

There are a lot of things you can do in terms of monitoring, though. I mean, if both parents in those places could do their keyboard capture programs, for instance, that will capture every keystroke that's entered, so that you can go back and see that, even for things like a chat room where the conversation typically is not saved on the computer-- If you install a program like that, you can go back later and check on those kinds of things.

ASSEMBLYWOMAN POU: Are these computers monitored? For example, let me go back to the prior arrest that was made by the example given to us earlier, where they were able to seize this gentleman's computer and then able to go into the computer and see all the things that this person had done or had on file. Are we looking to do similar types of monitoring in some of these public places, as well, to assure that we don't already have something like that currently in any one of these particular computer places that these children can, you know -- our children can go to?

MR. FISKEN: Well, I don't know how routinely that's done by the groups that run it. As for law enforcement, they would not do that unless there was some kind of a complaint that came in that would trigger an investigation for them to start at. Once something like that is triggered, you can go back and even find material in deleted files, if they haven't been

overwritten, and those kinds of things. But it would usually require some sort of a complaint first, before that would happen.

ASSEMBLYWOMAN HECK: Just by your bringing up that point, I'll ask Miriam Bavati and staff to check with the State Library Board and see what kind of monitoring they do, or checking at the end of the day or a week as to what is going on with the use. And I think we can also check with the educators, because there are how many computers in the schools now.

ASSEMBLYWOMAN POU: Especially after school.

ASSEMBLYWOMAN HECK: Correct.

ASSEMBLYWOMAN POU: They have those after school projects and what have you.

ASSEMBLYWOMAN HECK: And in recreation areas, like a Boys and Girls Club, etc.--

ASSEMBLYWOMAN POU: Like a Boys and Girls Club. Absolutely.

ASSEMBLYWOMAN HECK: --after school program facilities. What kind of checking do they do, if any? So that we can follow through and be looking at those things, I think this is an important point.

ASSEMBLYWOMAN POU: Or maybe we can just provide them with the educational prevention piece that you talked about earlier, or it was discussed here earlier, in terms of what to look out for, what are some of the steps.

ASSEMBLYWOMAN HECK: Yes. I know the prosecutor is going to send us things. Do you have any guidelines for parents that you've put together for the Internet? I know I have my little bookmarks, but I

haven't updated it in about a year. So I'll have it looked at, and then I'll give you copies of it.

ASSEMBLYWOMAN POU: Thank you.

MR. FISKEN: I've seen some from the FBI. I'm not sure if our computer unit has done its own yet or not, but if not, I can send you the FBI ones.

ASSEMBLYWOMAN HECK: May I respectfully suggest that you pursue a piece like that, so that we in the State can utilize it and forward it in all of our counties? I think that would be a helpful tool to us, as well as to others, educationally, for groups that the State Police go to, etc.

Someone is going to tell you they have it. (Person from audience relates message to witness) (laughter) I hope.

MR. FISKEN: I think the State Police have been doing a lot more. Their unit is larger than-- They have been doing a lot of outreach with the parents and things like that.

ASSEMBLYWOMAN HECK: I know. But when we held a hearing two years ago, I remember -- it's only two short years -- there was only one State Policeman in the entire state who even knew about this, and subsequent hearings through the colleges and the universities, etc., brought awareness and more money from us in the State to support those groups. And now it's grown to such a degree that high-tech teams should be further supported by us in the State.

MR. FINKEL: I'm told there's actually a Web site under development now by the State Police and the Department of Education

providing guidance to parents on this, and I can get more information on that for the Committee.

ASSEMBLYWOMAN HECK: I would say that you're still missing about -- more than 40 percent of the others, if not more. I know that a lot of people are computer literate today, but I don't think every home has a computer yet. They might in a year or so, but I think it's important for us to have hard copy to distribute.

MR. FINKEL: Absolutely. Especially when it's the kids who are computer literate rather than the parents.

ASSEMBLYWOMAN HECK: Absolutely. And they'll only teach us so much, you know. (laughter) In my case, it's my grandchildren.

This has been very interesting and very enlightening.

MR. FISKEN: Thank you. I have nothing else, unless there are questions.

ASSEMBLYWOMAN HECK: I always learn more at these hearings that we can use as legislators and individuals. So I appreciate your coming. I know that the Association for Children of New Jersey-- They're at an event today out of the area, and they'll be sending us, not just on this, but on other child safety tips. So we'll get that from them. And another, children and family services of Bergen County, they're at the same conference. So we'll be getting other material, hard copy, and if there's anything I think that's of interest to you guys, I'll send it on, because I know you don't have any paperwork in your offices. (laughter)

ASSEMBLYWOMAN GREENSTEIN: Madam Chair, I still have just one question. Actually, more for the Council as well.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN GREENSTEIN: Do we have something available to us from the law enforcement community that outlines, let's say, the present state of the law? Has anything been written up that would define for us--

ASSEMBLYWOMAN HECK: OLS gives us that. OLS is supposed to give us that.

ASSEMBLYWOMAN GREENSTEIN: Okay.

ASSEMBLYWOMAN HECK: Yes.

Anything we should know, Stephan?

MR. FINKEL: We just appreciate the opportunity to have these issues here.

ASSEMBLYWOMAN HECK: And are you going to think of new ways and means for us to tighten everything up? You've listened to everybody.

MR. FINKEL: That's what we try to do.

ASSEMBLYWOMAN HECK: Okay. They usually come up with things after these hearings. We did that when we had the Ectasy and the other drug hearing is, we came up with a lot of new material to tighten it up. Wasn't that exciting, and frightening as well? But it's better that we know what those frightening things are so we can taken action against it.

I appreciate your help.

I don't see doctor--

So, anyone else who would like to testify? (no response)

If not, I'm going to close this hearing. Thank you all very much. And we'll have follow-up work. Thank you.

(Public Meeting restarts for new witness.)

ASSEMBLYWOMAN HECK: We met some years ago, when we were looking at child abuse and neglect, and learned a tremendous amount that helped us put our bills together. And he has been an inspiration, and I had recommended him to be chair of the Blue Ribbon Panel after our first hearing, in Policy and Regulatory Oversight, on the changes needed for the child protection system. Tony was very gracious in dedicating a portion of his life. (laughter)

Okay, Tony.

ANTHONY V. D'URSO, Psy.D.: Okay. I'm sorry for my late arrival.

ASSEMBLYWOMAN HECK: See, we were getting excited. We got done early. (laughter)

DR. D'URSO: I won't hold you here much longer.

ASSEMBLYWOMAN HECK: Okay.

DR. D'URSO: There's just a few areas. The understanding that I had was-- My background is, I'm Supervising Psychologist at the Audrey Hepburn Children's House, which is one of four legislatively mandated child abuse centers in the State of New Jersey; Newark Beth Israel being the second; the Center for Children's Support, in Camden, being a third; and the Child Protection Center, in New Brunswick, being the fourth. I also happen to serve as Vice Chair of your legislatively mandated Child Fatality and Near Fatality Review Board. So my comments today are going to be about the issues of child safety.

These comments-- I was asked late last week, through your legislative person, Mr. Shissias, okay, to make some comments. I will type these up and get them to the Committee members after today, if that's okay.

A few things. One of the things that I'd like to first look at is, we are currently in a state where sex offender registration, victimization of children is a high priority. My concern for children, especially as we move into an access registry, access on the Internet, is from the child victim side of this. And that is that there are unintended consequences for children when a sex offender registration is open to the public, i.e., in the State of New Jersey. There is no good number. No one has a good number as to the percentage of adjudicated sex offenders who are intrafamilial, inside the family abusers.

Subsequently, when offenders are well-known to the public and easily accessed, victims of intrafamilial abuse get unintended consequences; that is that they are victimized the second time through that absolute publicity and access. So I am certainly not asking for us not to pay attention to sex offender credentialing. I am asking, however, that this be done judiciously and with review with regard to children's rights and the fact that we have no strong number as to what percentage of children -- and certainly none of us would agree that any child should be revictimized. But the numbers that people play with could be anywhere from 30 percent to 70 percent of the sex offenders that are adjudicated are intrafamilial abusers, which then mean 30 percent to 70 percent of the victims technically, or at least that proportion, related to that offender have unintended consequences of being known to the community as victims.

In the State of New Jersey, I think that the Division has done a good job, since the Blue Ribbon Panel, in terms of the areas of foster care, adoption, intra-agency training programs, and are about to undertake a case standards initiative where they're going to bring in experts, national experts, to help them with the case standards decisions. At this juncture, they're running into two particular problems.

One problem is, is that the Federal Government won't reimburse us for the use of national experts to help us bring in case management standards, effective case management standards. And so, as we're looking at how caseworkers make decisions for kids, we're bringing in national people and those people who are helping us with the decision making on the caseworker level. The Division is having some significant funding processes. In my conversations with them, the cost of that, if that's an important thing, is roughly about \$150,000 that is being excluded from Federal funding at this point in time.

A secondary matter comes in when you talk about case management systems between the state governments. I'm sure you're well aware of the fact that there is no capacity for the Administrative Office of the Courts, the Division of Youth and Family Services, the Department of Health, the welfare departments to talk to each other, because the data systems are antiquated. In particular to child welfare, the Division has to undertake a revamping of its case management system, and the cost that's been associated with that is roughly half a million dollars. And so, that becomes an issue.

ASSEMBLYWOMAN HECK: Just say that again?

DR. D'URSO: The cost associated with the revamping of the case decision-making standards, computer systems, inside the Division -- that's just inside the Division.

ASSEMBLYWOMAN HECK: We had been talking about that. And I think the first Children's Summit that we held, that was one of the major things that we learned. Not only do we not have a good database, we also have difficulty because the language that we use, the terminology we use, the legalese we use is different in all the departments.

DR. D'URSO: Precisely.

ASSEMBLYWOMAN HECK: So we need a glossary--

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: --so that we begin to learn that we should all be using one vocabulary or language, as it were, so that we don't miss the boat.

DR. D'URSO: In an informal conversation, and not to quote him, but in an informal conversation I had with the Assistant Director of the OAC -- Tom? I don't know if Tom's still here -- with Jack McCarthy, the standard, according to him, to get these systems to work with each other is a multimillion dollar project across state government, but--

ASSEMBLYWOMAN HECK: But it absolutely is very helpful.

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: We just completed our database for the working group -- domestic violence, remember, and the courts joined that together. It doesn't mean that we shouldn't begin. Because even though

we allocate moneys with that, it takes years before the study begins on how to do this.

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: So I think that's a major concern to me -- is that it took us years to do it for domestic violence.

DR. D'URSO: There's no good systems to do it.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN POU: Madam Chair? On that very same note, if I may, just for a point of clarification, when you talked about linking up the data services or the computer services, are we talking about just an interdepartmental, or are we also expanding out into -- throughout the state wherever we have countywide, for example, DYFS offices that may not necessarily be in Trenton? But, are we talking about statewide?

DR. D'URSO: Yes. Inside the Division, the half a million dollar cost of just revamping the data systems within the Division, relative to this decision-making model--

ASSEMBLYWOMAN POU: Right. Right.

DR. D'URSO: --that half million dollars was to link all the DYFS offices, correct.

ASSEMBLYWOMAN POU: But that's just one department.

DR. D'URSO: Right.

ASSEMBLYWOMAN POU: What happens to the Department of Welfare, Health and Human Services (*sic*), or all--

DR. D'URSO: That project that Assistant Director McCarthy had talked about -- because we had tried to do it for the-- One of the problems we were having -- just a brief history -- is in child death review.

ASSEMBLYWOMAN POU: Right.

DR. D'URSO: We're legislatively required to look at all of the deaths in the State of New Jersey. Now there are multiple systems, for example, SIDS Consortia in the Department of Health. There is no way to get that data in any unique identifier. We went to the AOC, as an example, to say how could we link some systems together so we can get better data about the constellation in these families, and it is a significant-- It's a multimillion dollar project.

ASSEMBLYWOMAN HECK: But let me say this, Tony, because we've had this problem--

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: --in a number of areas, including the Department of Corrections. Well, I'm not going into that. It took me years to hold a hearing. Well, you guys might know a little bit. But the point is that it was through Appropriations that we learned these things. That's why Appropriations is so good, because you can get to ask all these wonderful questions.

ASSEMBLYWOMAN POU: Absolutely.

ASSEMBLYWOMAN HECK: But the longer we stay away from moving in that positive direction, the more expensive it becomes--

DR. D'URSO: Absolutely. And we're relying on other states' anecdotal data--

ASSEMBLYWOMAN HECK: --and the less effective the people working in those departments can be.

DR. D'URSO: Absolutely.

ASSEMBLYWOMAN HECK: Okay.

DR. D'URSO: A third area -- just staying in the Division for a moment -- is, and this is something the Division has no control over, but we need to assess it better, and that is, the Division, in its current regulations with the Department of Personnel, can't control who they get as applicants. In a good economy, the Division cannot get good applicants for its positions. They've done a great job in reorganizing--

ASSEMBLYWOMAN HECK: That's right.

DR. D'URSO: --its training programs, but you can't make something out of someone who's not. And there are, I think, a number of associated issues with that, and then I think that requires further study on the part of the Division and some recommendations to look at that procedure.

ASSEMBLYWOMAN HECK: And just as a point of information for the members of the Council, we also put into the standard a year probation for anybody entering the Department--

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: --because we said, even though they look good on paper, in the field they may not produce.

I'm sorry, go ahead.

DR. D'URSO: There are salaries -- things associated with that, but I think there's also associated factors. We, as a compromise in the Blue Ribbon Panel, as an example, agree that maybe to increase the applicant pool

we should not put a basic requirement, like a BSW, Bachelor's of Social Work or Bachelor's in Psychology. I don't think that has worked. I think we are getting people with disparate backgrounds. We're not getting good applicants for the position.

A second Civil Service problem, which I think is in some respects more significant than the caseworker problem and less significant in others, is that you cannot bring in people in our current Civil Service program at advanced levels. I'll give you the most absurd example. Ten years ago, when I ran a child abuse program at Morristown Memorial Hospital, one of the casework supervisors-- The casework supervisor is the person below the district office manager who makes all clinical decisions. That person's husband was transferred; she went off to Pennsylvania. She has now relocated back to New Jersey. So she was the second in command in a DYFS office. She cannot regain her position. She has to be brought in as a Family Service Specialist I, in other words, a caseworker. Now this is a Civil Service Department of Personnel requirement. The Division is hamstrung by being absolutely unable to promote from within. I mean, they have to promote from within. If tomorrow -- and I don't know that I have any skill -- but if tomorrow I wanted to become a DYFS casework supervisor, I cannot, in our current state of affairs. If I wanted to walk into the Division and say, I have some credentials, can I do that, the answer is no. You can become a caseworker at \$25,000 a year and work your way up through our system.

So there are some significant problems in bringing in highly trained--

ASSEMBLYWOMAN HECK: Is it a union thing?

DR. D'URSO: What?

ASSEMBLYWOMAN HECK: Is it a union thing almost?

DR. D'URSO: It is a Department of Personnel Civil Service thing that I'm not familiar with. And I'm not trying to say the Department of Personnel Civil Service isn't a good thing. I'm just simply saying there must be a way to bring in quality advanced-level people to a system that is in badly need of people in supervision.

ASSEMBLYWOMAN HECK: Okay.

DR. D'URSO: Switching hats for the moment, sitting on the Child Death Review Board, we have a State Medical Examiner. The State Medical Examiner has no legislative authority over the counties that he supervises. When we attempt to look at a procedure or a practice, for example, child-infant autopsy, and the State Medical Examiner says to his department, his other medical examiners, "I want you to do this," he has absolutely no legislative authority to impose that standard. And so when we are looking at child fatalities -- and roughly in the State of New Jersey there are 450 suspicious deaths, roughly 1200 kids die in New Jersey a year, infants and children under the age of 18 -- 400 of those deaths are what are termed suspicious criminal that the medical examiner were going to-- Although he can mandate a standard because of this State mandate-State pay requirement, the State Medical Examiner cannot force local medical examiners to engage in the practice.

A simple example of that and a letter we've already sent out is that children who die of battered children syndrome are supposed to get head-to-toe radiological examinations. That's standard. Whether it happens,

whether it doesn't, cannot be forced by our current structure. Okay. And that's a significant difficulty in terms of child death review.

ASSEMBLYWOMAN HECK: What would you say of the percentage of those investigations on the 450 children?

DR. D'URSO: Under the State of New Jersey, all suspicious deaths have to be referred to the Medical Examiner.

ASSEMBLYWOMAN HECK: Okay.

DR. D'URSO: Of the 1200 children and infants who die--

ASSEMBLYWOMAN HECK: Yes.

DR. D'URSO: --and that could be a child--

ASSEMBLYWOMAN HECK: Had pneumonia.

DR. D'URSO: --who is born prematurely, has a congenital lung--

ASSEMBLYWOMAN HECK: Whatever.

DR. D'URSO: Twenty-five percent of those are suspicious deaths. The number we've been looking at-- And again, because we don't have good interdepartmental data systems--

ASSEMBLYWOMAN HECK: Yes.

DR. D'URSO: --the number we're looking at, roughly, is about 435 children. Those 435 children, if we want to advance a practice or a standard, we cannot do that. For example, we have subpoena power. But if we say to a hospital, "We want those records," people--

ASSEMBLYWOMAN HECK: What?

DR. D'URSO: --look at us and say, "Who's going to pay for the cost? Who's going to pay for the Xeroxing? Who's going to do this? Who's going to do--" Those kinds of things are problematic when we try to review

cases. If we had to prioritize the Medical Examiner's lack of effective authority over his offices, it is the single greatest problem.

ASSEMBLYWOMAN HECK: I'm going to interrupt for a moment.

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: Are you listening? (speaking to witness in the audience)

MR. FINKEL: I certainly am. (speaking from audience)

ASSEMBLYWOMAN HECK: No. I'm going to ask you. I'm going to ask you--

They want you to come up to be at the mike. You're listening. He said yes. Will you investigate this area?

MR. FINKEL: Yes.

ASSEMBLYWOMAN HECK: Okay. When you find out more about this, look at laws that will enable people to do their work properly, and then bring it to us, send it to us, or propose -- make some proposals.

MR. FINKEL: Okay.

ASSEMBLYWOMAN HECK: Okay. Go near the mike so she can-- She's going to make a transcript of this. (referring to hearing reporter)

MR. FINKEL: Now, this is obviously nothing I've prepared for.

ASSEMBLYWOMAN HECK: I realize.

MR. FINKEL: I do know that the law on SIDS autopsy protocols was recently amended to require these standards. I'm not sure--

ASSEMBLYWOMAN HECK: Just the SIDS?

MR. FINKEL: Right. SIDS autopsy protocol standards.

ASSEMBLYWOMAN HECK: Okay.

MR. FINKEL: The State ME has general supervisory authority over the country MEs. I'm not sure if I agree with the notion that the State mandate-State pay would be the-- We don't have to do it because of State mandate-State pay, but I can certainly go into these issues with the State ME and find out what the situation is.

ASSEMBLYWOMAN HECK: Please. And if we need to amend laws or provide whatever, let us know.

MR. FINKEL: I certainly will.

ASSEMBLYWOMAN HECK: I appreciate that.

DR. D'URSO: While we have somebody here from the AGs office--

ASSEMBLYWOMAN HECK: Yes. Why don't you sit there, Steve. You're in trouble. (laughter)

DR. D'URSO: In consultation with the Division, one of the things that the Division's finding particular difficulty with is, and I don't think that they would disagree with this, is the lack of judges in the family area.

ASSEMBLYWOMAN HECK: Say it to the mike.

DR. D'URSO: The lack of judges in the family area. According to the Division--

ASSEMBLYWOMAN HECK: Oh, we've been saying that for a long time.

DR. D'URSO: Okay. All right. Then I won't reiterate that, but according to the Division--

ASSEMBLYWOMAN HECK: May I also tell you, in some instances, lack of family court judges also is held back sometimes by certain people who have to okay these judges. They have to go through a process.

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: And certain counties or districts don't move them fast enough, because there's a dispute between one or more senators on who should be named senator in that area. I mean, this is no unknown to the world. And this, to me, causes problems, because we've okayed a number to be appointed, and then we say, well, where are they? And they haven't gone through the process, because the senators have not agreed as to that. And you know, I had to drop one of my bills, because I think family court judges are the guys who are in the front lines -- men and women, when I say guys on the front lines. It's the most heart-wrenching place to be. You don't win popularity contests, because you're making tough calls and tough decisions. And again, I think their caseload should be lightened even more so, but that's a personal opinion.

Go ahead, Doctor.

DR. D'URSO: There's just two other things. Currently, the State of New Jersey is entertaining a children's health-care initiative--

ASSEMBLYWOMAN HECK: Yes.

DR. D'URSO: --meaning that they're attempting to provide overall structure and supervision for children in entering our systems. That program has been implemented in the Department of Human Services, in some pilot counties, with the full intention for statewide implementation. As child abuse people go to these meetings and ask questions about how the

initiative is going to work, how it's going to follow, there is significant concern from the child abuse community that this children's health-care initiative is not going to be all that glitters. There is talk about generic evaluation systems, activating services for kids. Those generic systems may, in fact, in the child abuse area, require multiple interviews, revictimizations of kids in a structure where we already have in place effective treatment programs and opportunities for kids to get access rapidly. So I think that the child abuse community is highly cautious and suspicious of the initiative.

ASSEMBLYWOMAN HECK: Well, I would say -- use the word concern.

DR. D'URSO: Concerned.

ASSEMBLYWOMAN HECK: I wouldn't say suspicious, because you're opening up a health-care avenue--

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: --that has to be to help poor families. But it should not be to the detriment of serving child abuse victims.

DR. D'URSO: Or duplicative. One of the roles we're trying to do is get kids into the system quickly through our regional child--

ASSEMBLYWOMAN HECK: Yes.

DR. D'URSO: --abuse centers.

ASSEMBLYWOMAN HECK: So there should be a little asterisk on the initiative program. (laughter)

DR. D'URSO: Well, at this point, they haven't--

ASSEMBLYWOMAN HECK: Recognized it.

DR. D'URSO: --carved out--

ASSEMBLYWOMAN HECK: That piece.

DR. D'URSO: --child abuse services relative to children's initiative.

ASSEMBLYWOMAN HECK: Well, I think the Blue Ribbon Panel who is meeting should carve it out on paper.

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: And then--

DR. D'URSO: We would gladly make that recommendation.

ASSEMBLYWOMAN HECK: --we will address it, right, panel?

ASSEMBLYWOMAN POU: Absolutely.

ASSEMBLYWOMAN HECK: Absolutely.

DR. D'URSO: One other quick one. In the State of New Jersey, domestic violence has done a good job in developing models for protection of women, training programs, certification programs, etc. There is no basic certificate for any mental health professional in the State of New Jersey who will treat children who are victimized -- no basic credential.

ASSEMBLYWOMAN HECK: Really. I have a question to ask you while you're here. Sorry, these are things that come up in my life.

I was at a Guardianship meeting, and the seniors--

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: The number of seniors is growing -- and caregivers. And again, we talked about certification--

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: --needing certification in those caregivers' categories--

DR. D'URSO: Correct.

ASSEMBLYWOMAN HECK: --which will also mean that they will get paid more than minimum wage, which is important. I think that we should be looking at a program where seniors who are physically and mentally able, from an intellectual and emotional way, to be looking for that second or third career as child care assistance people, but there should be a certification. And I'm asking you to look at this seriously for recommendations from your panel to certify people of a certain age. Because we know that grandparenting works, and helping with that piece, we've worked on that with making sure that they get some assistance. I think we should make this as a new career -- another career for people who can receive certification and are such wonderful caregivers in a children's day care or whatever--

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: --setting.

DR. D'URSO: The caregiving supervision credential--

ASSEMBLYWOMAN HECK: Correct.

DR. D'URSO: --you're talking about--

ASSEMBLYWOMAN HECK: And we're--

DR. D'URSO: --is an important issue. The credential I was referencing was the issue of advanced degrees.

ASSEMBLYWOMAN HECK: No. Oh, okay.

DR. D'URSO: Because I happen to have--

ASSEMBLYWOMAN HECK: But I also think, Tony--

DR. D'URSO: Yes.

ASSEMBLYWOMAN HECK: --and I'm going to disagree with you here, because sometimes caregivers who don't have degrees give more care.
(laughter)

DR. D'URSO: Absolutely. Absolutely.

ASSEMBLYWOMAN HECK: And that's why I'm saying certification.

DR. D'URSO: Absolutely.

ASSEMBLYWOMAN HECK: Because it's kind of-- I've met fathers and mothers, grandparents who've never had any training, except their lives. And they are marvelous caregivers. And I think they should use that as a -- what do you call that when you go and get a GED? You never went and finished, but you got your certification.

DR. D'URSO: That I'm not disagreeing with. What I was calling the Committee's attention to is, just because I have a Master's Degree or a Doctorate doesn't mean that I know anything about child abuse. And so in the State of New Jersey--

ASSEMBLYWOMAN HECK: Yes.

DR. D'URSO: --the people who are doing trauma and treatment and mental health assessments, just like you would in domestic violence risk--

ASSEMBLYWOMAN HECK: Right. Right.

DR. D'URSO: --assessments and have credentials, we have no credentials in child abuse relative to the professional standards.

ASSEMBLYWOMAN HECK: Well, then, why don't you make them up? I don't mean make them up out of the blue--

DR. D'URSO: Absolutely.

ASSEMBLYWOMAN HECK: --but give us an example of it, and we'll look at it.

DR. D'URSO: For legislative review.

ASSEMBLYWOMAN HECK: Yeah. Yeah.

DR. D'URSO: Okay. And the final thing is, we've done a very nice job--

ASSEMBLYWOMAN HECK: Don't look perplexed. He's very bright. He knows what he's talking about. (laughter)

MR. FINKEL: No. I was still thinking about your suggestion for certification.

ASSEMBLYWOMAN HECK: Oh, okay. Oh, really, I mean that.

MR. FINKEL: No. I was thinking--

ASSEMBLYWOMAN HECK: Well, you'll know I'm coming at you from a senior area and a child care area, because there are people, surrogates, who are very concerned about senior caregivers.

MR. FINKEL: But do they need a certification to be able to work at a day care center, for example?

ASSEMBLYWOMAN HECK: Well, I think since we have to check everybody, it would be nice to give them a paper--

MR. FINKEL: Right.

ASSEMBLYWOMAN HECK: --that says you're certified to be. And there's a responsibility that goes along with certification, I think.

MR. FINKEL: If that's the case, why limit the seniors?

ASSEMBLYWOMAN HECK: Pardon me?

MR. FINKEL: Then why limit the seniors?

ASSEMBLYWOMAN HECK: I'm not.

MR. FINKEL: Yeah.

ASSEMBLYWOMAN HECK: I'm telling you, I think it should be across the board.

MR. FINKEL: So that's why I was thinking through that.

ASSEMBLYWOMAN HECK: No. That's okay. I like to stimulate those kinds of thoughts.

DR. D'URSO: The final issue is, in New Jersey, we have a system which the Committee may be familiar with on each county level, called multidisciplinary teams, and their job is to review cases of child abuse and neglect upon criminal investigation. Currently, for the last 13 years, counties have voluntarily participated in those teams. Sitting on a team is the Division of Youth and Family Services, the prosecutors, the investigators, victim services, mental health professionals, etc.

In New Jersey, we do not have these teams legislatively mandated. We didn't think that that was essential. I kind of shepherded that process along over the last 13 years. But we're coming to the point in our case management decisions, after we have full implementation in each of the counties, whereby if there is differences among team members, there is no way to force resolution in those cases. Many states have--

ASSEMBLYWOMAN POU: Doctor, would you repeat that again? If there's what?

DR. D'URSO: Let me give you a very concrete example without identifying any of the offices.

ASSEMBLYWOMAN POU: Okay.

DR. D'URSO: We, in the last two weeks, have medically evaluated three children that we believe -- and the medical evidence is there and all the other physicians agree -- have been -- suffered battered child syndrome. In evaluating battered child syndrome, one has to make sense of the story and the injury. The case was investigated. The local municipality and prosecutor's office believed that the mechanism of injury were children -- five, seven, and eight-- And although children can be rageful, the mechanism that the children said happened were not the mechanism of action for the injury. These are children with clear retinal hemorrhages, which are indicia of battered child syndrome -- shaken baby syndrome -- as well as other injuries.

We strongly disagree with the local law enforcement, and the Division is in agreement with us in this matter, about those cases. There is no mechanism. What we have done in our system is, we've identified three children under the age of 10 as the perpetrators in those cases, but it makes no medical sense. We bring that case to a team discussion, and there's a disagreement about that issue, or there's an absence of requirement in terms of the decision-making process. So, literally, although we have voluntary compliance to discuss cases, if I choose to, I can walk away from the table, and in essence, say, that's what I think, too bad, and we walk away.

Now other states in the union have mandated multidisciplinary case management child abuse routines. I'm not sure that state mandate is always an answer, but I'm clear that now that we have 21 teams--

ASSEMBLYWOMAN HECK: What states have it, Tony?

DR. D'URSO: Illinois has 137 legislatively mandated multidisciplinary teams. Florida has such teams. Those are the two states that come to mind immediately.

ASSEMBLYWOMAN HECK: I don't want to look at Florida, thank you.

DR. D'URSO: Okay.

ASSEMBLYWOMAN POU: We're going to skip Florida.

DR. D'URSO: We're going to forget Florida.

ASSEMBLYWOMAN POU: We'll move on to Illinois.

DR. D'URSO: Okay. I can give you--

ASSEMBLYWOMAN HECK: I don't know how good their laws are. (laughter)

DR. D'URSO: I could supply the Committee with the exact number of states, because the--

ASSEMBLYWOMAN HECK: Please.

DR. D'URSO: --children justice act, which comes through the states, through the local New Jersey Task Force on Child Abuse and Neglect and gets sent to all 50 states, have an annual meeting, and I can get you the exact states that have legislatively mandated provisions for multidisciplinary teams. Again, the impact here--

ASSEMBLYWOMAN HECK: Then the AGs Office can look at it.

DR. D'URSO: Absolutely.

MR. FINKEL: We can look at anything you want us to look at. (laughter)

ASSEMBLYWOMAN HECK: I know you will. I know. But again, you know how many years it took us to make changes in various areas. So to begin is what we want to do.

ASSEMBLYWOMAN POU: Madam Chair?

I know that the multidisciplinary child study teams are relatively new, and I am familiar with the fact that we obviously have them in every county. I'm very familiar with the one in my county. I visited the site location. I'm familiar with the personnel who's involved with that. I hope it wasn't the one you were looking at, but--

DR. D'URSO: To remain nameless.

ASSEMBLYWOMAN POU: --nevertheless, I-- Not knowing that, let me continue to make my statement. And I think it's an incredible program that has an ability to really do some very effective and very good work. I'm very concerned about the statement that you made, because I think as it's developing and the fact that it's new, we do indeed need to start looking at these things, as you said, Madam Chair, to try to come up with ways on how we might be able, obviously, to improve and especially establish the mechanism whereby they all are working--

ASSEMBLYWOMAN HECK: Actively.

ASSEMBLYWOMAN POU: --interacting with one another. It was the understanding that I had, by the way, when I did go -- and met with them and visited them. In fact, I introduced a very small appropriation for them which they're now -- are receiving. But those are the kind of things-- We're supportive of efforts like this, but we want to make sure that they're working as well and as effectively as they ought to be. So it's important for

you to share that kind of information with us and to tell us, or help us understand what are some of the ways that we can be helpful to them in improving their systems.

DR. D'URSO: New Jersey is a very diverse state, as you are well aware. So one of the things I've tried to communicate over the last 13 years is that there has to be a certain amount of local rule -- a little variability among all the teams. But what we can't allow is a basic statement that says if we have a problem and we don't know how to resolve a difficulty, I can't take -- euphemistically -- I can take my ball and go home and not--

ASSEMBLYWOMAN HECK: Worry about it.

DR. D'URSO: --make a decision about that. Because the bottom line when that happens is that the child is left to resolve the difficulty. And so, if somebody believes that a child was battered under the care of caretakers and a part of the system chooses not to believe that, then decisions and implications get made for kids returned home. And I'm not saying one group is right or the other, but a decision should not be made because of frustration or the ability to walk away from the table.

ASSEMBLYWOMAN POU: Absolutely. Absolutely.

DR. D'URSO: One other-- I'm sorry, one other final thing. I understand that there's a model program in Burlington County put together for children of domestic violence. In my conversations with the Division, one of the things that they were talking about was called the Pals Program. And the program is being designed and implemented in Burlington County specifically to treat kids who are victims of domestic -- who are covictims of

domestic violence, not the objects of abuse and neglect, but are covictims of domestic violence by witnessing such an event.

The program, as I understand it -- Bergen County is doing a wonderful job. The Division is very interested in replicating such a program throughout the State of New Jersey and developing some initiatives towards that end so that kids who are -- witnessed abuse and neglect, witnessed domestic violence, do not grow up later to be perpetrators. And so, some of those kinds of advances are very important.

And I apologize for my lateness, and thank you for your kindness.

ASSEMBLYWOMAN HECK: Oh, that's okay, Tony. Don't do it again. (laughter)

Thank you very much.

DR. D'URSO: Thank you.

ASSEMBLYWOMAN HECK: I know you'll be traveling back here again this week. (laughter) Thank you.

DR. D'URSO: Thank you.

ASSEMBLYWOMAN HECK: We appreciate it. It will be very helpful.

This meeting is concluded.

(MEETING CONCLUDED)