



CHILD HOMICIDES



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I. Increasing Awareness

Increased awareness of the problems of child abuse and child neglect have begun to turn legal and medical attention to the problem of homicide in childhood. In a study done of 23 developing countries, U.S. homicide rates were among the five highest rates for the ages under one year and the ages one to four years. In fact, 3% of the deaths of children in the United States between the ages of one and four are due to homicide.¹

The purpose of this paper is to foster discussion and implement action among the various professional groups in Pennsylvania that deal with the issue of child homicide. These groups would include the law enforcement community, the medical community, and the child protective services community. In response to steadily rising numbers of child fatalities caused by abuse and neglect, child death review teams are being established throughout the United States to share information and develop measures that are needed to improve criminal, medical, and social service procedures when a child dies a suspicious or violent death.

One of the critical needs at this time is a definitive study that will document the number of child fatalities in Pennsylvania, the cause of death, whether or not there was a referral to a law enforcement agency, whether or not the law enforcement agency filed charges, whether or not the charges ended up in a conviction, what the degree of the homicide was adjudged to be, and the sentence of the perpetrator.

In a recent study done at Children's Hospital in Columbus, Ohio, a review of 72 cases of child abuse involving children six years of age and under showed that charges were filed in fewer than one-half of the cases; convictions were obtained in fewer than one-third of the cases; and sentences and actual time served varied considerably. This kind of a study should be done in Pennsylvania.

And the message must be made loud and clear in Pennsylvania that the death of a child is unacceptable, with the even stronger message that the compassion and empathy must rest with the child who has died of neglect, broken bones, a ruptured liver, a ruptured spleen, or a hemorrhaging brain, and not with the person who murdered the child.

The frustration of prosecutors, as well as medical professionals, throughout Pennsylvania is voiced on a daily basis. The frustration comes from dealing with cases in which children are murdered and then coming away from criminal homicide prosecutions with lesser verdicts and lesser sentences. Some of the frustrations are voiced in questions like this: Is it because the information brought to the Court is inadequate? Is it because child abuse is so hidden that you can never get good evidence? Why, when you kill a child, is it just a bad mistake and not a murder? What, after all, is the value of the life of a child?

II. The Value Of A Child's Life In The Community

The questions underlying the frustrations, and which must be addressed not only by legal, medical, and social service professionals, but by our Legislature, are these:

A. What value does a community place on a child's life?

B. How does case law in Pennsylvania affect that?

C. How do statutes in Pennsylvania affect that decision?

D. How are law enforcement decisions affected by that valuation?

E. How do the sentences of people who murder children reflect that valuation?

F. How do the verdicts, bench or jury, reflect the community's sense of the value of a child's life?

G. Are coroners watching for possible homicides when a child dies? Ten percent of the SIDS cases are not SIDS but, rather, are homicides.

H. Do hospital emergency rooms know a homicide when a child is brought into them?

I. Do the Children and Youth workers throughout Pennsylvania recognize a child homicide versus an accidental death?

J. Do neighbors step in to help children who they suspect or know are being abused?

K. Do law enforcement officials recognize the signs of a child homicide, and, even if they do, are they at times prevented from bringing criminal homicide charges?

L. Why this befuddlement?

The issues that seem to get involved are:

A. Is it a parent who has killed a child?

B. Is it a step-parent who has killed a child?

C. Is it a paramour who has killed a child?

D. Does the murderer say, "I didn't mean to do it; I loved the child; I didn't mean to hurt the child; I was just disciplining the child"---and what effect do those statements have on the people who are making the decisions as to how to proceed with the child death?

E. Why does the empathy seem to lie with the person who killed the child rather than with the child?

F. What effect does it have on the community when a child has been killed by a family, and the family stands behind the one who has killed rather than demanding justice for the child who is dead?

G. What effect do the above issues have on the decision whether to prosecute in a child death?

Once the community has addressed the above questions and acted on their answers by setting up a child death review team, there remain inherent legal problems in proving a child homicide.

III. Proving The Child Homicide

Child homicides are difficult to solve. Most of the evidence-gathering techniques used in adult crimes are often worthless. There are rarely witnesses to child murders because the crimes are committed in the privacy of the home. The issue of exclusive custody then becomes critical, and proving who had exclusive custody of the child when s/he died must be shown.²

Confessions are not usual, due to the fact that the bravado and bragging that accompany many adult deaths are not present for a child death--in fact, the blame is placed on everyone else who is a suspect, including minor siblings. For example, in one case, a two-month-old died from suffocation after a paper towel was stuffed down the child's throat. The mother blamed the 19-month-old sister of the dead child and claimed that everyone else was asleep. Charges were initially not charged in that case because a 19-month-old cannot be prosecuted for murder; however, the child's father was later arrested and charged with the death of the child as well as the death of a stepchild.

The parents or caretakers are also quick to blame the problem on the child victim--an uncoordinated child who fell down frequently: a fall from a crib, a fall from a bicycle, et cetera.

Fingerprints are useless, since the assailants usually live in the same house as the child. Informants are not helpful for the same reason that confessions are not forthcoming--no one brags about killing a child.

It is imperative that a specific protocol be established that is put into effect immediately by a community when a child

death occurs. Immediate reporting must be required to law enforcement. Law enforcement should be required to report to a local prosecutor, a medical examiner, and a child protective services agency. The need for the immediate reporting is obvious: A prompt death scene investigation is necessary in order to preserve critical evidence. A special penalty for failing to report suspicious child deaths should be provided by law. All SIDS (Sudden Infant Death Syndrome) cases and all other deaths of children under the age of 18, unless clearly certifiable by an attending physician as due to specific natural causes unrelated to abuse or neglect, should be referred to the medical examiner's office immediately.

In counties where there are no medical examiners, and the county coroner system is in existence, when an infant under the age of two dies suddenly and unexpectedly, and the circumstances of the death are unexplained, an autopsy must be performed by a physician with specialized training in forensic pathology within 24 hours of the death. For SIDS to be listed as cause of death on a death certificate, such a finding must be "medically justified", and copies of all SIDS-related death certificates must be sent to a central repository along with an autopsy report and other data.

Not only does the community need to implement changes such as those recommended above, but the Legislature must address the problems with the law as it presently stands in Pennsylvania.

IV. Present Pennsylvania Statutes and Case Law

At this time in Pennsylvania, there is a general criminal homicide statute³, which is generally used in the prosecution of a murder. By using the general criminal homicide statute, the prosecutor leaves the decision of first, second, or third degree murder or voluntary or involuntary manslaughter up to a judge or a jury. In comparing the facts in the cases presented in this paper, the discrepancies between what people were found guilty of and the acts that were committed is clear.

Murder of the first degree⁴ is a murder which is committed by an intentional killing. The definition of intentional killing, according to the Crimes Code, is killing by means of poison or by lying in wait or by any other kind of willful, deliberate, and pre-meditated killing. A willful, deliberate, and pre-meditated killing is one where the actor had the specific intent to bring about the death of a child.⁵ A specific intent to kill may be inferred from the use of deadly force upon a vital part of the human body. If deadly force is knowingly applied by the actor to the person of another, the intent to take life is as evident as if the actor stated the intent to kill at the time the force was applied.⁶

The facts of the case of Commonwealth v. Meredith⁷ are as follows: The stepfather, Kevin Meredith, was found guilty of first degree murder of his two and one-half year old stepdaughter, Kimberly. The stepfather had care of the child, as the mother was at work for the day. The child was brought to the emergency room of the local hospital by the stepfather, where the

child died as the result of a massive depressed fracture of her skull. Her vagina and anus were dilated; the anus was lacerated, which was evidence of penetration of some object. There were numerous contusions on her back, upper thighs, and buttocks. An internal abdominal examination disclosed hemorrhages of both lungs and the adrenal glands, and lacerations of the liver and spleen. Kevin Meredith told the emergency room personnel that Kimberly had just fallen from her tricycle on a local playground.

The facts in Commonwealth v. Fontroy⁸ are as follows: Derek Fontroy was found guilty of first degree murder for the death of Joseph Harris, the two-year-old son of Fontroy's paramour. Fontroy and Harris lived together for eight months; during that period of time, Fontroy beat both of Harris' sons, Joseph, the deceased, who was two at the time, and a five-year-old son. Joseph, the deceased child, was a healthy baby before moving into Fontroy's apartment. Shortly after the Harrises moved into the apartment, Fontroy began hitting the child with his hand or his shoe. Fontroy weighed over 200 pounds. According to the evidence, due to the beatings that the child received, his brain was damaged, and he began to suffer seizures several days before his death. The mother heard sounds of a slap and a thump in one of the rooms in the apartment; when the mother entered the room, the child was unconscious. Fontroy repeatedly slapped the child and held him under running water in the bathtub in order to revive him. The water in the bathtub was at 150 degrees. The mother returned to the bathroom to see that the skin had been burned off the child's stomach and groin area

and to find Fontroy peeling the skin off the crying baby's stomach. The mother was not allowed to take the child to the hospital; instead, Fontroy "treated" the burned body with a mixture of alcohol, peroxide, and vaseline. Every time the mixture was applied to the child's wounds, the child screamed. The condition of the child deteriorated--he could not walk or eat--his eyes turned dark yellow, and his skin became pale. The stomach was distended, and the wounds became infected. The child died three days later. Fontroy and Harris fled to Ohio. When they returned several weeks later, Fontroy disposed of the child's decomposed body by throwing it into a trash dumpster.

A criminal homicide constitutes murder of the second degree⁹ when it is committed while a defendant is engaged as a principal or an accomplice in the perpetration of a felony. The definition section lists the following felonies to be a second degree murder: robbery, rape, deviate sexual intercourse, arson, burglary, or kidnapping. (Aggravated assault and endangering the welfare of a child are not included in the list. Aggravated assault is a felony; however, endangering the welfare of a child is not--it is a misdemeanor.)

Murder of the third degree¹⁰ is defined as follows: All other kinds of murder shall be murder of the third degree; murder of the third degree is a felony of the first degree.

In Commonwealth v. Matthews¹¹, Harvey Matthews was convicted of third degree murder for the killing of his 20-month old stepson, Carlos. The autopsy performed on the child revealed a number of old scars, healing wounds, and recent injuries. The

recent injuries involved eleven different bruises, abrasions, and swellings of the back, chest, midline abdomen, face, eyes, and eyelids. The most significant injury was a tear to the mesentery lining of the small intestine, which resulted in the hemorrhaging of substantial blood into the abdominal cavity. The cause of death was the multiple injuries inflicted by a blunt object used with considerable force. Originally, Matthews denied striking the child and blamed the injuries on a fall suffered by the child earlier in the day. Later, Matthews admitted to striking the child a number of times for various reasons during the day. Matthews denied any intent to hurt the child and attributed the majority of the child's bruises to various mishaps. Witnesses called by the defense also testified to the child's clumsiness.

In Commonwealth v. Hart and Commonwealth v. Robinson¹², George Hart and Ann Robinson were found guilty of third degree murder for the death of their 3-year-old daughter, Misty. An autopsy performed on the child showed old scars all over her body, as well as fourteen recent external injuries. The child had a fractured skull, a bruise over the right side and back of the head, a subdural hemotoma, and extensive diffused bleeding into the soft tissue and muscles of the buttocks and thighs. The internal injuries to the buttocks and thighs, as well as the fourteen external injuries, were all blunt force injuries. The head injuries indicated a substantial blunt force over the back of the head consistent with the moving head striking a fixed object. The father, Hart, admitted to having beaten the child repeatedly the preceding week because she had a cold and would

not eat. He admitted hitting the child with a belt and spanking her on the legs, arms, buttocks, and back, and slapping her numerous times in the face with sufficient force to knock her down. He also claimed that the child had fallen several times from her bed the night before she died.

Robinson, the mother, was tried as Hart's co-defendant. She denied knowing that the child had suffered from a head wound, but she did say that she, rather than Hart, had beaten the child. The mother acknowledged beating the child repeatedly during the six months prior to her death with a belt, a shoe, and a paddle, and admitted seeing marks on the child as a result of the beatings. Hart and Robinson were sentenced to five-to-ten years for their third degree murder convictions. It is interesting to note that the parents were charged with conspiracy in addition to third degree murder in this case.

In another case setting, Commonwealth v. Turner¹³, Clement Turner was charged with criminal homicide in the death of Irwin Liggins, Jr., aged 21 months. A non-jury trial was held. At the close of the prosecution's case, the trial court discharged Turner after granting his defense counsel a demurrer, which means the trial court believed the evidence was insufficient. The district attorney's office appealed the case, and the Supreme Court of Pennsylvania reversed the lower court and remanded the case for a new trial.

The facts in that case were as follows: The child and his mother were visiting the mother's boyfriend at the boyfriend's home. When they arrived there, the child began to throw some

food, at which time Turner hit the child with his hand three or four times on the buttocks. When the child continued to misbehave, Turner escalated his discipline by beating the child about the legs and back with a belt which had a heavy buckle and a zipper pouch. The mother insisted that Turner stop; a short time later, the child was again punished by Turner by being beaten three or four times with Turner's shoe, at which time Turner began to use a one-inch thick wooden stick to beat the child about his buttocks, legs, and bare back, resulting in numerous welts and bruises upon those parts of the child's body. The child was put to bed on Turner's couch; no injuries or marks were seen on the child's face or head. The mother went to bed, and, approximately two hours later, she was awakened by Turner's shouts that the child was not breathing. The child was lying on his back beside the couch. The mother noticed bruises on the child's head, and the child could not be revived. Death was attributed to cerebral edema, or swelling of the brain. It was caused by blunt force injuries. The autopsy also revealed numerous injuries to the chest, buttocks, back, and legs, and at least fifteen separate areas of contusions about the head of the child. The cause of death was due to the combination of the trunk and head injuries.

The lower court granted defense counsel's demurrer for two reasons: First, the court said there was no direct evidence to show that Turner had struck the child on the head and that the circumstantial evidence was as consistent with a self-inflicted accidental injury as it was with homicide. Second, the court

found that the below-the-head injuries were not shown to have been of themselves the cause of death and, therefore, in the absence of direct proof of above-the-head beatings by Turner, ruled that the requisite causation element had not been established beyond a reasonable doubt by the prosecutors.

The Supreme Court of Pennsylvania overruled the lower court decision, stating that the sole custody inference was applicable to Turner, in that the mother was asleep, the child's head was unbruised when the mother went to sleep, and, when the mother was awakened by Turner's screams, the child's head had sustained severe injury. The Court held that this set of circumstances was sufficient to allow the inference that Turner had inflicted the head wounds.

The Supreme Court also held that a prosecutor is never required to disprove every possibility of accidental death or to prove that a hypothetical event did not take place and that, in light of the extreme unlikelihood of accidental head injuries under the facts of this case, the evidence and reasonable inferences were sufficient to prove beyond a reasonable doubt that Turner delivered the blows to the child's head, in spite of the fact that there were no eyewitnesses to the beating. As to the second issue, the Court held that the reasonable inferences arising from the evidence overwhelmingly negated the possibility of accidental head injuries in this case.

A person who kills an individual without lawful justification commits voluntary manslaughter¹⁴ if, at the time of the killing, he is acting under a sudden or intense passion

resulting from serious provocation by the individual killed or another whom the actor endeavors to kill but negligently or accidentally causes the death of the individual killed. This is a felony of the second degree and not usually applicable to child homicides.

A person is guilty of involuntary manslaughter¹⁵ when, as the direct result of the doing of an unlawful act in a reckless or grossly negligent manner, or the doing of a lawful act in a reckless or grossly negligent manner, he or she causes the death of another person.

In Commonwealth v. Howard¹⁶, a mother stood by while her boyfriend beat her 5-year-old daughter and subjected the child to various forms of sadistic abuse as well. This occurred over a period of several weeks. The child died from multiple injuries to the head and trunk. The mother was charged with involuntary manslaughter and found guilty based on the fact that her failure to protect the child was a direct cause of the child's death and that such failure to protect the child was reckless and grossly negligent under the circumstances. The Court very clearly noted that an omission to act creates criminal liability under the Crimes Code. A parent has the legal duty to protect a child, and the discharge of this duty requires affirmative performance.

The same was true in Commonwealth v. Skufca¹⁷, where a mother who left two minor children locked in the room of an unattended apartment alone, while she went out for a social evening. A fire started in the building, and the children who were trapped inside were suffocated. The Court held that, even

though the direct cause of death was suffocation, the legal cause of death was the mother's unlawful conduct of leaving them in a locked room without supervision, which put them in a defenseless position, causing their death.

One of the anomalies of Pennsylvania law is the following: The mother in Commonwealth v. Howard was charged and convicted of involuntary manslaughter for her failure to take affirmative action to protect her child. The same is true of the mother in Commonwealth v. Skufca. The Howard and Skufca convictions were clearly warranted.

However, in Commonwealth v. Rodgers¹⁸, a mother and father were found guilty of involuntary manslaughter, recklessly endangering another person, and endangering the welfare of a child. The facts of the Rodgers case are as follows:

Anna Mae Rodgers was two and one-half when she was killed. The child suffered from "the battered child syndrome", which means that the child received injuries which were inflicted by another person by other than accidental means. Anna Mae had bruises and contusions of the head and face, ears, left elbow, right arm, both forearms, both knees and thighs, left buttock, top and back of the pelvis, a well-healed fracture of a rib, a recent laceration to the scalp, and a substantial scar on her right buttock, and she weighed fifteen pounds when she died. The diagnosis of the battered child syndrome is used in connection with young children based upon a finding of multiple injuries in various stages of healing. Pertinent to the diagnosis is evidence that the child is generally undernourished, and the

severity and type of injury are inconsistent with the story concerning the occurrence of the injuries offered by the parents or others who are caring for the child.

The issue here is: Does the Commonwealth of Pennsylvania want parents who have brutally beaten and murdered a child to be included in the involuntary manslaughter realm, or should there be a higher standard of culpability?

Involuntary manslaughter is a misdemeanor of the first degree in Pennsylvania, which means that the maximum sentence is two and one-half to five years. However, the sentencing guidelines in Pennsylvania indicate that anything from non-confinement to one and one-half to three years is the appropriate sentence for involuntary manslaughter. In the Rodgers case, David Rodgers was sentenced to eleven and one-half to twenty-three months imprisonment for involuntary manslaughter, and Deborah Rodgers was sentenced to two to five years imprisonment for involuntary manslaughter.

Another anomaly in Pennsylvania law is that, if a person is convicted of aggravated assault and the victim is less than 16 years of age, there is a mandatory sentence of two years, which means that the sentence would be two to four years without any discretion on the part of the sentencing judge.¹⁹ The lesson here is that, if you are planning to injure a child, it would appear that one is safer to kill a child rather than just to beat the child.

In Commonwealth v. Nissly²⁰, in which the father was found guilty of third degree murder, the sentence was five years

probation. The 11-week-old infant son of the defendant died as a result of the "shaken baby syndrome", which is a violent shaking of a young child causing a hemorrhage in the brain. Post-mortem findings on the infant's body disclosed numerous broken bones, including both wrists, ankles, upper arms, left femur and tibia, no less than 16 and possibly 30 rib fractures, and two brain hemorrhages.

Another problem with the prosecution of child deaths is that there is no statute of limitations under the general criminal homicide statute; however, if a parent is to be charged with involuntary manslaughter, the statute of limitations is two years. Therefore, a child's murder can be ignored after a certain period of time.

But--a child abuse death is no different than plunging a knife into someone or shooting someone. Yet, there seems to be a lingering malaise that children are abused as a form of discipline; therefore, there is no "intent" to kill-- there is just an "intent" to discipline. This malaise must be ended.

V. Principles of Criminal Law

One of the major problems for prosecutors with child homicide prosecutions is the issue of intent. Most perpetrators will say, "I didn't intend to kill Johnny; I just intended to discipline him; I loved Johnny; I didn't mean to hurt him", and other statements such as those. With first degree murder, the issue of intent is important.

The definition of first degree murder includes "intentional killing". As we mentioned above, a specific intent to kill may be inferred from the use of deadly force upon a vital part of the body. However, the issue of specific intent to kill seems to be one of the major hurdles for anyone involved with the decision of whether to prosecute a person who has murdered a child. Is it impossible to believe that someone consciously intended to kill a child--even when the evidence shows that the child died from a shaking so violent that it caused the child's brain to hemorrhage as a result of its ricocheting within the child's skull, or when a 3-year-old child has been locked into her bedroom and allowed to slowly starve to death?

The general rule under the culpability section²¹ of the Crimes Code is that a person is not guilty of an offense unless his or her liability is based on conduct which includes a voluntary act or the omission to perform an act of which he or she is physically capable. A person is held liable for an omission if that person had the duty to perform the omitted act as otherwise imposed by law. This part of the Crimes Code is pertinent when it comes to analyzing the factual situations in

which a parent allowed a child to starve to death through neglect and where a parent stands by and watches a child being beaten or mistreated.

The Crimes Code also contains a section which deals with justification²², which makes it quite clear that a parent has the right to discipline a child. This section appears to mitigate against, if not nullify, a parent's criminal liability. However, in Commonwealth v. Ogin and Commonwealth v. Wildoner²³, the Court firmly stated that a parent's/ caretaker's disciplinary tactics are "not legally justified simply because he may sincerely believe that the best way of safeguarding or promoting a child's welfare is to inflict a cruel and patently excessive punishment".

The issue then becomes one as to parental duty of care and whether that custodial or parental duty of care must legally carry with it a higher standard as to the treatment of a child. What being a parent or caretaker seems to do is to negate in the community's mind the horror of the death of a child and, rather, seems to shift the empathy to the person who killed the child. That must be reversed!

VI. Conclusion

The person responsible for the care of a defenseless child must be held to a higher standard of care. The only way to do that is to amend the present homicide statute so that the person with a parental or custodial responsibility of care is legally held to that higher standard. This could be done in several ways by amending the present homicide statute in Pennsylvania.

Under the first degree murder statute²⁴, an amendment could take place in subsection (d), "definitions", where "intentional killing" would be amended to read: "killing by means of poison or by lying in wait; or a felonious assault of a child under 16 years of age; or by any other kind of willful, deliberate, and pre-meditated killing".

Another alternative to add to the first degree murder statute would be the following: "homicide by abuse" added as subsection (1): "A person is guilty of homicide by abuse if he commits or attempts to commit the crime of assault, and he or she is more than 17 years old and knowingly assaults another person less than 13 years old and inflicts substantial bodily harm, and, in the course of or in the furtherance of such crime, he causes the death of that other person who is less than 13 years old."

Another alternative under the first degree section would be: (1) A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child or person under 13 years of age and the person has previously engaged in a pattern or practice of assault or torture of said child under 13 years of age."

The first alternative is presently under consideration in the state of Washington as an amendment to their homicide statute. The second alternative is the present first degree homicide statute in Washington state. The present statute, as well as the proposed amendments, came as the result of several abhorrent child deaths in the state of Washington, which received national publicity.

The proposed amendments have been recommended due to the fact that a pattern of abuse is often hard to prove in child abuse deaths. Although medical evidence of apparent injury on prior occasions may be shown, often the nature of the injuries themselves are unexplained or are denied by the offender.

Another problem with the new Washington statute is that the language "under circumstances manifesting an extreme indifference to life" once again poses the problem of the offender's saying, "I didn't intend to do it--I loved the child", therefore negating, in some respects, the extreme indifference to human life in the minds of the community.

Indiana, Louisiana, Mississippi, Nevada, New Hampshire, and Utah have statutory provisions which specify that murder committed during a physical and/or sexual assault on a child is first degree murder. Some of these statutes delete the "intentional" language.

Another alternative would be to have endangering the welfare of a child²⁵ upgraded to a felony, and that particular crime could be included in the definition of "perpetration of a felony" under second degree murder, along with aggravated assault. In

that way, such issues as starvation and neglect would be made the serious crime that they are, and it would preclude the ambivalence of deciding whether to prosecute or convict under those particular cases.

The final word is this: Action. We must act to set up community child death review teams throughout Pennsylvania; we must act to conduct a comprehensive study of child abuse cases that resulted in death in Pennsylvania; and we must act to review Pennsylvania legislation as it impacts upon child homicide.

END NOTES

¹"Homicide Death Rates in Childhood in 23 Developed Countries: U.S. Rates Atypically High", Child Abuse and Neglect, Vol. 7, pp. 339-345 (1983).

²Commonwealth v. Paquette, 451 Pa. 250, 301 A.2d 837 (1973).

³18 Pa.C.S. § 2501.

⁴18 Pa.C.S. § 2502.

⁵Commonwealth v. Meredith, 490 Pa. 303, 309, 416 A.2d 481, 484 (1980).

⁶Meredith, supra at 311, 416 A.2d at 485; Commonwealth v. Fontroy, ___ Pa.Super. ___, 534 A.2d 129 (1987) (affirmed, per curiam, without a published opinion).

⁷Meredith, supra.

⁸Fontroy, supra.

⁹18 Pa.C.S. § 2502(b).

¹⁰18 Pa.C.S. § 2502(c).

¹¹Commonwealth v. Matthews, 480 Pa. 33, 389 A.2d 71 (1978).

¹²Commonwealth v. Hart and Commonwealth v. Robinson, 348 Pa. Super. 117, 501 A.2d 675 (1985).

¹³Commonwealth v. Turner, 491 Pa. 620, 421 A.2d 1057 (1980).

¹⁴18 Pa.C.S. § 2503.

¹⁵18 Pa.C.S. § 2504.

¹⁶Commonwealth v. Howard, 265 Pa.Super. 535, 402 A.2d 674 (1979).

¹⁷Commonwealth v. Skufca, 457 Pa. 124, 321 A.2d 889 (1974).

¹⁸Commonwealth v. Rodgers, ___ Pa.Super. ___, 528 A.2d 610 (1987).

¹⁹42 Pa.C.S. § 9718.

²⁰Commonwealth v. Nissly, 71 Lanc.L.R. 4 (1987).

²¹18 Pa.C.S. § 301.

²²18 Pa.C.S. § 509(1).

²³Commonwealth v. Ogin and Commonwealth v. Wildoner, ___ Pa. Super. ___, 540 A.2d 549, 558 (1988).

²⁴₁₈ Pa.C.S. § 2502.

²⁵₁₈ Pa.C.S. § 4304..