

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 02-175
)
 CHRISTOPHER LYONS)

GOVERNMENT'S POSITION ON
FLIGHT AS EVIDENCE OF GUILT

AND NOW, comes the United States of America by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, William C. Snyder, Assistant United States Attorney, and respectfully submit the following position on flight as evidence of guilt:

The Third Circuit has held:

Evidence of a defendant's **flight** after a crime has been committed is admissible to prove his consciousness of **guilt**. *United States v. Eggleton*, 799 F.2d 378, 380-81 (8th Cir.1986); *United States v. De Parias*, 805 F.2d 1447, 1454 (11th Cir.1986), *cert. denied*, 482 U.S. 916, 107 S.Ct. 3189, 96 L.Ed.2d 678 (1987); *United States v. Miles*, 468 F.2d 482, 489-90 (3d Cir.1972). As the district court recognized, the admissibility of flight evidence does not depend on whether the flight was triggered by an actual indictment, as "'it is the act of departure that is itself evidential.'" *Miles*, 468 F.2d at 490 (quoting 2 Wigmore on Evidence § 276 (3d ed. 1970)). See 711 F.Supp. at 1321.

United States v. Pungitore, 910 F.2d 1084, 1151.

Also, we note the Third Circuit in *O'Connor v. New Jersey*:

In his classic treatise on **evidence**, Professor Wigmore notes that: 'It is today universally conceded that the fact of an accused's **flight**, escape from custody, resistance to

arrest, concealment, assumption of a false name, and related conduct, are admissible as **evidence** of consciousness of **guilt**, and thus of **guilt** itself.' 2 Wigmore § 276.

O'Connor, supra, 405 F.2d 632, 638 (3d Cir 1969).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within pleading was served by hand to and upon the following:

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Dated: April 7, 2003