

Statement of Sean P. McDonough, Esquire regarding the Impact of Predators
in Long-Term Care on Small Business Operators

I have been asked to provide testimony on the issue of the impact of predators in long-term care facilities on small business operators. My perspective on this issue is informed by the extremely tragic consequences of one case in which my partner, Patrick E. Dougherty, and myself represented Mrs. Lillian Guernsey and her son, Thomas Itterly, arising out of two documented sexual assaults perpetrated upon Mrs. Guernsey by 31 year old Daniel Statham. A brief overview of the circumstances surrounding Mr. Statham's admission to the Country Living Personal Care Home in Nicholson, Pennsylvania, demonstrate in graphic fashion the need for legislation to assist small business operators in avoiding the myriad of problems associated with accepting sexual offenders at their facilities without appropriate screening or consideration as to whether these individuals should be accepted into a setting where some of our most vulnerable citizens are placed for care. Steps need to be taken to ensure that our elderly and infirm citizens do not suffer the type of violent attack experienced by Lillian Guernsey at the hands of Daniel Statham.

Lillian Guernsey was born on November 19, 1915 and was 86 years of age at the time that she was raped by Daniel Statham on February 27, 2002. At the time of the attack on Mrs. Guernsey she and Statham were both residing at the Country Living Personal Care Home located in Wyoming County, Pennsylvania. At the time that she was attacked by Statham, Mrs. Guernsey was suffering from a moderate form of dementia. While residing at the Country Living Personal Care Home, Statham was not under the supervision of any probation department nor had any employee of the personal care home, other than its owner and administrator, had any knowledge of Statham's past criminal history.

The shocking circumstances surrounding the placement of Statham at the Country Living Personal Care Home by the Court System and Adult Probation Department of Northumberland County serve as further compelling evidence as to the need for governmental oversight of this problem.

Daniel Statham was born on August 6, 1970. By the time Statham arrived at the Country Living Personal Care Home, he had had eight prior adult arrests, three convictions and two adult commitments to correctional facilities. Statham also had a lengthy prior juvenile criminal history. One of his juvenile arrests involved an arson charge in which Statham admitted to setting a fire in an Episcopal Church in Honesdale, Pennsylvania. In February of 1992, Statham was charged with rape, involuntary deviate sexual intercourse, aggravated indecent assault, corruption of minors and indecent assault. In February of 1992, Statham was arrested for burglary, theft by unlawful taking, and criminal trespass. Approximately six months later in August of 1992 Statham was arrested for burglary, criminal trespass, theft by unlawful taking, and receiving stolen property. Two years later, Statham was arrested in Lackawanna County, Pennsylvania and charged with four counts of aggravated assault, one count of simple assault, one count of recklessly endangering another person, one count of unlawful restraint, eight counts

of disorderly conduct, one count of criminal mischief, one count of resisting arrest and one count of terroristic threats. Approximately three months later in December of 1994, Statham was arrested in Lackawanna County, Pennsylvania, for assaulting his girlfriend. As a result of the December 1994 offenses he was sentenced to serve one to three years in prison. Statham subsequently pled guilty to a charge of aggravated indecent assault in Wayne County, Pennsylvania, and he was sentenced to serve three to six years in a state correctional institution. The victim of the crime which resulted in the imposition of the three to six year prison sentence was a thirteen year old female whom Statham had taken into a wooded area and had had intercourse with the young child. Statham admitted in a subsequent interview with the Sexual Offender Assessment Board¹ that he was intoxicated at the time of that assault. As will be noted in the description of the attack on Mrs. Guernsey, Statham stated he was intoxicated when he raped Mrs. Guernsey as well. As can be seen from Mr. Statham's lengthy criminal history, this individual was hardly a candidate to be housed as a resident at a personal care home.

The circumstances which surround Statham being placed at the Country Living Personal Care Home serve to demonstrate the need for alternative facilities to be created to house individuals who live with the type of behavioral problems as Daniel Statham. In Statham's case, the Court and Adult Probation Department of Northumberland County apparently had no access to an appropriate facility for someone like Statham. It was for that reason that he wound up at the Country Living Personal Care Home. As stated above, Statham had been sentenced to a three to six year prison term at the State Correctional Institute at Coal Township, Pennsylvania. During his time at SCI-Coal Township, Statham had been charged with a number of disciplinary violations and was unwilling to complete a sexual offender treatment program deciding instead to "max out" his sentence. At the completion of his sentence he was required to provide the Commonwealth of Pennsylvania with a permanent address where he would be living upon his release from prison. Unable to do so, officials from the State Correctional Institution contacted the Pennsylvania State Police advising them that Statham was in violation of Megan's Law² and should be arrested and taken to the Northumberland County Prison. While at the Northumberland County Prison, Statham was placed in contact with MaryJo Christiano who was employed as a counselor with a social service agency which had a contract with the Northumberland County Adult Probation Department. Officials from the Northumberland County Prison did not want Statham in their facility but did not have a mechanism in place to ensure that Statham was referred to a facility which would be appropriate for him to reside. At the time of his sentencing in the Court of Common Pleas of Northumberland County on October 2, 2001, for failing to have an address as required by the Megan's Law, the Judge presiding in the case sentenced Statham to time served and placed him on six months probation.³ Unfortunately,

¹ The Sexual Offender Assessment Report of December 20, 2002, is incorporated into this Statement as Exhibit "A".

² The Pennsylvania Statute requiring registration by address of individuals who have either been convicted or plead guilty to certain sexual offenses. 18 Pa. C.S. §9795(A)(1).

³ The transcript of the proceedings for Statham's guilty plea and sentencing in Northumberland County is attached to this Statement as Exhibit "B".

when the Judge who presided over Statham's sentencing made an inquiry as to whether probation would be in the mitigated range, the probation officer responded "I have know idea. We have no information on the Defendant at all." Therefore, Statham was permitted to leave the Northumberland County Prison and go to Country Living Personal Care Home without even a rudimentary pre-sentence investigation having been performed. The Order that was ultimately entered by the Court⁴ provided with respect to Statham's living arrangements nothing more than the following:

The Court directs the Defendant to take a bus to a half-way house in Scranton and to maintain his residence in Northumberland County.

Prior to Statham's sentence, arrangements had been made for him to be admitted as a resident at the Omni One Personal Care Home which was owned by the mother of Shirley Sheridan, who owned the Country Living Personal Care Home where Statham raped Mrs. Guernsey. It was established during the civil trial between Mrs. Guernsey and Country Living Personal Care Home that the personal care home, through Shirley Sheridan, had agreed to accept Mr. Statham knowing that he had been convicted of a sex offense. MaryJo Christiano, the individual who was charged with the responsibility of finding a location for Statham to reside, indicated that she contacted the Department of Public Welfare and asked for a list of available "boarding homes" in the Commonwealth of Pennsylvania. Christiano indicated that she notified the Omni One Personal Care Home that Statham was currently incarcerated at the Northumberland County Correctional Facility and she indicated that she had made the disclosure that Statham was a Megan's Law offender.⁵ It was established during Mrs. Guernsey's trial against Country Living that Christiano had notified the administrator of the Omni One Personal Care Home that Statham had been incarcerated at SCI-Coal Township for six years for rape. Notwithstanding these disclosures, Omni One and subsequently Country Living Personal Care Home both agreed to accept Statham as a resident.

Statham was originally transported to the Omni One Personal Care Home by Sheriff's Deputies from Northumberland County who had him handcuffed and shackled. Statham was moved from the Omni One facility after only a couple of weeks because he had started a small fire in a charcoal grill on the back porch thereby posing a danger the residents at the Omni One facility. It was thought that because of the fact that there were additional personnel at the Country Living Personal Care Home that Statham would find more things to keep him occupied at Country Living.

Upon his transfer to the Country Living Personal Care Home, Statham was placed on the second floor of the facility with only two other residents, a fifty-one year old male named Robert

⁴ The Order of October 2, 2001, is attached to this Statement as Exhibit "C".

⁵ The Memorandum Opinion in which these factual assertions were established authored by United States District Magistrate Judge Thomas Blewitt is attached to this Statement as Exhibit "D".

Ball and Mrs. Guernsey. The events of February 27, 2002, could have been prevented if the initiatives which have been proposed to the Committee this morning had been implemented. The Sexual Offender Assessment Report which has already been referenced sets forth in horrible and graphic detail the indignities visited upon Lillian Guernsey by Daniel Statham on that evening. Lillian's story needed to be told as to what went wrong and the circumstances which led to her brutal victimization unfolded during a trial which occurred four years to the date of those tragic events. From February 26, 2006 to and including March 1, 2006, sworn testimony was presented to Judge Blewitt which painted a clear picture of the events leading up to the attack on Lillian Guernsey. Several days after Statham's assault on Mrs. Guernsey, her son Tom Itterly was notified of what had taken place. Tom traveled to Northeastern Pennsylvania to bring his mother home to be near him in Memphis, Tennessee. He cared for his mom at his own home as best he could until it became impossible to attend to her needs. She lived out her days in a nursing home outside of Memphis. Lillian Guernsey died within two months of the conclusion of the trial brought on her behalf against Country Living Personal Care Home. She was 90 years of age at the time of her death. As a result of the attack on Lillian Guernsey, Daniel Statham was charged with rape, sexual assault and indecent assault. He is serving an extended prison sentence at the State Correctional Institution at Camp Hill.