

COMMONWEALTH OF PENNSYLVANIA
JOINT HOUSE AND SENATE JUDICIARY COMMITTEES

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In re: Organized Crime Control

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Stenographic report of hearing held
in the Majority Caucus Room, Main
Capitol, Harrisburg, Pennsylvania

Thursday
December 3, 1987
10:00 a.m.

HON. STEWART J. GREENLEAF, CHAIRMAN
HON. H. WILLIAM DEWEESE, CHAIRMAN

MEMBERS OF JOINT HOUSE AND SENATE JUDICIARY COMMITTEE

Hon. Kevin Blaum	Hon. Charles D. Lemmond, Jr.
Hon. Michael E. Bortner	Hon. Paul McHale
Hon. Thomas R. Caltagirone	Hon. David J. Mayernik
Hon. David Heckler	Hon. Nicholas B. Moehlmann
Hon. John D. Hopper	Hon. Jeffrey Piccola
Hon. Babette Josephs	Hon. Christopher Wogan
Hon. Joseph A. Lashinger, Jr.	

Also Present:

Michael P. Edmiston, Esquire, Chief Counsel
House Majority Judiciary Committee

Larry Washington, Esquire, Counsel
Senate Minority Judiciary Committee

Reported by:
Dorothy M. Malone, RPR

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1 CHAIRMAN DEWEESE: Good morning, ladies and
2 gentlemen. Welcome to the December 3rd Joint House and
3 Senate Judiciary Committee public hearing on organized
4 crime control. I am Bill DeWeese. With me at the front
5 of the room is Senator Charles Lemmond. To my right,
6 Larry Washington, Chief Counsel to the Minority Judiciary
7 in the Senate, Michael Edmiston, Chief Counsel to the
8 House Judiciary Committee, Senator Stewart Greenleaf,
9 Representative Kevin Blaum, Representative Babette Josephs,
10 in the back, Jeff Piccola from the area of Dauphin,
11 from Berks, Tom Caltagirone, Joe Lashinger from Montgomery,
12 Nick Moehlmann, Minority Chairman of the House Judiciary
13 Committee and Mike Bortner from York County. Are there
14 any other members of the House or Senate?

15 (No response.)

16 For the purpose of commencing the hearing,
17 I would like to turn the microphone over to the Co-Chairman
18 of today's proceedings, Senator Stewart Greenleaf, who
19 will introduce our first witness.

20 CHAIRMAN GREENLEAF: Thank you, Bill. The
21 purpose of these hearings is to, for the first time,
22 have a Joint Judiciary Committee hearing of both the
23 House and Senate to hear presentations from the Pennsylvania
24 Crime Commission on organized crime. Particularly, the
25 thrust of these hearings is to hear the presentation and

1 to determine what, if anything, the Legislature can do
2 to adopt additional tools and provide additional tools
3 to the law enforcement agencies in Pennsylvania to deal
4 with organized crime. We look forward to these presentations
5 and to develop legislation that we can work with jointly
6 both in the House and Senate to help our law enforcement
7 personnel and agencies throughout Pennsylvania to deal
8 with this very persistent and ongoing problem.

9 Our first witness, the Chairman of the
10 Pennsylvania Crime Commission, Michael Reilly, from
11 Allegheny County and former Assistant District Attorney
12 in Allegheny County and friend and quite active in law
13 enforcement for a long period of time. We are very pleased
14 and happy to have Mr. Reilly here as our first witness.
15 Mike.

16 MR. REILLY: Thank you, Mr. Chairman. I
17 express our gratitude for the opportunity to appear before
18 this extraordinary joint session of the Judiciary Committees
19 of the House and Senate. During our appearance before
20 these Committees in April of this year, when we presented
21 the Crime Commission Annual Report, we promised you that
22 by the end of the year we would come back and make a
23 recommendation that we believe could move Pennsylvania
24 to the state-of-the-art in organized crime control. The
25 reason we are here today is to share that recommendation

1 with you. We return today with a program that is both
2 far-reaching and visionary. In arriving at our recommenda-
3 tions, we first drew on the expertise which you have
4 put on your Crime Commission. We were able to depend on
5 Commissioner Rogovin, who you will hear testify later today
6 with his vast experience in the LEAA, Police Foundation,
7 with the two Presidential Commissions on Organized Crime
8 to give us his perspective; former Commissioner Tom Lamb.
9 Tom Lamb, as you may not know, resigned December 1st when
10 he assumed his position with the Governor's Office. Tom
11 was extremely helpful in aiding us in the legislative
12 perspective; Commissioner Trevor Edwards from here in
13 Dauphin County, who was very helpful in the administrative
14 law aspects, Mr. Jim Manning, who is a former Assistant
15 United States Attorney and was very helpful in the federal
16 system, and of course, my experience. And my experience
17 includes working with a great number of the people who
18 are here today for a year back in 1978 when the Rhodes/
19 Sirica Committee put together the first Pennsylvania
20 organized crime control package and worked together to
21 put that through the General Assembly with the active
22 support of the Senate, especially Senator O'Pake,
23 who I understand will be joining us tomorrow.

24 What we did, we didn't try to invent the wheel.
25 We looked at the situation in states that have been more

1 successful than Pennsylvania in organized crime control.
2 We went to those states, we interviewed the professionals
3 relying on the encounters we had had and the contacts we
4 had had with them. We especially focused on New Jersey,
5 New York, Florida and Arizona. New Jersey and New York
6 because of their apparent success and their similar
7 geography and similar organized crime families and
8 experience with Pennsylvania. Arizona and Florida because
9 of their extraordinary success in some innovative approaches
10 to organized crime control.

11 After we talked to those people, we came back
12 and had some rough ideas, some general ideas. We went
13 over those with the Attorneys General, we went over those
14 with the State Police Commissioner and his representatives,
15 we went over those with the District Attorney's Office.
16 What we are grateful for and acknowledge their suggestions,
17 the programs we are here to present in no way formally
18 endorse are in no way formally endorsed or supported
19 by any of these individuals, agencies or organizations.
20 The recommendations you will receive are a distillation
21 of the entire process and are the Crime Commission's best
22 approach to addressing organized crime in Pennsylvania.

23 Also, by way of introduction, I would like to
24 commend and express our gratitude to the staffs of both
25 the Senate and House Committees for the extensive assistance

1 they gave us in preparing for this hearing and developing
2 our product.

3 Before outlining the proposals we are here
4 to present, the witnesses who will testify about them,
5 I would like to just briefly touch on the nature of
6 organized crime here in Pennsylvania. Now we do this
7 every year in our April report so I will go over this
8 rather quickly. We do have LCN traditional organized crime
9 in Pennsylvania. We have got three families resident
10 here, one in the southeast, one in the hard coal country
11 and one in the west. Those families are not exclusively
12 Pennsylvania families. They are also active in our
13 neighboring states. We share some of those families with
14 our friends from New Jersey who are here to testify,
15 others with our friends from New York, others with West
16 Virginia and Ohio. By the same token, families who are
17 resident in New York and New Jersey are actively operating
18 here in Pennsylvania. What I have done is prepare formal
19 testimony, which I will submit and am submitting to you
20 which outlines in some greater detail who these families
21 are and where they are active. These are the long-term,
22 well-established LCN families.

23 Now beyond those families, we also have
24 sensitivity to black criminal organizations. We got a
25 number of black narcotics and gambling organizations active

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in Philadelphia, Chester, Harrisburg, Pittsburgh. These are groups that have been around for a long time. I would suggest that until recent times their significance and importance has not been recognized. They are the target of significant enforcement activity and a lot of work is being done on them, but they are there; they are in place. They do prey on the black community and a number of the white criminal syndicates and organizations we are here to discuss primarily play on the black community, on the minority communities here in Pennsylvania.

We also got another phenomena here, black organized crime is not limited to our own native-born black groups. We also got a problem with some very, very violent organized criminals from Jamaica, some Rastiferian (phonetic) posse groups from Jamaica who are active here in Pennsylvania, been involved in a number of murders here in Pennsylvania. We also have Nigerian groups active here in Pennsylvania.

We have Asian criminal networks. One thing we all are sensitive to I believe, and I will just go over it again, there has been significant Asian immigration into this country of late. There has also been another phenomena which has occurred, which is a decision of the British government to cede to communist China Hong Kong. That has led the triads and the centuries old criminal

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organizations in China to have to find new homes that were headquartered in Hong Kong. They are coming here. They are coming to Europe; they are coming to Canada. What we have learned from the people we work closely with up in Canada, the Mounties, Ontario Provincial Police and other Canadian agencies. They have become a dominant organized crime force, the Chinese have become a dominant organized crime force in China. They have also now become dominant in heroin traffic in New York, these Chinese organized crime organizations. They are active in Pennsylvania. We also have Japanese, Korean and Vietnamese criminal syndicates active here in Pennsylvania. We have seen everything from the beginning stages of street level extortion in some of the Asian communities in Philadelphia to very high level heroin importing. We have seen Korean prostitution rings operating from Korea throughout the eastern United States some of which are centered in Philadelphia.

We have seen other national criminal organizations such as a number of Hispanic groups. As you can see from our chart, we have got Cuban and Columbian primarily groups. These are narcotics trafficking groups. Their primary sources of income are narcotics to a much lesser extent gambling. These are people who are willing to resort to violence to a much more significant extent than

1 the traditional LCN family. The rules that --

2 CHAIRMAN DEWEESE: For the benefit of the
3 people in the audience, the LCN --

4 MR. REILLY: La Cosa Nostra. It is a term
5 we use to distinguish the American Sicilian Italian
6 organized crime groups that are not, frankly, exclusively
7 Sicilian, American Sicilian and Italian. Some of the most
8 significant leaders in those groups are not of Italian
9 or Sicilian heritage.

10 What we have got with some of these, especially
11 with the Columbians, is they are incredibly violent.
12 They do not play by the old La Cosa Nostra rules. They
13 do not limit their murders primarily to people involved
14 in the criminal activity. They will kill innocent family
15 members, they will kill innocent bystanders. They have
16 done so. They are also capable of generating incredible
17 amounts of cash. There is no experience with an LCN
18 family who has been able to generate the amount of cash
19 these Columbian cocaine organizations have been able to
20 throw off and to a lesser extent the Cuban organizations.
21 Much of this money is so extensive that we have had
22 investigations where they have had to weigh it. They
23 wouldn't even count the money. They put all the 20s in
24 a sack and weigh it to get an estimate of how much money
25 they made from a single transaction. Much of this money,

1 by the way, is transferred out of the country. It is a
2 form of foreign aid to underdeveloped countries that I
3 don't think any of us support.

4 As you know, we have got significant outlaw
5 motorcycle gangs. A number of them active here in the
6 state, predominately the Pagans. They are active not
7 only in cocaine and methamphetamine and distribution but
8 also in the production of methamphetamine in a number of areas in
9 Pennsylvania. We have definite clear proof that they have interacted
10 with traditional organized crime elements, LCN type families,
11 both in Philadelphia and Pittsburgh areas. These groups
12 have a well-earned reputation for violence, arsen,
13 prostitution and extortion as well as narcotics activities.

14 There are a number of other narcotics networks
15 operating in the state some of which are native to the
16 state. Other narcotics networks found their way into
17 our state as a safe refuge. Partially because portions
18 of our state are rural. Portions of our state are not
19 heavily policed and thus susceptible to methamphetamine
20 labs, cocaine stash houses and a number of other narcotics
21 transactions. We have a number of airports in portions of
22 northeastern Pennsylvania that were built for good reasons
23 in the '30s, '40s and '50s that have lent themselves to
24 massive trafficking by air of narcotics into this state.

25 We have identified heroin networks in Philadelphia,

1 Harrisburg, Chester, Pittsburgh, Reading and Lancaster,
2 all of which appear to be connected with New York crime
3 syndicates. That is where they are getting their drugs.
4 We find that heroin importation into Pennsylvania primarily
5 involves the New York crime families. It used to be that
6 much of the heroin, at least the eastern half of
7 Pennsylvania, came from Philadelphia. Now our experience
8 is that most of it comes from New York and that is
9 controlled by the New York families, and to now a growing
10 significant extent, by Chinese organized crime groups.

11 I've given you a broad overview of the nature
12 and scope of organized crime in the Commonwealth. There
13 is another group, another series of groups we don't want
14 to miss. These are groups that are entrepreneurial in
15 nature. A lot of narcotics trafficking is being done
16 by groups that don't share common racial or ethnic ties
17 but have just been brought together by the tremendous
18 potential profit that can be generated by narcotics
19 trafficking.

20 Today and tomorrow the Committee will be
21 taking testimony from a number of witnesses who are in
22 the business of organized crime control, most of them
23 for many, many years. As I told you, we visited with
24 these people. We tried to bring into our recommendation
25 to you the positive features of their experience and their

1 organizations. We know, for example, that we have to
2 develop here in Pennsylvania a focused, strategically
3 directed approach to organized crime control. Mr. Belsole
4 and Mr. Goldstock and Mr. Twist; Mr. Belsole is from
5 New Jersey, Mr. Goldstock from New York and Mr. Twist
6 from Arizona will testify to the value of this approach.
7 Coordination of organized crime control resources is
8 one method to ensure minimum duplication and maximum
9 impact for the efforts that are made. For this purpose
10 the creation of the Organized Crime Council, which is one
11 of the recommendations we will make comprised of senior
12 state and local officials. Integrating regulatory,
13 prosecutorial and investigative agencies into a compre-
14 hensive planning and coordination and strategic approach
15 is something that both Mr. Twist and Mr. Belsole will be
16 able to provide testimony concerning.

17 Mr. Dintino, who is a former Deputy Super-
18 intendent with the New Jersey State Police and now holds
19 a significant position with their State Commission of
20 Investigation, a group analogous to our State Crime
21 Commission, has extensive experience in integrating
22 lawyers and investigators in organized crime control
23 approaches. He and Mr. Belsole and Mr. Goldstock will
24 testify that sophisticated organized crime control efforts
25 require investigating, pardon me, integrating investigative,

1 legal and accounting analytical skills.

2 Mr. Goldstock, who is the Director of the
3 Organized Crime Task Force in New York, will provide the
4 Committee with an insight to how local prosecutors can
5 be integrated into a state organized crime control function.
6 You will be afforded testimony that supports the approach
7 of this kind of a task force as investigatory as opposed
8 to a prosecutorial agency. An agency that develops the
9 expertise in investigation and takes advantage of the
10 prosecutorial expertise, which is in place, in our
11 District Attorneys' Offices and in our Attorney General's
12 Office.

13 You will learn of the value of allowing
14 experienced District Attorneys to prosecute organized
15 crime within their jurisdiction on a basis of well-made,
16 sophisticated, state-of-the-art cases.

17 One of the things we are all going to learn
18 is that training is an integral part of any organized
19 crime control program. That is what one of the, to digress
20 a little bit from the outline of my remarks, this is one
21 of the things when the Federal Government first passed
22 the Racketeering Influence Corrupt Organizations or the
23 RICO Bill, nobody used it because everybody didn't
24 understand, didn't know what to do. Jim Manning, who is
25 one of our Commissioners, who will join us tomorrow was

1 in the United States Attorney's Office in Philadelphia
2 when that first came out. And it wasn't used until finally
3 they developed the manuals and cookbooks so that everyone
4 would go forward and have a comfort level of using that tool
5 in the appropriate fashion. We have to do that here in
6 Pennsylvania. We have to take those steps. If you recall,
7 in '78 one of the main things we did when we passed those
8 bills in this Legislature is then we went out and worked
9 with the District Attorneys and the Attorney General and
10 the State Police to build in the training that was required
11 so that our grand juries and our wiretaps and our
12 immunity bills would be appropriately used. All of those
13 then subsequently stood the test of appellate review.
14 You will recall we even built in the formalized training
15 requirement of the State Police in wiretapping and the
16 control aspects of the Attorney General and District
17 Attorney and the grand jury in the wiretapping bills.

18 There is another thing that is often overlooked
19 and that is the value of intelligence, the importance
20 of intelligence to organized crime control. That is,
21 gathering the information to allow the thoughtful directing
22 of resources, the thoughtful selection of remedies and
23 the thoughtful commitment of the enterprise, the control
24 enterprise or enterprises.

25 Mr. Dintino and Mr. Martens, our Executive

1 Director, will address themselves to this because of their
2 extensive experience in New Jersey which is, frankly, of
3 all the jurisdictions in this country is the one that is
4 the state-of-the-art in organized crime intelligence.

5 They will demonstrate why resource allocation
6 is so dependent upon the intelligence component and the
7 need to evaluate the effectiveness and consequences of
8 enforcement efforts.

9 We are going to talk about making some
10 improvements in some of the statutory tools that are
11 already in place. Mr. Rogovin, Mr. Twist, Mr. Belsole
12 and Mr. Goldstock will all address issues that are relevant
13 to those considerations. Civil RICO is a formidable
14 approach to organized crime control as is something we
15 do not have in Pennsylvania, a general in-rem forfeiture
16 statute. We will address ourselves, those witnesses will
17 address themselves to that. It is also, we believe,
18 appropriate to revise certain provisions of our Electronic
19 Surveillance and Grand Jury Act.

20 In all, I believe the Committee will be
21 provided with a comprehensive insight into the state-of-the-
22 art in organized crime control. Hopefully, we will be
23 able to work with you in developing legislation to address
24 the issues raised here today.

25 Let me just touch, if I might, on the broad

1 subjects which we are going to suggest to you at the end
2 so you know coming into the hearings where we hope to come
3 out at the end. We are going to talk to you about a
4 statewide organized control task force, organized crime
5 task force, modeled on the New York model that Mr. Goldstock
6 heads. An enterprise which will provide sophisticated
7 expertise and training and develop these cases and provide
8 them in shape to be prosecuted by District Attorneys
9 and the Attorney General's Office.

10 We are going to talk about organized crime
11 control council. The function of this council is going to be to force
12 people who have independent sources of power and
13 responsibility, some constitutional, some statutory,
14 to get together and address the coordination, focusing
15 and prioritization of their efforts on a quarterly basis.
16 We are going to propose that this enterprise be staffed
17 by the Crime Commission because of its expertise in
18 intelligence gathering, dissemination and also because
19 the Crime Commission does not have a case-making
20 responsibility and thus can be a little more neutral,
21 a little more dispassionate, a little more objective
22 in working with these other enterprises. Most of whom
23 do have case-making responsibilities.

24 We are going to talk about enhancements of
25 the Criminal and Civil Racketeering Influence Corrupt

1 Organization Acts. We are going to talk about enhancing
2 our civil forfeiture. We are going to talk about electronic
3 surveillance, grand jury enhancements. We are going to
4 suggest, as you know, Pennsylvania is one of the few states
5 in the nation where law enforcement is not allowed to
6 use computers to store, collate, work with intelligence
7 or investigative information. We are going to suggest
8 that that be done.

9 We are going to do one more thing, one more
10 thing that I think is awfully important. And that is,
11 we are going to suggest that when you deal with organized
12 crime and organized crime control, as a Legislature, as
13 a government, as a Commonwealth we have to find a way to
14 appropriately keep score and evaluate the success of those
15 efforts. It is not sufficient to count the number of
16 arrests. It is not sufficient to count the number of
17 wiretaps conducted. It is not sufficient to weigh the
18 narcotics that are seized or to count the guns that lay
19 on the table in front of the investigating officers.
20 There are better ways. With problems as unique, as
21 comprehensive, as evasive as organized crime, there are
22 better ways to keep track of the effectiveness of these
23 agencies. We have, as a Legislature, you have, I'm sorry,
24 I stepped over the line again, I went back to where I
25 was when I worked for this group in '78. You have provided

1 one form of structured evaluation and that is the sunset
2 process. I respectfully suggest to you that in this
3 area, the area of organized crime control, that is not
4 enough. We are going to suggest to you that working with
5 the Commission on crime and delinquency that we build
6 into these organized crime control agencies the task force,
7 the council and the institute, a formalized evaluation
8 component, that will allow you to keep track of how well
9 the resources that the Commonwealth has committed to these
10 efforts are being employed, used and how successful they
11 have been.

12 Those are my introductory comments.

13 BY CHAIRMAN GREENLEAF:

14 Q I have a few questions. Why do you think
15 or believe that we haven't really made inroads that I
16 would hope that we could in organized crime and other
17 activities? Obviously, criminal activity is always going
18 to be with us. I have now been in the Legislature ten
19 years and I was on the committee that you were speaking of
20 in the House when we were looking at organized crime ten
21 years ago. Here we are ten years later and we are still
22 talking about developing legislation and prosecuting
23 organized crime. It is not limited to Pennsylvania. I
24 do see some changes. For example, New York, they seem to
25 be making some very substantial inroads. Several years

1 ago we saw a number of killings in Philadelphia. It was
2 just like it was open season on people. They were just
3 killing them off left and right. It didn't seem as if
4 we were doing an awful lot about it. I think the federal
5 agencies did, but on the state level I don't think we did
6 much of anything. Do you think that passing more laws
7 is going to make the change?

8 A Senator, it is not merely the passing of laws.
9 I suggest that ten years ago when we worked together to
10 put that package together, this is a situation where you have
11 to crawl before you can walk before you can run. We have
12 provided the tools for ten years. Pennsylvania has learned
13 to use those tools. We have developed a cadre of
14 professionals in law enforcement both in police officers,
15 police administrators, prosecutors. Now it is time to
16 take the next step. The models you gave are the excellent
17 models.

18 Up in New York the fanciest case that has been
19 done in New York thus far is the commission case. That
20 was Rudy Juliani prosecuting the heads of the five New
21 York families. That case was made by the New York
22 Organized Crime Task Force, a group that Mr. Goldstock
23 heads. That was made by state people, state troopers
24 working with state attorneys made that case. Now the
25 correct decision was made to prosecute that as a federal

1 case taking advantage of the federal courts and the
2 federal statutes. That is the kind of approach, the kind
3 of cooperative approach, the kind of dedicated approach.

4 What we are here to push are some fundamental
5 concepts; the concepts of cooperation, the concepts of
6 dedication, the concepts of accountability. Those are the
7 kinds of ideas that we suggest will bring Pennsylvania
8 forward to the state-of-the-art. It is what we did in
9 '78. When we moved in '78, Pennsylvania, when we were done,
10 had as good a wiretap statute, a better grand jury statute,
11 a good immunity statute as there was anyplace in the
12 country. Now we have had a chance to learn to use those
13 tools. We have had our chance to crawl. We have had our
14 chance to work with them. Now we have to take that next step.

15 There are other ways to take these steps
16 in the ways we are recommending. When we made these
17 recommendations, we took into account the realities of
18 Pennsylvania.

19 Let me touch on that point if I might. New
20 Jersey is different than the three other states we looked
21 at. New Jersey is a unitary system. In New Jersey, the
22 Governor is elected, the Attorney General is appointed
23 by the Governor, the State Police Commissioner is appointed
24 and all of the county prosecutors are appointed. It is
25 a different system than the one we have here in Pennsylvania,

1 of course, with the elected Governor, the elected Attorney
2 General, the State Police Commissioner appointed by the
3 Governor and elected prosecutors in each of our 67 counties.

4 New York has that same system, the same
5 Pennsylvania system, with an exception. Historically in
6 New York the Attorney General did not have crime, criminal
7 control responsibilities. That had all been ceded to
8 the local prosecutors. Here in Pennsylvania, after the
9 Commonwealth Attorneys Act, there are significant
10 organized crime control responsibilities in the Attorney
11 General's Office.

12 Florida and Arizona are classic models. There
13 is an Attorney General, elected Governor, elected Attorney
14 General, elected local prosecutors, very similar to
15 Pennsylvania. The Attorney General traditionally had
16 strong organized crime control responsibilities in both
17 of those states.

18 What I am trying to avoid, I don't want to
19 point the finger, I don't want to accuse anyone of not
20 doing the most they could have done. Because what I am
21 trying to move forward with is generating a cooperative
22 effort. It is counterproductive to a cooperative effort
23 to suggest that anyone did less than they perhaps could
24 have. I think they did as well as they could have given
25 the limits of the tools and the reality of the world they

1 found themselves in and the public outcry. Again, you
2 spoke of the Philadelphia murders. The Philadelphia
3 murders, those have overwhelmingly been solved. Some of
4 the best of them have been solved and the new set of cases
5 coming out of Philadelphia are primarily the product of
6 a New Jersey state investigation. Where the New Jersey
7 State Police turned the two critical informants that are
8 now working with the feds, with the Philadelphia people,
9 with the New Jersey people to take down two state families,
10 the Scarfo family. They exist both in Pennsylvania and
11 New Jersey.

12 We went to these neighboring jurisdictions
13 because they are doing better than we are. And we modified
14 what they did to try and make it, I think, realistic
15 and doable here in Pennsylvania.

16 Q Well, I think this one proposal, and I would
17 like to hear more about it, that is one of the reasons
18 I have always been an enthusiastic supporter of the
19 Crime Commission. I have always thought that organized
20 crime is a specific specialized problem that requires
21 some agencies or someone to concentrate on and to continue
22 to concentrate on for year after year after year. And
23 other enforcement agencies, they have other duties. They
24 are spread thin and they participate in other activities
25 and investigations. Your concept in developing this

1 Commission would be to not only concentrate but also to
2 start developing cases, investigate cases and then present
3 them to the appropriate law enforcement authorities either
4 the Attorney General, the local district attorney, the
5 federal authorities --

6 A That is correct.

7 Q Is that what you are saying?

8 A Exactly right. It is a case-making agency.
9 That is the task force is there to institutionalize
10 that professional law enforcement and that focus.

11 Q And your concept would be then not to --
12 would this be under the Crime Commission?

13 A No, sir.

14 Q Or separate agencies?

15 A One thing that should be clear, this is not
16 a Crime Commission enhancement package. We did not come
17 here to do nice things for the Crime Commission. The
18 Legislature has done nice things for the Crime Commission
19 and has thoughtfully, recently gone through a sunset
20 evaluation of the Crime Commission.

21 This is to look at, that agency would be
22 responsible to the Governor and to the Attorney General.
23 Because in reality if you don't have the full cooperation
24 of the State Police and the full support of the State Police
25 and the adequate support of the prosecutors in the Attorney

1 General's Office, it can't work. Also, we are going to
2 recommend the head of that agency be statutorially non-
3 political. Be barred from pursuing state public office
4 for a period after serving in the office.

5 We are also going to recommend that the
6 person that heads that agency serve at the pleasure of
7 the Governor and the Attorney General. So if, for whatever
8 reason, he loses the confidence of those two people, then
9 he can no longer function effectively and he or she will
10 have to be replaced.

11 Q And the scope of their investigation would be?

12 A The organized crime and the cases they would
13 develop would be prosecuted by the district attorneys or
14 by the Attorney General. Now one of the novel approaches --

15 Q Or federal authorities.

16 A Absolutely. I was just speaking from a
17 state perspective. Often the best prosecutions are
18 available in the federal system. That is what we saw
19 with the commission case in New York.

20 It is our hope that it will serve another
21 function, and that is, to an extent be a teaching hospital.
22 That attorneys from the District Attorney's office will
23 work with this agency and then be able to do the same kind
24 of work back in their own jurisdictions. For example,
25 the Civil RICO, the Civil RICO kind of cases are very fancy.

1 They are the type of civil cases that are difficult to
2 prosecute, difficult to prepare, but very fruitful when
3 pursued. The initial cases would be developed and staffed
4 by this enterprise, this task force. But then as the
5 district attorneys became more confident and their people
6 had worked more with these people, then they would be
7 more able to or willing to go in and take the cases. It
8 is another thing we put in that '78 package. Those were
9 the multi-county grand juries. We would also envision
10 this enterprise, this task force staffing multi-county
11 grand juries so that every district attorney in this
12 Commonwealth would have ready access to an investigating
13 grand jury which is a tremendous tool not just for organized
14 crime control but for crime control generally. In '78 when
15 I worked with you to put that package together, that is what
16 we felt would happen. It hasn't. There are only two or
17 three counties, two counties that regularly have
18 investigative grand juries. Others on a very irregular
19 basis.

20 CHAIRMAN GREENLEAF: I understand Senator
21 Hopper has joined us. Welcome, Senator. And also
22 Representative Mayernik since the original introductions.
23 I will turn it over to my Co-Chairman, Representative
24 DeWeese.

25 CHAIRMAN DEWEESE: I will defer immediately to

1 Mr. Piccola.

2 REPRESENTATIVE PICCOLA: Thank you, Mr.
3 Chairman.

4 BY REPRESENTATIVE PICCOLA:

5 Q Mr. Reilly, with all due respect, I, too, am
6 a supporter of the Crime Commission. You testified here
7 for about a half hour. I haven't heard anything new or
8 what specifically you are proposing that we do legislatively.
9 I do have here in my packet statutory enhancements of
10 existing organized crime control legislation. Apparently
11 to be testified to this afternoon. I just briefly went
12 through that, and that, while more specific than your
13 testimony, is really not the nuts and bolts of legislation.
14 I don't see any bills that you are specifically recommending
15 statutory language that you are recommending. I would
16 rather, and I don't know who put the agenda together,
17 but I would rather have those put in front of me, explained
18 and testified to and then have these people from other
19 states come in and tell us how this type of statute helped
20 in their particular jurisdiction. It seems like we are
21 doing it backwards.

22 A Let me suggest the reason for that decision
23 was draft language had been prepared, draft language had
24 been shared with the staffs of both Committees. Our
25 expertise is not the preparation of legislation. It isn't.

1 And our expertise is not the passage of legislation, but
2 which I mean the Crime Commission recommends a package
3 every year with its April report and very, very few of
4 those recommendations are ever enacted into law. We thought
5 when we came before the Joint Judiciary Committees that
6 it would be presumptuous of us to do anything more than give
7 our suggested versions which we have. This is --

8 Q Well, can I interrupt? I don't think that
9 is presumptuous of you at all. I think that is specifically
10 what you are supposed to be doing. We may look like
11 experts sitting up here, but we don't work with the
12 criminal law day in and day out and certainly not the laws
13 that have to do with organized crime. And in order to
14 put a bill together in these very technical areas, I
15 don't think we even have on staff the necessary expertise
16 to do that. I think that is exactly what the Crime
17 Commission is supposed to be doing. I want a bill. That
18 is what I want. I want you to show me a bill that you
19 support that would change the law of Pennsylvania that
20 would help to deal with organized crime. I will probably
21 support it. But that is the problem with your annual
22 report. We never get bills. We just get amorphous
23 recommendations and we don't know how to put those into
24 this stuff.

25 A We drafted a bill in everyone of these areas.

1 We have shared them with the staffs. We have given them
2 to both the staffs of the House and Senate Majority and
3 Minority.

4 The other thing I would like to comment on,
5 if I might, we also felt that the process of seeing what
6 we went through and what we weighed and what we elected
7 to follow and not follow would be helpful in the input
8 of the members of the Committee to their staffs in deciding
9 what final form these bills should take. They are draft
10 copies in the Majority/Minority both House and Senate.

11 But you may decide when you hear what New Jersey, New York,
12 Arizona has to say, that you may want to structure them a
13 little different. For example, do you want to move them
14 as a comprehensive organized crime control package or do
15 you want to move them as individual statutes. Some will
16 have to move individually. The others could move, this
17 idea of the task force and the council and the institute
18 could move as one package. Those are the kind of issues
19 we didn't presume to --

20 Q My point is I would have liked to have seen
21 those in advance of your testimony or at least at the same
22 time of your testimony. I don't think we are going to get
23 a chance to do that.

24 A I would suggest, too, that might well be the
25 next step in this process after we explain, what we have

1 come, we have shared the drafts. We explained how we
2 developed them, why we developed them and what we are
3 trying to do with them. Then there are some other significant
4 players who are involved who are not here and will be
5 invited, I am sure, to subsequent hearings like the
6 Attorney General, the State Police, the Governor's offices,
7 the District Attorneys Association. And I think, I am
8 sure before that happens, the draft bills will be prepared
9 and you will be talking from specific documents.

10 Q I guess what I really don't want to see happen
11 is what happens every April. We get a real nice public
12 relations event where we have cameras lined up like we
13 do today and nothing ever happens until next April when
14 we do the same thing. I want to see a bill or bills,
15 depending upon whatever tactic we take. And that is what
16 I came here today to see. I am not seeing it. That is
17 what I am concerned about.

18 A Let me respectfully suggest that you will be
19 much better able to deal with those bills and participate
20 in their final form on the basis of what we will all learn
21 today, and I will learn. I learned things just last night
22 working with the witnesses who have come in.

23 REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

24 CHAIRMAN GREENLEAF: Senator Hopper, do you
25 have a question?

1 SENATOR HOPPER: Thank you, Mr. Chairman.

2 BY SENATOR HOPPER:

3 Q Mr. Reilly, many of us have been involved with
4 the passage of the electronic surveillance devices. Have
5 you been able to collect good evidence that would lead
6 to prosecutions and convictions through that medium?

7 A Well for example, that Commission, the case
8 we talked about in New York, you are going to have Ron
9 Goldstock here who will be able to discuss it from actual
10 knowledge. That case was made through electronic inter-
11 ception. That case, the heads of the five families, the
12 fundamental mortar that held that case together was on
13 the basis of electronic interceptions, bugs in a car
14 primarily and then other bugs, bugs being, as you know,
15 electronic intercepting devices placed on something other
16 than a transmission line, a telephone or radio line. That
17 has been the absolute, most effective tool in organized
18 crime control has been the electronic surveillance power.

19 Q And are you saying that there had been
20 convictions that have occurred because of that evidence
21 collected through electronic surveillance?

22 A For example, as the Scarfo cases go forward
23 in Philadelphia, the Scarfo family cases go forward,
24 those cases were made as a result of turning some witnesses
25 on the basis of electronic surveillance conducted by the

1 New Jersey State Police. Absolutely, it is a very effective
2 tool.

3 Q My next question would be do you feel that you
4 are getting adequate or excellent cooperation from the
5 Attorney General and law enforcement agencies in the
6 process of getting indictments?

7 A Well, I think everybody is doing the best they
8 can at this point. I suggest that, because as I said
9 before, I am not interested in pointing a finger in a
10 hostile fashion.

11 Q In general, I mean --

12 A I think we have had good, especially in my end
13 of the state, Senator, where I am much more familiar in
14 western Pennsylvania. We have had exemplary cooperation
15 with the state and federal prosecutors and to an extent
16 the Attorney General's Office.

17 SENATOR HOPPER: Thank you, Mr. Chairman.
18 No more questions.

19 CHAIRMAN DEWEESE: The Chair would recognize
20 the gentleman, Mr. Bortner from York County.

21 REPRESENTATIVE BORTNER: Thank you, Mr. Chairman.
22 BY REPRESENTATIVE BORTNER:

23 Q One of the reasons I guess that I think more
24 members of the public aren't excited about or don't get
25 more concerned about organized crime is that they really

1 don't see it affecting them directly. They see somebody
2 in Philadelphia being hit that is within an organized
3 crime family or someplace else. I think the feeling is
4 the bad guys are all doing themselves in, why should I be
5 so concerned about that. Whenever we get together, we
6 talk a lot about the obvious problems, narcotics and
7 illegal gambling, which in a lot of ways I guess are
8 easier to prosecute because they are illegal per se.
9 I am kind of interested in learning about some of the
10 more legitimate enterprise activities that in Pennsylvania
11 you have developed information on or infiltrated by organized
12 crime; waste disposal, business construction industry.
13 Are you developing information in those areas, which I
14 do think affect people on a day-to-day basis as opposed
15 to some of these other areas which they are really removed
16 from?

17 A I think you make an excellent point. What we
18 have learned, when you study the growth of organized crime
19 and the way it infiltrates itself into society, you have
20 touched on the steps that it takes. It first starts as
21 a predatory street gang kind of thing, which kind of
22 crimes are very susceptible to local prosecution and
23 arrests. Then they get into the vice type crimes and
24 then they move beyond that into what has been characterized
25 in the literature as a symbiotic relationship as in the

1 construction industry in New York and the solid waste
2 industry in New Jersey. There are people here that are
3 going to testify, especially the folks from New York and
4 New Jersey to testify about their experience in dealing
5 with this in those states. If you are saying do we, as
6 a Crime Commission, have solid information about the extent of
7 either of those problems here in Pennsylvania, I have to candidly
8 admit we do not. I am not here to say they do not exist.
9 I am here to say we have not developed good information
10 to say they do. I know they exist in our neighboring
11 states. I know they are clumsy tools, the construction
12 industry, the solid waste industry are two very good
13 examples. I don't know at this point. Hopefully, when
14 these enterprises move forward, we will not only discover
15 whether or not they exist but find a way to effectively
16 deal with them if they do.

17 Q Some other areas that you have some thoughts
18 on, other legitimate business that organized crime is
19 not affecting now or is sort of easily susceptible to that
20 kind of influence.

21 A One of the most critical is, as you know, is
22 the toxic waste as opposed to the solid waste problem.
23 We have strong evidence of organized crime involvement all
24 around us in toxic waste disposal. This is a situation
25 where if it is done incorrectly, whole areas of our state

1 can be poisoned. And this is an area that organized crime
2 has rushed into in most of the country.

3 REPRESENTATIVE BORTNER: Thank you, Mr. Chairman.
4 That is all I have.

5 CHAIRMAN DEWEESE: The Chair would recognize
6 Kevin Blaum of Wilkes-Barre, the Subcommittee Chairman
7 on Crime and Corrections and one of the people who will be
8 working closely with you gentlemen and ladies if we do
9 decide to go and do further things vis-a-vis the Crime
10 Commission and what you are talking about today.

11 One reaction I have relative to Jeff Piccola's
12 observation, I see this as a three-step program. We are
13 defining problems more acutely today I think as an ongoing
14 phenomena. We need to give them closer scrutiny each year.
15 We are further defining things today, and I think a second
16 step, help me if I'm wrong, that we are going to come up
17 with some legislation collectively. Stewart Greenleaf's
18 folks and our folks on both sides of the aisle on both
19 sides of the building, we are going to try to publish
20 some things, and thirdly, would be the introduction of
21 actual legislation. Kevin will be helping us a great deal
22 on this. He is recognized for some questions.

23 REPRESENTATIVE BLAUM: Thank you, Mr. Chairman.

24 BY REPRESENTATIVE BLAUM:

25 Q Along the lines of what Representative Piccola

1 said, and I am interested in hearing about the problem but
2 I am even more interested in hearing an elaboration on
3 recommendations you are going to make. What do you mean
4 by electronic surveillance enhancement? What do you intend
5 to do, grand jury enhancements, civil forfeiture enhancements?
6 Can you go into --

7 A Let me respectfully request, if it meets with
8 your approval, I had hoped to do that, you will note the
9 way it is structured, I am the first and the last speaker.
10 I had hoped that when you hear what these folks have,
11 what the other witnesses here have to say, then it will be
12 much, much easier for me to lay out what changes we would
13 like to make.

14 Q There is this huge snowstorm which is heading
15 towards Wilkes-Barre and Hazleton and I may not be here
16 tomorrow. I don't want you to reveal everything that may-
17 be you are saving for the conclusion. That is what I am
18 interested in. Can you elaborate a little on what are
19 the problems and new technology and --

20 A The grand jury enhancement we touched on a
21 little. We don't have multi-county grand juries up and
22 working with access by the local prosecutors. We don't
23 have people staffing them that are running them now. We
24 are proposing to make that, basically to make them
25 available to this task force we are going to form and give

1 them the responsibility to try to get up and work those.

2 On the electronic surveillance, there are a

3 number of enhancements that are required to bring us into

4 compliance with Title III. The Attorney General has put

5 in a package with the cooperation of the State District

6 Attorneys Association, a package of recommendations there.

7 Beyond that, we are going to recommend significant change

8 which would be allowing non-law enforcement monitors to

9 allow people to monitor the wires who are not cops, not

10 sworn law enforcement officers. The idea of that being

11 we can develop expertise in those people. It is much more

12 cost efficient to have them monitor, have the police out

13 doing the street side of the work rather than sitting

14 there with the earphones on. Fred Martens, the Executive

15 Director, worked with Scotland Yard. He started to use

16 blind people to do that kind of work and they have been

17 tremendously effective because of their acuity, their

18 oral acuity as well as their dedication. Suddenly someone, a

19 handicapped person who can never dream of finding a career

20 in law enforcement or crime control. It just gives them

21 a whole reason, a whole focus in their lives. We are

22 going to suggest that. Those are some of the kinds. They

23 are not major changes in grand jury, not major changes in

24 electronic surveillance. Civil forfeiture is significant.

25 I mean to put an in-rem civil forfeiture in, to have civil

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1 forfeiture capabilities in the civil and criminal sides of
2 the state RICO statute available to the prosecutors not
3 available to the general public. We want to avoid the
4 federal miasma in the Pennsylvania courts of having every
5 red car, blue car, automobile accident turned into a RICO
6 case with trouble damages side. We are proposing to limit
7 those tools to the prosecutors.

8 I talked about the criminal records information,
9 evaluation component, criminal and civil RICO is modeled
10 on the federal ~~criminal~~ and civil RICO with some enhancements
11 which have been developed in New Jersey that will be
12 testified to.

13 The Organized Control Council, that is the
14 Governor, the State Police, the big county DAs, big county
15 prosecutors, representatives of small county DAs/prosecutors
16 getting together once a quarter to focus and integrate
17 their efforts and their priorities in organized crime
18 control.

19 Statewide organized crime control institute,
20 that is a new enterprise to provide the training working
21 with Penn State. They have a strong interest in getting
22 into this. Working with them to develop the training and
23 to build the cadre to be a combination of the West Point,
24 and to me that is the War College, to others it is the
25 Kennedy School. Depending on which grandiose example you

1 pick up.

2 The statewide organized crime task force,
3 the organization is modeled on the organization that Ron
4 Goldstock has today. That is this enterprise between the
5 Governor and the Attorney General that is all over the state
6 that runs, that has these multi-county grand juries, that
7 has attorneys, accountants, investigators and analysts
8 making these fancy cases and with a long-term perspective
9 to just keep chewing on them.

10 One of the things that happened, I will share
11 a tale out of school without attributing names, the DAs,
12 when I met with the executive committee said, well, why,
13 instead of having this statewide thing, let's have a task
14 force all over the state, task force groups made up of
15 DAs. And I said, show me one place where it works. We
16 argued back and forth as we do. I said, I will tell you
17 what happens. In Allegheny County we had a terrible series
18 of rapes. That is where the DA had to focus his attention.
19 He couldn't afford to look at solid waste and these other
20 issues while that was going on. This outfit can, and this
21 outfit will be kept score by how well it does with those
22 things in a nutshell. That's what we have.

23 CHAIRMAN DEWEESE: The Chair would recognize
24 Mr. Wogan from Philadelphia. You are welcome to join us
25 here at the front. We have Representative Caltagirone from

1 Berks County who has a question and then a final question
2 will be from Mr. Piccola. We will introduce the next witness
3 and we will welcome you back tomorrow with the conclusion
4 of our testimony. Mr. Caltagirone.

5 REPRESENTATIVE CALTAGIRONE: Thank you, Mr.
6 Chairman.

7 BY REPRESENTATIVE CALTAGIRONE:

8 Q Mr. Reilly, I was interested why you don't
9 mention anything about official corruption, whether it is
10 elected or appointed officials. I am curious as to the
11 involvement and some of the remedies to address the problem,
12 both at the local, county and state level with official
13 corruption?

14 A Well, official corruption is always a significant
15 part. It is one of the two principal tools organized
16 crime has at its disposal to try to monopolize markets,
17 control markets and do business. They have terror and
18 violence and they have the possibility of official
19 corruption. These agencies that we talked about, our
20 proposal is modeled on, have had significant impact in
21 discovering corruption as part of their investigations
22 into organized crime.

23 Q The reason I mentioned that, and at some time
24 I would like to review with you privately and maybe certain
25 key people from this Committee, the reasons I always felt

1 that a special prosecutor that would come into play in
2 this state, whether or not you feel there is any merit
3 to a special prosecutor?

4 A I did not address the issue of public corruption,
5 frankly, in this whole presentation. Our focus is on
6 organized crime. Rather than delay these witnesses who
7 have been good enough to join us from out of state even
8 further, I will defer comments.

9 REPRESENTATIVE CALTAGIRONE: All right. I
10 will just end with this. Organized crime, in many instances,
11 cannot function let alone at the local level or state level
12 without some help from elected officials. Thank you.

13 CHAIRMAN DEWEESE: That is a feeling I share
14 also. Subsequent to today's event, maybe you and Tom and
15 I, we have met, now we have had elliptical discussions
16 with the Attorney General's Office relative to this same
17 subject and most of the answers we have heard over the
18 several years we have been here regarding our Crime
19 Commission's involvement or our Attorney General's
20 involvement in overseeing official corruption have been
21 less than adequate from the position of several of us that
22 serve on this Committee. So sometime in the future maybe
23 Mr. Martens, you, Mr. Bailey could join with us.

24 MR. REILLY: We would be glad to.

25 CHAIRMAN DEWEESE: Jeff Piccola for a final

1 question.

2 REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

3 BY REPRESENTATIVE PICCOLA:

4 Q Mr. Reilly, in response to my questions earlier
5 staff handed me a notebook which is precisely what I wanted
6 to see before these hearings started and I have been
7 informed you distributed these only to the respective
8 Chairs and Minority Chairs of the two Committees. Mr.
9 Blaum and I who chair the -- or Mr. Blaum chairs the
10 Subcommittee on Crime and Corrections. I am Minority
11 Chairman, did not have access to this. It seems to me,
12 that in order to prepare this Committee for these hearings
13 today, you should have distributed to at least us and
14 perhaps all members of the Committee in both the House
15 and Senate. This is precisely what I had in mind. It
16 has an analysis of your statutory proposal, it has existing
17 law and it has your proposed changes in it. These can
18 very easily be transferred into bills. They are in fact
19 bills. I think in the future you should share this
20 information in advance of the hearings so the members
21 have a context in which to put this testimony.

22 A Let me suggest that was my mistake. It was
23 a bad one because I worked with these Committees and I
24 should have known better. I apologize to you.

25 REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

1 CHAIRMAN DEWEESE: My own reaction, technically
2 speaking let alone the overall strategy of our collective
3 endeavors, technically speaking there are two ways to go
4 about it. You give it to a few folks and then you come
5 in and share it with everybody, the general focus of what
6 we are trying to do and then they go home a week or two
7 later and they read it in print or we all get it at once
8 along with multitudinous other documents across our desks.

9 So there are two ways of looking at it. I
10 can see Jeff's point of view, but you don't have to be
11 abject. I think, seeing no further questions from members
12 thank you very much and the Chair will recognize we are
13 only 14 minutes over. We would like to keep our questions
14 and our answers abbreviated and I will take my own advice.

15 (Complete prepared testimony of Michael J.
16 Reilly, was as follows:)

17 "Thank you, Mr. Chairman, for the opportunity
18 to appear before this Joint Judiciary Committee
19 hearing. During our appearance before these
20 Committees in April of 1987, we promised that by the
21 end of this year we would be able to recommend to
22 you a program for organized crime control that would
23 advance Pennsylvania to the state-of-the-art. We
24 return with a program that is both far-reaching and
25 visionary. In arriving at our recommendations, we

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were fortunate to have met with a number of organized crime authorities as well as having studied four states -- New York, New Jersey, Florida, and Arizona -- that have developed exemplary organized crime control programs. We also met with a number of district attorneys in Pennsylvania, the Attorney General and State Police Commissioner and their respective staffs, and a representative of the General Counsel's office. While we are grateful for and acknowledge their suggestions, the program we are here to present is in no way formally endorsed or supported by any of these individuals, agencies, or organizations. The recommendations you will receive are a distillation of a multitude of facts, issues, and concerns which the Crime Commission has addressed in a comprehensive program.

"If I may, I would also like to commend the staff of the two Judiciary Committees for their extensive assistance and sincere concern in preparing for these hearings.

"Before outlining the program we are here to recommend, I would like to give you a brief overview of organized crime in Pennsylvania.

"The Nature of Organized Crime in Pennsylvania

"Organized crime is an amorphous form of

1 criminality that is both invidious and corrosive
2 of traditional societal values. It takes many forms
3 and is difficult to define. Criminal syndicates,
4 in the course of "doing business" -- for organized
5 crime is a business -- often engage in violence
6 and/or corruption in order to gain a monopoly over
7 both legal and illegal activities. Organized crime
8 is not limited to the traditional criminal syndicates,
9 commonly referred to as La Cosa Nostra (LCN). We
10 find that the LCN syndicates are not responsible
11 for the majority of organized criminal behavior in
12 Pennsylvania. As we examine, in greater detail,
13 the nature of organized crime in Pennsylvania, we
14 find that in competition with LCN syndicates are
15 criminal organizations of Asians, blacks, Hispanics,
16 Greeks, and other non-ethnic/racial criminal
17 syndicates such as outlaw motorcycle gangs. These
18 organizations may be equally as violent as some LCN
19 syndicates, and in some cases, we find the same
20 level or organizational structure and hierarchy
21 that has characterized LCN syndicates. Some of
22 these organizations are as adept at corrupting
23 public officials, as are traditional LCN syndicates.
24 We must not take solace in the fact that the
25 leadership of the traditional LCN families in

1 Pennsylvania has been decimated, either through law
2 enforcement or the deaths of many of its members.
3 History has proven organized crime has a regenerating
4 quality, and that other criminal organizations will
5 likely fill the void over time. We will never
6 eliminate organized crime so long as the demand for
7 illegal goods and services remains stable, or
8 increases. Nonetheless, we can and must contain
9 the growth and geographic expansion of criminal
10 syndicates, for if we do not, the economic and social
11 infrastructures of whole communities will be
12 ultimately destroyed.

13 "Here in Pennsylvania, we are confronted with
14 the same organized criminal behavior that we find
15 in our sister states. Narcotics, loansharking,
16 labor racketeering, gambling, prostitution, arson
17 and other more sophisticated white collar crimes
18 are typical of the criminal activity that these
19 syndicates engage in. Let me briefly outline the
20 criminal syndicates that are operating here in
21 Pennsylvania:

22 "Traditional La Cosa Nostra Organizations

23 "The Commonwealth of Pennsylvania has resident
24 within its borders three distinct LCN "families",
25 and the influence of three others, engaging in a

1 multitude of criminal activities ranging from
2 narcotics, gambling, and loansharking to arson,
3 labor racketeering, extortion and murder. The
4 Bruno/Scarfo "family", operating in the southeastern/
5 New Jersey metropolitan areas; the Bufalino "family"
6 in the northeastern part of the state and New York;
7 and the LaRocca "family" in the western part of the
8 state and West Virginia and Ohio, represent the
9 three principal and dominant LCN syndicates. We
10 also have indications that the Gambino "family"
11 of New York; the Magaddino "family" of New York;
12 and the Genovese "family" of New Jersey have
13 representatives here in Pennsylvania. These crime
14 "families" are both multi-county and multi-state
15 in their geographic domains, and represent the most
16 developed and entrenched form of organized crime
17 in Pennsylvania.

18 "Black Criminal Organizations

19 "Over the past decades, we have witnessed a
20 significant growth in black criminal syndicates in
21 the Commonwealth. These criminal organizations,
22 spawned primarily through the numbers rackets in
23 our urban centers, have demonstrated an increasing
24 proclivity to narcotics trafficking, primarily
25 heroin and cocaine. Whether it be Philadelphia,

1 Pittsburgh, Chester or Harrisburg, we are witnessing
2 the growth of these criminal syndicates accompanied
3 with all the attendant criminal activities: extortion,
4 loansharking, violence, and corruption. Contract
5 murders of rivals and informants, unrecognized
6 by the media as the result of organized criminal
7 activity, are occurring with increasing frequency.
8 Even innocent children have been the victims of
9 a drug war in the black community. Communities are
10 being plundered and exploited by these criminal
11 syndicates. This is not limited, I might add, to
12 native black-American criminal syndicates. We have
13 seen a series of murders in the Commonwealth
14 committed by Jamaican criminal organizations
15 commonly referred to as "posses".

16 "The significance of this, of course, is that
17 organized crime plunders and exploits the black
18 community as well as the white community. In fact,
19 the evidence we have collected to date overwhelmingly
20 suggests that black communities are being victimized
21 and bearing a heavier share of the burden than white
22 communities. The social consequences and implications
23 of this are enormous and must receive our immediate
24 attention.

25 "Asian Criminal Networks

1 "Perhaps the most well-organized and well-
2 developed criminal organizations that exist in
3 Pennsylvania and the world are those found in the
4 far eastern culture. With the anticipated return
5 of Hong Kong to Communist China in 1997, we are
6 already witnessing significant increases in Chinese
7 organized criminal activities. Chinese, Japanese,
8 Korean, and Vietnamese criminal syndicates, by no
9 means homogenous in their structure or culture, are
10 involved in extortion, loansharking, gambling and
11 narcotics. Both Canadian and federal drug enforcement
12 sources have indicated that as much as 40 percent
13 of the heroin market in the United States is
14 controlled by Chinese criminal syndicates. Extortion
15 of businesses in Philadelphia's Chinatown is
16 commonplace; no different from what we found in the
17 Italian ghettos of the '20s and '30s. Our information
18 indicates that New York Chinese "street gangs" as
19 well as Vietnamese "gangs" from Philadelphia, are
20 the principal organizations engaged in these
21 extortionate demands. A circuit of Korean prostitutes
22 are operating in Philadelphia's massage parlors,
23 traveling from city to city around the country.

24 "Hispanic Criminal Organizations

25 "Nowhere have we found organizational structure

1 as well-developed in such a short period of time as
2 among Cuban and Colombian criminal networks. Cocaine
3 has proven to be the biggest money-maker for these
4 criminal organizations, followed distantly by
5 gambling. The nature of these criminal networks
6 is such that we find violence among and between
7 them to be common. While violence is not uncommon
8 in LCN syndicates, there is a general rule that
9 innocent family members and uninvolved citizens are
10 spared from this violence. In contrast, Colombian
11 criminal organizations think nothing of killing
12 women, children and innocent bystanders. The amounts
13 of money which these criminal syndicates are able
14 to generate is enormous. In a recent case, the
15 investigators found that a Colombian network,
16 instead of counting monies generated from their
17 cocaine trade, were satisfied in weighing the
18 suitcases containing these monies, accepting a
19 "crude count". The amount of cash generated by
20 Colombian cocaine networks is far greater than we
21 have seen in any LCN syndicate. Moreover, much
22 of this money is transferred out of this country,
23 to third world nations.

24 "Outlaw Motorcycle Gangs

25 "Outlaw motorcycle gangs have been involved in

1 cocaine and methamphetamine production/distribution
2 throughout the Commonwealth. Murder of potential
3 informants is not uncommon, particularly among the
4 Pagans -- one of the outlaw clubs operating in
5 Pennsylvania. They have interacted with traditional
6 organized crime elements in both Pittsburgh and
7 Philadelphia, and have a well-earned reputation
8 for violence. Arson, prostitution, and extortion
9 are well within their lexicon of criminal specialities.

10 "Narcotics Networks

11 "The Commission has found with respect to the
12 narcotics problem in Pennsylvania a host of criminal
13 networks, some of which are home-grown and others
14 which have taken refuge in Pennsylvania from other
15 states. For example, in the northeastern part of
16 the state, methamphetamine laboratories have been
17 identified which are controlled by both indigenous
18 criminal organizations as well as groups from New
19 York and New Jersey. We are also witnessing an
20 increase in cocaine "stash" houses in this area,
21 brought about, we believe, by the remoteness of the
22 area as well as the minimal police presence in this
23 region.

24 "We have identified heroin networks in
25 Philadelphia, Harrisburg, Chester, Pittsburgh,

1 Reading, and Lancaster, all of which appear to be
2 connected to New York criminal networks. We are
3 finding that heroin importation into Pennsylvania is
4 primarily involving New York crime families, as
5 well as Chinese organizations.

6 "Our experience with narcotics organizations
7 is that some are highly structured and represent
8 the quintessence of criminal organization, whereas
9 others are making considerable money with less
10 sophisticated organizational structures. We are
11 likely to witness a further proliferation of these
12 networks, as the market undergoes what I like to
13 call "a shakeout" -- the dissolution of the smaller,
14 more inefficient, or less productive networks
15 through the natural evolutionary process we find
16 occurs in criminal markets.

17 "Mr. Chairman, I have given you a broad overview
18 of the nature and scope of organized crime in the
19 Commonwealth. It demonstrates that organized crime
20 is not synonymous with Italian-American crime
21 syndicates. It is much more comprehensive, insidious,
22 and corrosive of our traditional institutions of
23 government. Its growth must be addressed through a
24 focused, strategically-directed approach that
25 recognizes the multi-dimensional aspects of organized

1 crime.

2 "Today and tomorrow, this Committee will be
3 taking testimony from a number of witnesses who have
4 been in the business of organized crime control for
5 many years. We visited these individuals and their
6 agencies, culling from them the positive features
7 of their programs and hopefully improving on the
8 deficiencies. We have, for example, recognized the
9 utility and necessity of a focused, strategically
10 directed approach to organized crime, as Mr.
11 Belsole, Mr. Goldstock, and Mr. Twist will testify.
12 Coordination of organized crime control resources
13 is one method of ensuring there is minimal duplica-
14 tion of efforts. For this, we will propose the
15 creation of an Organized Crime Council, comprised
16 of senior state and local officials. Integrating
17 regulatory, prosecutorial, and investigative agencies
18 into a comprehensive approach is something Mr. Twist
19 and Mr. Belsole will speak about.

20 "Mr. Dintino, formerly a Deputy Superintendent
21 with the New Jersey State Police, will discuss the
22 need to bring the legal discipline to the investiga-
23 tion of organized crime. As he and Mr. Belsole
24 and Mr. Goldstock will testify, sophisticated organized
25 crime control efforts require the integration of

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investigative and legal skills.

"Mr. Goldstock will provide this Committee with an insight into how local prosecutorial activity can be made part of a state organized crime control effort. You will be afforded testimony that supports the function of a state task force as an investigatory as opposed to prosecutorial agency, allowing experienced district attorneys to prosecute organized crime in their respective jurisdictions.

"Training is an integral part of any organized crime control program and you will hear testimony from Charles Rogovin regarding the need for an organized crime training agency. Mr. Rogovin, considered to be among the foremost national authorities on organized crime, and having served as the Director of the classic 1967 Task Force Report: Organized Crime, will demonstrate the need of maintaining and honing the skills of investigative personnel, as well as expanding their approach to organized crime beyond criminal initiatives.

"Intelligence, an integral part of any successful organized crime control program will be discussed by Mr. Dintino and Mr. Martens, Executive Director of the Crime Commission. Mr. Dintino and Mr. Martens will demonstrate why resource allocation

1 is so dependent upon an intelligence component, and
2 the need to evaluate the effectiveness and
3 consequences of enforcement efforts.

4 "Statutory changes in the legal tools
5 Pennsylvania currently possesses will be addressed
6 by Mr. Rogovin, Mr. Twist, Mr. Belsole and Mr.
7 Goldstock. Civil RICO is a formidable approach
8 to organized crime control, as are general in-rem
9 forfeiture laws. Revisions in our electronic
10 surveillance and grand jury laws will permit law
11 enforcement to zero in on the assets and profits
12 derived by organized crime.

13 "In all, I believe the Committee will be
14 provided with a comprehensive insight into the
15 state-of-the-art in organized crime control.
16 Hopefully, the legislation which follows, will
17 address the issues raised in these hearings.

18 "Thank you."

19 CHAIRMAN DEWEESE: Donald Belsole. Is that
20 the correct pronunciation?

21 MR. BELSOLE: Yes, sir.

22 CHAIRMAN DEWEESE: Director and First Assistant
23 Attorney General, State of New Jersey and in charge of
24 criminal prosecutions within that state. Welcome, sir.
25 Tell us a little bit about yourself and give us your

1 testimony.

2 MR. BELSOLE: I will. I have submitted
3 testimony in written form. I will not bore you with
4 trying to read that. I will tell you something about
5 myself. I will tell you something about New Jersey, I'll
6 tell you something about our organized crime control
7 effort. I want to say right up front I don't come here
8 as an expert to tell you people what you ought to do or
9 whether you are not doing it correctly. I am 21 years a
10 lawyer. I spent 15 of those years defending criminal cases.
11 It was not until 1983 that I was appointed to the position
12 I hold now, Director of Criminal Justice and not until
13 1985, actually early '86, I was appointed First Assistant
14 Attorney General.

15 I am Fordham University educated, both the
16 college and the law school and in my remarks you will see
17 the Jesuit training has not left me. I am also an Italian-
18 American Sicilian, which I like to make known when we
19 talk about the mob.

20 The State of New Jersey is divided into 21
21 counties. So it differs substantially from the political
22 subdivisions in this state. Twenty-one is a manageable
23 number. Each county has a prosecutor, an appointed
24 prosecutor. I am not elected. I am apolitical. Each of
25 our counties made up of municipalities, approximately 450

1 municipalities, each having police departments with some
2 rare exception. The Attorney General's Office is 10,000
3 employees and it is made up of divisions that go from
4 motor vehicles to my division, one of my primary divisions,
5 criminal justice. We have 500 lawyers. 180 of them are
6 dedicated to criminal prosecution. We have 2300 state
7 police officers, 33,000 -- 30,000 police officers generally
8 in the state, 33,000 lawyers, believe it or not, which
9 always staggers my imagination.

10 We have, in my office, 200 investigators
11 assigned to investigate not only organized crime, but
12 a myriad of things we do for a living. So therefore
13 our investigative staff, 200 matches almost identically
14 the FBI staff in New Jersey.

15 We have a U.S. attorney, one U.S. attorney.
16 I believe you have three, three districts. That's New
17 Jersey in a nutshell. That is me in a nutshell and New
18 Jersey in a nutshell.

19 Let me give you my perception of the problem
20 succinctly. Organized crime, it has been detailed before
21 you this morning by the previous speaker, is organized.
22 That's the first thing you have to come to grips with.
23 It is organized. It is a continuum. It exists year to
24 year, decade to decade. It has chain of command. It is
25 not hampered, and I choose that word, by the fourth amendment.

1 the fifth amendment, the sixth amendment, the eighth
2 amendment. It works on one of the prime motivators, and
3 behavioral science will attest to this, fear. But two of
4 its tools, corruption and violence. It is anathema to our
5 way of life. I think it is actually a matter and I can
6 state that. And it continues and it makes money and it
7 is in business only to do one thing, to make money.

8 So again, and I am not the brightest person
9 in the world nor do I call myself an expert. I had trouble
10 figuring out how the water machine worked when I came down
11 here this morning. But I know one thing as a lawyer I
12 am a problem solver. So when we look at organized crime,
13 we want to combat, we have to say, well, what is the first
14 thing we need. We got to be organized ourselves. Law
15 enforcement must be organized.

16 I would like to take you back just for a moment
17 to 1960 in New Jersey when New Jersey had a reputation,
18 I think, justly earned of being the hot bed of organized
19 crime and corruption. New Jersey got tagged with this
20 reputation and sometime till the tail end of that decade
21 of 1969, our Legislature took the bull by the horns and
22 said we have got to do something. What we are going to
23 do, we are going to make the policy of this state to
24 coordinate law enforcement and fight organized crime and
25 corruption. And they passed the statute and I submitted

1 that and I think it is in one of the packets you have.
2 In 1970, the Criminal Justice Act, in that Act it set up
3 the Division of Criminal Justice. The division I head.
4 It put that in the Attorney General's Office. It gave
5 the Attorney General statewide original criminal jurisdiction.
6 He didn't have to ask anybody if he could come in. He
7 didn't have to ask anyone if he could investigate. He had
8 statewide original criminal jurisdiction.

9 It also took our Attorney General, who is not
10 elected, most of the gentlemen we have talked about from
11 prosecutors, to the Attorney General are appointed. It
12 gave the Attorney General the right to and duty to
13 supervise each of the prosecutors. One of my other
14 functions is to supervise prosecutors. Those are the 21
15 prosecutors I spoke about. To coordinate their efforts,
16 to set SOP so we are doing stuff the same way in the
17 north of New Jersey as in the south. And from 1970 to
18 approximately '83, I like to use that time frame, we did
19 a pretty good job in New Jersey. The State Police,
20 also under the jurisdiction of the Attorney General,
21 one on one, one on one all out warfare against organized
22 crime and corruption, significant prosecution.

23 But the way it was working was the State Police
24 were investigating and the lawyers in criminal justice
25 they were prosecuting and occasionally they would get

1 together. It wasn't the rule they would be together but
2 occasionally they would be together in an investigation.
3 Also the investigators in criminal justice were doing other
4 things, toxic waste, solid waste, white collar crime,
5 Medicaid fraud, major fraud, insurance fraud, security
6 fraud, a myriad of things we have to confront if you want
7 an organized crime, or more importantly, a criminal control
8 type operation.

9 In 1983, good, bad or indifferently I arrived
10 and the speaker who will come after me, Dintino, who
11 I learned a lot from and Pagano, Superintendent of the
12 State Police, we started talking about things. It was my
13 feeling we ought to be together. That we ought to take a
14 group of people and dedicate these people to organized
15 crime. These people would be made up of the best we can
16 find. The seasoned, State Police people have done it
17 over the years. Investigators from my shop, who are
18 accountants, forensic accountants and had all kinds of
19 expertise being used in important areas albeit, Medicaid
20 and whatnot, why not put them into organized crime. And
21 why should we have walls between us, between lawyers and
22 investigators, between State Police and Criminal Justice
23 investigators. So we talked and we tinkered and I guess
24 that is what you are going to do, talk and tinker and try
25 to come up with a better way when it is necessary.

1 Somewhere towards 1985 we made some changes
2 and then in 1986 a new Attorney General came into office
3 and asked me to stay putting me in charge of the whole
4 shooting match as First Assistant Attorney General. And
5 then we took the bull by the horns and we said, look,
6 we are going to put a task force together. And let me be
7 frank with you, task force, that bothers me. Everything
8 is a task force in this day and age. You had 20 wars on
9 drugs, 20 wars on this, and again, I am not here as part
10 of a media event. I am here to be as candid as I can
11 with you. So we call it a task force for lack of a better
12 thing to call.

13 But what we did was took State Police people
14 and we took criminal justice people, we took lawyers,
15 put them together, whacked the state up in three areas,
16 north, central, south. We put offices in each of these
17 areas operating still out of Trenton for our major
18 resource center. And we went out and got special type
19 lawyers. We got lawyers to do civil work and I will get
20 into civil RICO in a minute. We got the best trial lawyers
21 we could find. When we had electronic surveillance who
22 worked with the Federal Government and he was loose, we
23 went and got him. We started paying money to these people
24 so we could be competitive with anyone. Count is the name
25 of the game here. Continuum is really the trick. Because

1 too often young lawyers would go in to be prosecutors and
2 they would learn for three or four years and then go where?
3 Out to make money and use what training? The training
4 they got as prosecutors which caused a lot of problems
5 and still does between the cop, and I use that term in a
6 very affectionate way, and the lawyer. Because the cop
7 never wanted to give the lawyer too much information.
8 Two years later he could be on the other side.

9 I got my training, believe it or not, as a
10 criminal defense lawyer being a prosecutor in the '60s.
11 So we put this group together and we said you have got one
12 job and one job only and that is to combat organized crime
13 and we are giving you the resources and we are going to
14 give you the tools and I would like to speak about tools
15 now.

16 I think you asked the question about electronic
17 surveillance and how it is going. Well, I know in 1985,
18 1986 Pennsylvania had 47 applications, 47, 48. I could
19 be off by one. New Jersey at that same period had 167,
20 147. We led the nation except the Federal Government with
21 250. And the newspapers always kind of take us over the
22 coals and some politicians do too. This is invasion of
23 people's privacy. One, and you cannot debate this with me,
24 this one point, the others you probably can. Without
25 electronic surveillance, you cannot, I repeat, you cannot be

1 effective in any organized crime control effort. You just
2 cannot. My belief is, and I am known as the ACLU guy in
3 our government, I am a little more liberal than I appear.
4 My belief is that we have got to be clean straight up
5 fires on our side so we have to pay more than just efforts
6 to the fourth amendment, fifth amendment, etc. My belief
7 is that we can use electronic surveillance and focus that
8 against the lawless element and affect not one wit or one
9 iota the rights of the citizens of our state. The proof
10 of that is the yearly report, which I think you all should
11 look at occasionally. It is the federal document that
12 comes out once a year and lists all the states and what
13 they are doing from an electronic surveillance standpoint.
14 Not one of our applications for electronic surveillance
15 the last ten years has been thrown out by any court and
16 well over 96 percent of all the wires gave rise to indict-
17 ments and successful conclusions of those indictments.
18 Because the evidence on tape is the most staggering of
19 all types of evidence. It is on to memorialize. So
20 I would say the first tool you need is an electronic
21 surveillance and it has to be enhanced, it has to be used,
22 it has to be seen for what it is.

23 I don't know anything about Pennsylvania. I
24 have enough trouble with New Jersey, but I was kind of
25 surprised to learn this morning that there is a law here

1 that prohibits using computers to catalogue and house and
2 to subsequently analyze intelligence data. This is 1987.
3 A small law firm, a 7-Eleven shop can't run without a
4 computer. It just can't be done. Kids 13, 14, they are
5 computer wizards now. Law enforcement needs that capability.
6 So when we put this group together, task force, it was my
7 belief, I say my, I take credit, but, you know, a lot of
8 people advising and an Attorney General who is very
9 aggressive. When I say I, I mean us collectively, the
10 Attorney General's Office. We said we need a massive type
11 computer both in the area of organized crime and drugs.
12 We need a computer that houses all the information we have
13 in the state so that we can determine where we ought to
14 put our resources. And I will give you an example which is
15 a simple one, but I think illustrates the point. Drugs,
16 we always kind of react to drugs. We set up this, we
17 know these people are selling drugs, and we are in a
18 reactive mode. We want to get proactive. So one of the
19 things we are feeding into this computer, which is the
20 hardware is there and the programs are being written and
21 by the middle of next year it will be up and running. One
22 of the things we are going to plug into it is every time
23 there is an arrest in New Jersey, every time there is an
24 arrest, one thing follows a drug arrest, a lab analysis
25 of what was confiscated. We are going to feed that

1 information and the results of the analysis into the
2 computer. Then we are going to know by pressing a button
3 what drug is in, what drug is out, what drug is on the
4 way, what drug is in the north popular, which in the south
5 is popular and where the lines are flowing in terms of
6 drugs. So we can go to the local prosecutor and say,
7 you have got a problem or the problem is in the blood
8 streams, if you will, of the kids in the school. That is
9 one of the uses we want to make of this computer. But
10 much more sophisticated use in organized crime. All the
11 information we have fed into a computer, analyzing that
12 information and then professionals, State Police professionals,
13 criminal justice professionals, prosecutors, people like
14 myself sit down, analyze, set a strategy. You can't react any-
15 more. You have to be proactive. This is the target.
16 These are your tools. Now go get them, and it has worked
17 already.

18 It has worked in a case I don't want to speak
19 too much about because one of the principals is on trial
20 as we speak. A few of them are in the Scarfo matter.
21 But it worked there. It worked in a case in Essex County.
22 We took down a whole organized crime family. So it works.
23 And it works not because we can show statistics. I agree
24 with the previous speaker. If you are going to evaluate
25 organized crime control system by looking at arrests, you

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know, with guys in three-piece suits standing at tables with guns and whatnot, that is completely off the mark.

You have to look at the following. See, I can go out and probably very easily, not me, but any law enforcement organization, knock off 20, 30, 40 soldiers of an organized crime family. That doesn't even dent the family. It doesn't even affect the family as much as if a big corporation would lay off 20 of the low level people. You got to knock off the board of directors. You have got to knock off the CEOs. You got to knock off the counselors. You got to knock off the top echelon. That is how you evaluate whether you are doing good or bad. And also, you have to see if you win the cases. You see, law enforcement too often celebrates indictments. In this country you are presumed to be innocent. The worst of the you're worst indictment, /presumed to be innocent. So you got to go win your cases, you need good lawyers. Because one other thing organized crime has got going for it is good lawyers. They can afford good lawyers. Money is no object. This room would not be large enough to put all the money in thousand dollar bills earned by organized crime in the last month. We are talking about money that it staggers. You people are in business with your budget and whatnot. To me, it used to be like 100,000 was a lot of money. Now 30 million is a lot of money. So I guess,

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1 do we lose the concept of what this money is. Bear in
2 mind to make the point, that drugs, the cost of business
3 in doing drugs is leaving 747s, ships. So the money is
4 staggering. I don't think any of us, I hear all these
5 figures and the best I ever heard was that organized crime,
6 including drugs, does more business in terms of taking
7 in money than all the Fortune 500 corporations all together.
8 I give credence to that although I can't really put my
9 finger on that number at any given moment.

10 In any event, we also said to this group,
11 this task force, it is important that you see it in terms
12 of a group dedicated to control organized crime. That
13 is all they do. Professionals, nonpolitical, full time,
14 well paid and we expect them to continue in that career
15 for the next ten, fifteen years. And we're going to grow
16 our own by training recruits in that system. And we are
17 going to take the people who are proficient and make
18 them more proficient because of changing. I don't know
19 how many people here are lawyers, but you know what you
20 knew yesterday is old hat because things change radically.
21 The same, too, with law enforcement. So we set up our own
22 training mechanism within that group also.

23 We also said to them, you hear often people
24 say, primarily people like me, they want to take the profit
25 out of crime. Well, it is kind of silly if you look at it

1 because they don't deserve crime, they don't deserve any
2 crime. In other words, every dollar, whether it is profit
3 or not, we want to take. See that is how, in my opinion,
4 you wage an effective war on organized crime.

5 Let me define organized crime, if I might,
6 just for a moment and then I will go into civil RICO.
7 Organized crime is not just, you know, LCN. They are not
8 just the new groups coming in. Organized crime, in my
9 opinion, is any group that gets together and together makes
10 a business out of crime. It is organized. And the best
11 example I can give you, if I today leave here and see
12 railroad ties in a yard and I think, well, that is good.
13 I can kind of put them around my house and hold the bank
14 up. I'll take six. It is a crime. It is theft. It
15 is not organized crime. If I say 15,000, I want them all.
16 So I want to figure how to get 15,000 ties, I want to know
17 how to sell them, I got to store them, I got to keep records.
18 That is organized crime. So I refuse to look at organized
19 crime, it is just, we used to see on the Elliot Ness program,
20 things of that nature. I mean, it is a much broader topic
21 than that.

22 Civil RICO, civil RICO, especially for people,
23 businessmen here and lawyers is a fascinating, fascinating
24 tool, which I am frank to admit we left on our books for
25 five year before we ever used it. The feds did the same

1 thing. The feds for five years never touched that statute.
2 The reason it is new, it is different, it is complex,
3 and as human beings, we fall back and use that which we
4 feel comfortable with, the more traditional techniques.

5 I will tell you in a simple way as I can how
6 you use the Civil RICO statute and why you need it and
7 why it ought to be patterned on New Jersey I think. We
8 took the federal, we enhanced the civil part of it. The
9 basis of the Civil RICO Act and RICO racketeering influence
10 and corrupt organizations is to take all the money back.
11 For instance, I organized crime. I make money. I buy a
12 car. I buy a house. I invest in the stock market. I
13 buy a summer home in Florida. I invest in a legitimate
14 business. I buy a piece of property. I set up multi-
15 corporations to own cars, a fleet of cars. I own a yacht
16 through another corporation which is off shore. Now
17 traditionally, when we would arrest that individual and
18 convict him, we would take the car, all right, if he wasn't
19 smart enough to lease the car. We would take the car
20 because that could probably be said to be used in the
21 crime, in the commission of crime. And using an in-rem,
22 in-rem meaning jurisdiction flows from the object. The
23 object is in our state, we have an in-rem act. If the
24 object is in our state we have jurisdiction over it.
25 We don't need the person. So we would get that. We might

1 even get the house to show that it was used as part of
2 criminal conduct. But that was about it. So what about
3 the yacht and what about the stock market and what about
4 the land investments and what about the legitimate investments
5 and the legitimate businesses. That is what RICO allows
6 you to get. And it doesn't require that you go in and
7 prove things beyond a reasonable doubt and bring all these
8 constitutional protections into play. It allows you to
9 do it in civil fashion. It allows you to go and sue and
10 conduct discovery and use accountants and use computers
11 to track assets. We need not show that the asset was
12 used to commit a crime. We need only to show that it was
13 purchased or obtained using proceeds of illicit conduct.
14 So it is a fascinating, fascinating tool.

15 Two years ago we got into it, and five years
16 we didn't and two of those years, two and a half of those
17 years I was there, I am not blaming anyone. This is the
18 way life goes. It is something you have to address here.
19 We are into it now. You took a group of people, I got
20 accountants, we put them together and said that is the
21 only thing you are going to be doing for the next ten
22 years and I'm going to be able to tell whether you are
23 doing good or bad because I want to see the money, I will see
24 the bottom line. It is like a business.

25 Another thing, our forfeiture statute, I

1 commend it to you for discussion. The monies that we were
2 getting when we forfeited whatever, automobiles and whatnot,
3 we were taking that money and get it right into the public
4 coffers as it should go. That came into the general
5 treasury. We have changed that recently, very recently,
6 about a year ago. What we are saying now is that money
7 goes back into our law enforcement because it is sort of,
8 it is ironic and it is sort of a just dessert in a sense
9 that crime, criminals will fund now their own prosecution.
10 That has been said many times. It is always a nice thing
11 to say to make them pay for their own prosecution, but
12 it can work and it has been working because our statute
13 says, one, the money must go into law enforcement, but
14 two, where it is spent has to be approved by the Attorney
15 General and the prosecutors. We have a unique system
16 there.

17 The reason for that is we don't want to go
18 back to the old days where there was little money and
19 people with wish lists this money was being spent on.
20 I facetiously say this to make a point. We don't want
21 2,000 people in the community where the chief thinks he
22 needs oozies (phonetic) for some reason and that is what
23 he is going to spend the money on.

24 So we wanted then, it is part of the planning
25 process in this new task force. The process being let's

1 look at that community, let's see how much money they want,
2 let's see what they really need and then we'll approve it.
3 I approved yesterday before I came here a surveillance
4 van for a prosecutor. It was 38,000, but no amount is
5 too small.

6 Again, tools are necessary. You need a state
7 grand jury. It is statewide and I commend that. I think
8 it is in your book. Some of the statutes I am referring to,
9 I have already given copies. They are in your packets.

10 Lastly, I would like to talk about intelligence
11 and go back to that computer I talked about maybe
12 ten, fifteen minutes ago. You need intelligence. You
13 want to combat organized crime and corruption, you need
14 intelligence. You need computers to house it and
15 professionals to use it. So I wouldn't be afraid of it.
16 I came into government afraid of it. Intelligence, who
17 are they watching, what are they watching and why? Five
18 years in government I feel very at ease with it. And again,
19 I am not a career professional law enforcement guy. It
20 is just my experience. So again, I have given you my
21 experience. My paper outlines New Jersey's experience
22 in this area. I will make any of my staff people available
23 to the Commission. I have great respect for them, and
24 to anyone here. So anything I say in any of the writings
25 here pique your curiosity and you want more, you need only

1 to call the Attorney General's Office and ask for me and
2 we'll get you anything you want. And it is not a cosmetic
3 thing or patronizing. If you want it, we will try to help
4 you out. We believe that you are our neighbor. We share
5 a lot of problems, our southern part and your eastern part.
6 Some of the same families are working there. Some of our
7 best prosecutions will join efforts. So as neighbor
8 neighbor, we are willing to help you out. You need only
9 to call upon us. I will answer any questions you might
10 have.

11 CHAIRMAN DEWEESE: Thank you very much, sir,
12 for your ad lib spontaneity. So many times we have people
13 come in and read ten or fifteen pages back to back. I
14 personally appreciate it.

15 Members of the Senate that are joining us
16 or House members have any questions?

17 BY CHAIRMAN GREENLEAF:

18 Q What is the difference between I guess the
19 federal agency started, I guess they were the task force
20 some years ago? What is the difference between the way
21 the federal task force where there was a U.S. Attorney,
22 Assistant U.S. Attorney assigned to a number of agents
23 and they went out and investigated and came back and --

24 A They still have that, as you know. There
25 really is no difference. It is a structural difference

1 because the federal people are FBI and U.S. Attorney.
2 So they linked this group together. They still operate,
3 and fairly effectively, although, candidly, sometimes I
4 wonder. You have a U.S. Attorney. See, the problem with
5 law enforcement is you've got a lot of players. So you
6 have three U.S. Attorneys in this state, a couple strike
7 forces, 60 some odd district attorneys, there is a lot of
8 players. The trick is not who the players are. They are
9 all necessary. The trick and the hard job is how are you
10 going to put them together so they are working for one
11 objective and we are marking together. It is tough and
12 it is tougher in this state than it is in New Jersey.

13 Q So you call it a task force. It is similar
14 to a strike force?

15 A Sure.

16 Q And it is under the Attorney General's Office.

17 A Strike force generally, I think, if you go back
18 and look at how these things, strike force was a group
19 put together to do a specific thing. It was preemptive
20 strike and the task force had a general task to perform.
21 To be honest with you I don't know what half these things
22 mean. They are just names to me.

23 Q Structurally then you are the head of that
24 task force in effect?

25 A Yeah. The way we work and it is spelled out in

1 my written remarks, the way it works is you have the State
2 Police, you have the Division of Criminal Justice and you
3 have the personnel from both divisions, we are broken down
4 into divisions, put together in a group called a task force.
5 My two key leaders are high echelon people, both State
6 Police and Criminal Justice, who work as co-directors
7 reporting directly to me and I report directly to the
8 Attorney General.

9 Q And the scope and purpose of that task force
10 is organized crime exclusively?

11 A Yes. As a matter of fact, it even excludes
12 drugs. We set up another, which might be of interest to
13 you someday another time, we have a new idea also on how
14 to combat drugs. We set up a group to do that which is
15 statewide taking into account prosecutors, State Police,
16 a mass of other things. But we segregated drugs from
17 organized crime. It is too much work to have one group
18 do both.

19 Q Because you have to have one group specialized
20 just in that particular --

21 A And we have the information flowing back and
22 forth. If one picks up drugs, you give it to the other.

23 Q One other question, and that is, in regard to
24 the electronic surveillance there has always been a
25 concern that they are going to be listening in on everybody's

1 conversation all over the state. A lot of scare kind of
2 tactics used against legislation like that. And you say
3 you are leading applicants in the United States?

4 A Next to the feds.

5 Q With 140 some?

6 A One hundred sixty-seven in one year, 147 the
7 next 85-86.

8 Q And not telling us specifically who they were,
9 but what type of surveillances are we talking about?
10 We are not talking about the average person calling up on
11 the telephone I would assume, especially the 60. How long
12 are they?

13 A Well, this is, see, you have to really under-
14 stand and I didn't understand this until I really got into
15 defending criminals that I started really understanding
16 it when they came in with a case and were on tape telling I
17 couldn't do anything. You just don't go out and wiretap.
18 Now I'm going to speak from the New Jersey standpoint.
19 I think it is the same here. You have to go to a judge
20 and you have to submit paper work that shows you have
21 probable cause that these conversations to be intercepted,
22 one, are criminal, and two, the people who you want to
23 intercept are the people who will be giving this type of
24 evidence. So you must get it signed off by a judge,
25 number one. Number two, you cannot do it for any reason.

1 You can't say, well, he has been on the sidewalk let's
2 tap his phone. Your statute indicates the crime for which
3 you can apply for wiretaps. They are generally like,
4 racketeering is not one. That is something you might want
5 to look at. If you have a RICO statute, not a RICO crime
6 as predicate to a wiretap application. It is a little non-
7 sensical. We have that same dilemma. For instance,
8 hijacking, murder, armed robbery, gambling, drugs. These
9 are the type of crimes you can get an order to wiretap.
10 Also, suppose they are wiretapping you two, just as an
11 example, and I call one of you, in other words, they have
12 probable cause. Two people are involved in a crime and
13 are talking about it, but Don Belsole calls up and he
14 is not on any application. That is called minimization.
15 That is court ruled and statutory ruled. That is when it
16 gets turned off. Now all tapes --

17 BY CHAIRMAN DEWEESE:

18 Q Even if you call up and wanted to talk to us
19 about starting a prostitution ring, you can't use it?

20 A You can't use it. They got to go back, if
21 they get some probable cause, then I am involved. So I
22 mean, the last thing is for your own mental peace I
23 suppose, mental health. All these tapes don't disappear.
24 All these tapes are sealed by the courts and then one day
25 the lawyers go over every word in these tapes. And if

1 there is a minimization, the whole thing goes. There is
2 no good faith exception. And in New Jersey, I think you'll
3 find the same here, it is about the same across the United
4 States, none of these cases get thrown out by the courts
5 from the state courts to the United States Supreme Court.
6 This is in art form now. Everybody handles it well and
7 lawyers must be involved. We have a signoff that almost
8 ten people must sign off before it gets to me. Then I have
9 got to sign off and the Attorney General has got to sign
10 off and the judge has got to sign off. So again, my
11 feeling as a lawyer, a citizen, and I read it in the law
12 journal once articulating that, you know, people go around
13 saying this is invasion, poor people are at risk; it is
14 not so. Now if I were to use it illegally, that is
15 corruption at its worst. Take that guy's head off, but
16 that has not been the experience. The contra has been
17 the experience.

18 CHAIRMAN DEWEESE: Senator Lemmond.

19 BY SENATOR LEMMOND:

20 Q I have two comments and a question. One,
21 the first comment, thank you for coming. It was superb
22 testimony and I enjoyed it.

23 The second comment, both you and Mr. Reilly
24 have given a broad overview and the nature and scope of
25 organized crime. You in your introduction of yourself have

1 mentioned here your background. You both have demonstrated
2 or tell us that organized crime is not synonymous with the
3 Italian-American syndrome we see on Elliot Ness and the
4 like. It is much more comprehensive and insidious. And
5 my comment would be perhaps we need to educate our citizens
6 more to that in particular. Maybe everyone knows that
7 except maybe it should be said more often. I wonder if
8 that is a nationwide characteristic that it is all
9 comprehensive as Mr. Reilly indicated with so many of the
10 others.

11 A It is a common misconception. That is why I
12 try wherever I go to correct that. I think we should
13 probably do more of that.

14 Q Okay, and as do I. My question would be on
15 Civil RICO and having prosecuted and defending cases,
16 having judged cases, what kind of constitutional challenges
17 were mounted against the, you said unlimited discovery
18 and all of the type things that would seemingly be at odds
19 with compelling a person to testify against himself in
20 a criminal proceeding. Would you elaborate just for a
21 moment on that?

22 A Sure. The only body of appellate decisions
23 vis-a-vis RICO are federal because they have had it quite
24 some time.

25 Q You do not?

1 A We have it, but we have not gone to court with
2 any yet. Only two years is all we have really been into
3 that. But I have gone over all the cases, and you know
4 where the feds learned how to use RICO, from civil lawyers.
5 That is where they really learned how to use it. It has
6 been pretty much evaluated from appellate point of view
7 over and over. I didn't mean to imply the Fifth Amendment
8 would not be applicable. The Fifth Amendment is applicable
9 in any civil case. And whether you can hold it against
10 the person or not is something else. It is new to us and
11 new to you. It is less new to us because we are into it
12 now. But we will learn by experience and we will make
13 some mistakes I guess. But it is not something that is
14 so new that we've got to wait to see where it is going.
15 So our courts will be a lot more conservative in the way
16 they are going to interpret it. New Jersey believes that
17 we give more protection than even the Federal Government
18 in terms of rights of people. So I suspect we will not
19 track the federal experience but we will be close to it.

20 SENATOR LEMMOND: Thank you.

21 BY CHAIRMAN DEWEESE:

22 Q Quickly, I have two. Would you describe, sir,
23 your attorney investigator team just a minute on how they
24 work, how they come together with other crimes?

25 A I did away with teams. We said you and you

1 work together. What I did was put everybody together to
2 do everything together. In other words, we get a case,
3 it is like running a business. I got a case, I need this
4 specialist, this specialist. So it is a lawyer, it is
5 an investigator, it is a state trooper. It is fungible.
6 If I need a man with a lot of experience in X and he is
7 a state trooper, he goes. I always have a lawyer tagging
8 along. This is complex stuff. And then when the case is
9 over, I make the trooper, not make them, if they want to,
10 stay with the case as it goes through trial. So, it is not
11 like I'm finished, I investigated, you guys got it. We
12 started together, and when we win, we celebrate together.
13 And when we lose, we have to wait together, but they have
14 got to be together and not just cosmetically. That police
15 officer is so valuable, if anyone here has been a prosecutor
16 you know that, they know the facts of the case. So, I
17 don't believe in teams as such, that formal. I believe
18 in everybody should be seen as equal, the different talents.

19 Q And the last question, New York, what kind of
20 a relationship do you have with them? Can Pennsylvania
21 learn something the way New Jersey and New York reacted
22 together? Are you still starting with them or where are
23 you?

24 A Oh, no, we have a great relationship with New
25 York. We have a great relationship with Pennsylvania.

1 The DA of Philadelphia, Ed Dennis, the U.S. Attorney and
2 the strike force chief and myself and the head of the FBI
3 in New Jersey and the head of the State Police in New Jersey
4 met eight, nine times on the Scarfo matter. Set strategy
5 instead of bickering who is going to do what. We said
6 we'll do this, you do that. Is it better for you? No.
7 Great relationship in terms of your State Police, and I
8 don't say this because I just think I have to say it, it
9 is a fact. Can it be better? Yes. The reason is not
10 as strong as it should be because everybody is running
11 one hellish race here and some of us do not have time to
12 talk to one another. And our relationship with New York,
13 you will see over the next year or so the fruition of
14 that relationship. It is terrific and so is our relationship
15 with Pennsylvania.

16 CHAIRMAN DEWEESE: Representative Blaum.

17 BY REPRESENTATIVE BLAUM:

18 Q My question, from your testimony the State
19 Police in New Jersey comes under the jurisdiction of the
20 Attorney General?

21 A Yes.

22 Q To you and maybe to we in Pennsylvania, of
23 course, the State Police is under the control of the
24 Governor and we have the elected Attorney General. Do you
25 see any problems we might encounter by trying to duplicate

1 what you do in New Jersey because of the fact the State
2 Police is not under direct control of the Attorney General?

3 A I think it would be a little more difficult
4 because there is not one fellow who cracks the whip. And
5 again, I am not familiar with the politics here and the
6 people here. I would prefer what we have. I think Goldstock
7 will tell you he would prefer what he has. He will be
8 here tomorrow, and he has got a lot of experience.

9 Q What is his situation?

10 A What he does, he doesn't have State Police,
11 Criminal Justice coming together to make this group. He
12 has his own group. Everybody is under him. He brings
13 in whatever he wants in order to complete the job. He
14 reports straight up to the Attorney General. You will find
15 him fascinating. I think you are probably going to have
16 to go that way if you are going to do anything. It is
17 probably easier to do that. You can't throw out everything
18 you have and start from scratch. That would be impossible.
19 My gut tells me you should take, only this whatever it is
20 worth, it is probably not worth too much, you should take
21 some of ours and a lot of his and have an amalgam and do
22 whatever leadership requires you people to pull it off.

23 CHAIRMAN GREENLEAF: Thank you very much for
24 being here. We appreciate your time.

25 MR. BELSOLE: I appreciate it. Thank you.

1 (Complete prepared testimony of Donald R.
2 Belsole, was as follows:)

3 "I very much appreciate this opportunity to
4 briefly discuss New Jersey's historical and recent
5 response to the problem of organized crime. I will
6 not attempt in these remarks to compare New Jersey's
7 organized crime control program with Pennsylvania's.
8 I am not sufficiently familiar with Pennsylvania's
9 legal tools, personnel resources, organizational law
10 enforcement structure or historical experience to
11 attempt such a comparison. Rather, my purpose today
12 is to highlight New Jersey's experience and approach
13 in the hope that it will prove to be a useful model.
14 Undoubtedly, New Jersey and Pennsylvania share many
15 common problems. The same organized crime families
16 which operate in eastern Pennsylvania, for example,
17 are active in New Jersey, and especially our southern
18 and coastal regions. As you know, organized criminal
19 enterprises rarely pay heed to jurisdictional
20 boundaries.

21 "It is also important to recognize that no
22 current organized crime control program can be
23 developed in an historical vacuum. As one who for
24 the past five years has been involved in law
25 enforcement policy planning, I can assure you that

1 in designing "new" law enforcement programs, we can
2 never really start from an empty slate. Nor is there
3 any sound reason to do so. Rather, the development
4 and institutionalization of a program is an incre-
5 mental, evolutionary process. We learn from our
6 mistakes as well as our successes. We make changes
7 where necessary and, as I will shortly explain,
8 these changes can be fundamental ones -- a willingness,
9 for example, to embrace new approaches and new
10 enforcement philosophies. Even so, we must always
11 take care not to throw the baby out with the bath
12 water. New Jersey is fortunate to have in place a
13 corps of experienced law enforcement professionals
14 who have been waging an ongoing battle against
15 organized crime for the last 25 years. Our goal,
16 therefore, is not only to expand the sheer number
17 of such professionals engaged full time in that
18 objective, but just as importantly, to provide them
19 the legal, analytical, and institutional tools needed
20 to coordinate their activities and to make their
21 efforts more effective.

22 "During the late 1960s and early 1970s, the
23 New Jersey Legislature achieved a number of significant
24 accomplishments with respect to providing the
25 essential tools needed to address the proliferation

1 of organized crime activities throughout the state.
2 With the enactment of the Criminal Justice Act of
3 1970, the New Jersey Legislature created the
4 Division of Criminal Justice. That Act also
5 recognized that, "the existence of organized crime
6 presents a serious threat to our political, social
7 and economic institutions and helps bring about a
8 loss of popular confidence in the agencies of
9 government." N.J.S.A. 52:17B-98. With that
10 recognition, the Legislature declared the public
11 policy of New Jersey "to encourage cooperation among
12 law enforcement officers and to provide for the
13 general supervision of criminal justice by the
14 Attorney General as chief law enforcement officer
15 of the state, in order to secure the benefits of a
16 uniform and efficient enforcement of the criminal
17 law and the administration of criminal justice
18 throughout the state." In other words, the
19 responsibility for continuously evaluating the
20 effectiveness of law enforcement programs became
21 the unique province of the Attorney General, and
22 indeed, his primary responsibility.

23 "Along with the creation of the Division of
24 Criminal Justice, a number of other legislative
25 tools were provided in accordance with recommendations

1 of the President's Commission on Organized Crime.
2 These include the Wiretap Act (N.J.S.A. 2A:156A-1
3 et seq.), Public Employee and Witness Compulsion
4 and Immunity Act (N.J.S.A. 2A:81-17.2a et seq. and
5 N.J.S.A. 2A:81-17.3), and the establishment of
6 investigative grand juries with statewide
7 jurisdiction (N.J.S.A. 2A:73A-1 et seq.), and the
8 establishment of the State Commission of Investigation
9 (N.J.S.A. 52:9M-1 et seq.). With the subsequent
10 enactment of a comprehensive racketeering statute
11 (N.J.S.A. 2C:41-1 et seq.) and the refinement of New
12 Jersey's forfeiture laws (N.J.S.A. 2C:64-1 et seq.),
13 the New Jersey Legislature provided us with all the
14 basic legal tools needed to mount an aggressive
15 and coordinated campaign against organized criminal
16 elements.

17 "As noted above, with the enactment of the
18 Criminal Justice Act of 1970, it became the Attorney
19 General's duty to examine whether current efforts
20 in the areas of the investigation and prosecution
21 of organized crime can be made more effective. In
22 July, 1986, New Jersey Attorney General Cary Edwards
23 announced a major realignment of key personnel in
24 the Divisions of Criminal Justice and State Police.
25 This was done in order to enhance our state's ability

1 to prosecute organized crime, corruption, racketeering
2 and environmental crimes with mob involvement.
3 Specifically, the Attorney General created a new
4 unit called the Organized Crime and Racketeering
5 Task Force that combines the State Police Organized
6 Crime Bureau with the functions of the old Special
7 Prosecutions Section in the Division of Criminal
8 Justice. As a result, Criminal Justice investigators,
9 many of whom possess expertise different from State
10 Police detectives, have been added to this new
11 effort. In all, the new task force, which operates
12 under the co-direction of the Executive Officer of
13 the State Police and a Deputy Director in the
14 Division of Criminal Justice, consists of
15 approximately 150 persons, about 120 of whom were
16 already involved in various types of organized crime
17 investigations. Approximately 90 of that 120 were
18 from the State Police. The 30 persons added to the
19 task force have been drawn from other assignments
20 in the Division of Criminal Justice.

21 "As I have already noted, it is not enough
22 merely to increase the number of persons involved
23 in organized crime investigations. We have learned
24 from past experience that any successful organized
25 crime program must use a pro-active, rather than

1 merely reactive, method of attack. This, in turn,
2 necessitates thoughtful and imaginative planning.
3 No law enforcement effort to control organized crime
4 activities can fairly be characterized as a "program"
5 absent such a strategic and tactical planning
6 mechanism. Indeed, one of the principal advantages
7 of the recently restructured task force has been to
8 bring a coordinated planning concept, deliberate
9 strategy and prioritization of resources to the
10 fight against organized crime and corruption on the
11 state level. Under this scheme, practical
12 operational judgments are guided by a high level
13 planning group in accordance with a predetermined
14 strategy which is known to the whole working team or
15 teams in any given situation. This mechanism is
16 designed to eliminate inefficient, duplicative or
17 potentially counterproductive operational activities
18 which might otherwise frustrate investigations.
19 Too often in government, one hand does not know
20 what the other hand is doing. As a result of the
21 recent reorganization and reallocation of resources,
22 we are now confident that we can mount a truly
23 coordinated attack. This planning concept also
24 permits a pro-active strategy directed against
25 defined specific targets. The selection of such

1 investigative targets is more likely to have a
2 significant impact than is a policy, for example,
3 of merely targeting a specific generic class of
4 offense, such as gambling.

5 "In designing the structure of the new task
6 force, we recognize that organized crime, in the
7 traditional sense (La Cosa Nostra), is a multi-
8 faceted, perpetual enterprise. The individual LCN
9 "family" is a formal, structured organization
10 comprised of "made" members and associates who work
11 with various components of the family in accordance
12 with a clearly defined hierarchy. In short, the
13 "made" members of the family have purposefully chosen
14 to earn their livelihood through the repetitive
15 commission of crimes. Toward that end, the family
16 exists to provide the organization the opportunities
17 and protection necessary to lead such a life. Other
18 crimes will be committed in order to protect and
19 perpetuate the family and its hierarchy and to
20 enforce the rigid set of rules devised to ensure
21 the perpetuation of the family.

22 "These latter self-protection and perpetuation
23 crimes aside, the overwhelming majority of criminal
24 conduct associated with organized crime is motivated
25 by greed. Gambling, theft, fraud, fencing, labor

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racketeering, loansharking, robbery, extortion, and of course narcotics trafficking all have a similar goal: profit. These are all typical activities of traditional organized crime. Furthermore, there is today substantial evidence of organized crime's capacity to influence and control legitimate businesses, to intrude into the legitimate spheres of the economy and to perpetuate a style of criminality in the business arena, including the collection and disposal of garbage, construction, the sale of food commodities and the like.

"The point is simply that such groups do not limit themselves to a single category of criminal offense. If profit is the motive, any course of criminal conduct which tends to yield profit may be sanctioned by the family and may reach enterprise proportions. Since organized crime enterprises do not limit themselves to a single category of criminality, it makes no sense to investigate them as if they did. This, in turn, requires a multi-disciplinary response by law enforcement, and hence the need for us to embrace the concept of the interagency task force.

"Indeed, one of the key objectives of the newly restructured Organized Crime and Racketeering Task

1 Force has been to integrate all available disciplines,
2 areas of expertise and professional experience at
3 the investigative stage. In this vein, the Attorney
4 General sought to get the lawyers, police and
5 investigators working together from the beginning
6 of an investigation through to the eventual
7 conviction of our selected targets. We have, in
8 other words, expressly rejected the archaic and
9 parochial notion that detectives are solely
10 responsible for conducting investigations, and that
11 attorneys, on the other hand, are limited to
12 presenting the fruits of completed investigations
13 in court. In fact, the best cases we have made in
14 New Jersey have always been those where lawyers
15 and police officers have worked together from the
16 inception of an investigation. Each brings different
17 skills and experiences to the common effort. Our
18 newly restructured task force builds on that
19 experience, but goes beyond it to attempt new levels
20 of cooperation. The early and institutionalized
21 involvement of attorneys in the investigative
22 process also helps to bring the full complement
23 of law enforcement tools to bear in a concerted,
24 pre-planned effort. The use of a simultaneous grand
25 jury investigation in conjunction with court-ordered

1 electronic surveillance, for example, is often
2 especially productive.

3 "I believe that the very structure of our new
4 task force represents a major breakthrough in our
5 ability to cut through traditional thinking in law
6 enforcement and to merge the talents of persons with
7 many different skills. I have as great a respect
8 for the abilities of our detectives, accountants
9 and other investigators with specialized skills as
10 I do for the legal abilities and acumen of our
11 lawyers assigned to this effort. The success of
12 this integrated, multi-disciplinary approach, of
13 course, presupposes the existence of corps of
14 trained, experienced and highly motivated professionals.

15 "To a large extent, our investigative and
16 prosecutorial staff remain motivated by the fact
17 that they are given the opportunity to work some
18 of the most important and sophisticated organized
19 crime cases pursued anywhere in the nation. In
20 addition, we are proud of a program designed to
21 ensure our employees the benefits of professional
22 development. In the Division of Criminal Justice,
23 for example, we have a progressive salary program
24 for both investigators and deputy attorney generals,
25 who can earn annual increments and promotions based

1 entirely on performance and merit. Starting salaries
2 are based on the candidates' professional experience.
3 Recently, we have placed special emphasis on
4 recruiting candidates with strong backgrounds in
5 forensic accounting, since this type of expertise
6 will prove instrumental in uncovering sophisticated
7 financial schemes and in tracing the assets and
8 proceeds of organized crime influenced enterprises.
9 All of our investigators are required to participate
10 in an intensive seven-week basic training course.
11 They are also required to participate in periodic
12 in-service training dealing with the latest advances
13 in interrogation and investigative techniques. The
14 salaries offered to these professionals by the
15 Division of Criminal Justice, finally, are, I believe,
16 competitive with those paid by any law enforcement
17 agency in the region, if not the entire nation.

18 "In assessing the success of our organized
19 crime control program, I think it is important
20 to note that we have begun to move away from law
21 enforcement's traditional reliance on pure statistical
22 measures, such as the number of arrests, indictments
23 and court-ordered electronic intercepts. These
24 statistics can be very misleading, and do not
25 necessarily reflect the true impact of law

1 enforcement's operations. We now focus increasingly
2 on carefully selected upper echelon targets. Our
3 goal, moreover, is to disrupt an entire family
4 or organized crime enterprise, not just to incarcerate
5 individual members or associates, or to disrupt
6 limited scams or localized gambling operations.
7 Needless to say, this approach requires not only
8 planning and coordination of our own investigative
9 and prosecutorial resources, but also coordination
10 and cooperation with federal law enforcement agencies
11 and the law enforcement agencies of our sister states.
12 That is why we actively participate in a Law
13 Enforcement Coordinating Council comprised of
14 representatives from the federal and state law
15 enforcement agencies operating in New Jersey.

16 "Given this approach, the careful management
17 of information and intelligence becomes absolutely
18 essential. The intelligence information which we
19 collect is highly sensitive and must be gathered,
20 stored and shared only under circumstances that do
21 not infringe on the civil liberties of individuals
22 and do not compromise the security of ongoing
23 operations. One of the key objectives of the
24 Organized Crime and Racketeering Task Force,
25 undertaken in conjunction with the recently created

1 Statewide Narcotics Task Force, has been to establish
2 the Narcotics and Organized Crime Management
3 Analytical Database (NOMAD) computer system. This
4 system will serve as both an investigative tool and
5 an analytic resource. This computer system will
6 not only allow investigators and detectives to
7 pursue leads more quickly, but will provide ready
8 access to sources of information which might other-
9 wise have been unavailable. The system, for example,
10 will allow analytical personnel to detect linkages
11 and common modes of operation which would likely go
12 unnoticed if all available information had to be
13 manually collated and analyzed. Without an electronic
14 information management and retrieval capability,
15 in other words, it is likely that many potentially
16 fruitful investigative leads would not be pursued
17 in a timely fashion.

18 "It is essential that we in law enforcement
19 keep pace with the increasingly sophisticated
20 practices and state-of-the-art technologies used
21 by organized criminal enterprises. Throughout the
22 last year, much of our activities have focused on
23 designing just such a computer system. Using the
24 experience of personnel from the Divisions of State
25 Police and Criminal Justice as well as from the

1 county prosecutors' offices, we have begun to develop
2 standardized operating procedures for the gathering
3 and reporting of information by all law enforcement
4 agencies throughout the state. Our personnel have
5 conducted significant research to determine the most
6 appropriate database management system and computer
7 hardware which will be needed to support the NOMAD
8 system, which we intend to implement in carefully
9 planned stages. Each new operational phase will
10 augment our information sharing and analytical
11 capabilities. This step-by-step process will allow
12 the system eventually to expand to its full potential
13 while allowing us to get the most essential components
14 and functions on-line and operational as soon as
15 possible. Indeed, our technical staff have already
16 begun to test newly developed investigative and
17 analytical software, so that in the very near future,
18 New Jersey will have not only a broad information
19 database, but the capability to put that information
20 to use. This effort, in other words, will put
21 New Jersey squarely at the forefront of jurisdictions
22 which are committed to using high technology to
23 ferret out and fight crime.

24 "We believe that the reasoned and aggressive
25 use of this information will lead to successful

1 prosecutions which will impact on organized crime
2 operations throughout the region. It is clear,
3 however, that the money-making potential of organized
4 crime activity is so attractive that the threat
5 and reality of criminal punishment is not, by itself,
6 sufficient to disrupt, much less eradicate organized
7 crime. Therefore, we are continually seeking new
8 solutions and new approaches to attack the problem.
9 One of these approaches is the expanded use of
10 civil remedies to take the total proceeds of crime
11 away from criminals and criminal enterprises. Note
12 that I have not used the familiar cliché of "taking
13 the profit out of crime" -- that is much too lenient,
14 since organized crime associates are not entitled
15 to any cost-of-goods-sold credit against the illegal
16 funds generated by their activities.

17 "In New Jersey, our state law permits us to
18 recover virtually any asset used in or acquired by
19 criminal activity. Our racketeering statute (RICO)
20 is modeled after its federal counterpart, but gives
21 us an even broader range of civil remedies to redress
22 RICO violations. In addition to equitable relief,
23 RICO permits civil forfeiture to the state of any
24 interests a person has acquired or maintained in
25 violation of RICO, and of any interest in anything

1 which affords him a source of influence over a
2 RICO enterprise. Additionally, if the state itself
3 is the victim of conduct which violates RICO, it
4 may sue for three times its damages, plus lawyer's
5 fees and costs of investigation and litigation.
6 If a court finds that a person has enjoyed a
7 financial gain from a RICO violation, whether or
8 not the state is the victim, the court may assess
9 a civil monetary penalty in an amount up to
10 three times that gain.

11 "Furthermore, we are fortunate to have in New
12 Jersey a general in-rem forfeiture statute which
13 provides that title to all property used in or
14 derived from crime vests in the state at the time
15 the property was criminally used or received. Unlike
16 many other states and federal law, our statute is
17 not offense specific, that is, it applies to all
18 crimes, not just a limited class of offenses.
19 Recently, moreover, our forfeiture statute was
20 amended to provide that the proceeds of successful
21 forfeiture actions must be divided and distributed
22 among all of the law enforcement agencies which
23 participated in the underlying investigation. The
24 new law further provides that these new revenues must
25 be used exclusively for law enforcement purposes,

1 thus adding to the present ability of law enforcement
2 to conduct increasingly aggressive and sophisticated
3 enforcement operations. The new law, in other
4 words, provides substantial incentives for aggressive
5 and cooperative interagency efforts directed
6 against lucrative organized criminal enterprises.

7 "Philosophically, a program for the comprehensive
8 use of the broad range of available civil remedies
9 should proceed cautiously, with detailed and
10 practical planning occurring in each case before
11 civil remedies are utilized. Nonetheless, the
12 program should be an aggressive one, to maximize
13 not only recovery by the state but also the deterrent
14 value of economic sanctions against criminal conduct.
15 The potential cost-effectiveness of such a program
16 is self-evident. With the volume of investigative
17 activity which exists in the New Jersey Division
18 of Criminal Justice, particularly in the areas of
19 organized crime and narcotics, the availability of
20 assets for forfeiture is limited only by the extent
21 of the resources we chose to devote and the
22 imagination, sophistication and efficiency of the
23 techniques we develop.

24 "For this reason, we have instituted a state
25 level civil remedies program in New Jersey which is

1 centralized in our Division of Criminal Justice.
2 Centralization is desirable because the sophisticated
3 use of civil remedies is a specialized area with
4 which most criminal lawyers (both prosecutors and
5 defense counsel) do not have great familiarity.
6 Similarly, criminal investigators without financial
7 and accounting backgrounds may not have been trained
8 and may not have the necessary expertise to handle
9 the accounting and business complexities which can
10 be involved. Central review and supervision of all
11 civil actions, from investigative, legal and policy
12 perspectives, results in uniformity and efficiency
13 in handling a variety of matters.

14 "Centralization also enables the division to
15 pursue complex civil cases which are designed to
16 penetrate beyond those assets physically seized
17 on raid day. Such cases require a long-term
18 application of investigative resources and the use
19 of advanced investigative/accounting techniques.
20 Also, many of the legal areas are ones of first
21 impression, involving innovative and unlitigated
22 questions where a uniform approach is preferable.

23 "In New Jersey's program, which is still in
24 its very early stages of development, we have now
25 devoted the full-time services of five lawyers, six

1 financial investigators and an analyst. Further
2 expansion is anticipated, as is the furnishing of
3 sophisticated computer support by the NOMAD system.
4 Clearly, the cases involved in a sophisticated
5 civil remedies effort are complex and time consuming.
6 However, we in New Jersey believe that our efforts
7 will pay off in the long run -- not only in terms
8 of cost-effective financial benefits to our state,
9 but also in terms of adding substantially to the
10 price criminals must pay for engaging in organized
11 crime activities.

12 "Once again, I appreciate this opportunity to
13 provide an overview of New Jersey's recent response
14 to the problem. If we can be of any assistance
15 to you in providing technical advice and support,
16 I will make that expertise and experience available.
17 As I noted at the outset, we share many common
18 problems; it seems fitting that we should share
19 proposed solutions as well. To a great extent,
20 our only realistic chance to disrupt and eradicate
21 organized crime in our region is to work together."

22 CHAIRMAN GREENLEAF: We will take a little break.
23 But before we do that the next witness will be Mr. Dintino.
24 Also, with the permission of the Committee, Mr. Rogovin
25 is here. We would like to take you before lunch if possible

1 and go straight through if that is all right with the rest
2 of the Committee and the court reporter. We will take a
3 few minutes break.

4 (Brief recess.)

5 CHAIRMAN DEWEESE: If the people who are going
6 to testify and the members can migrate toward their seats,
7 we would like to get this hearing going again. We have
8 two more people to testify, Mr. Dintino and Mr. Rogovin.
9 Senator Greenleaf is on his way. But we are going to start
10 here within the next one minute. If Mr. Dintino would
11 please come to the table in order to commence his testimony.
12 But while he is doing that I would like to state for the
13 official record that Ms. Haggerty from Montgomery County
14 and Mr. McVery from Allegheny County, members of our
15 Committee, have sent word to this Chair that they express
16 regrets other commitments have disallowed them from
17 attending. But they did aver that they will be overseeing
18 the testimony and are anxious to be more involved in this
19 whole proceeding relative to organized crime. I think that
20 we are all disposed to starting again and the Chair
21 would like to welcome Justin J. Dintino, Chief of Intelligence
22 New Jersey State Commission of Investigation. The
23 allocation and integration of law enforcement in organized
24 crime control will be a focus of Mr. Dintino's remarks.
25 After those remarks, naturally, questions from the membership

1 will be appropriate. Welcome, sir.

2 MR. DINTINO: Thank you, Mr. Chairman. I
3 welcome the opportunity to appear before such a distinguished
4 group as yourselves. I might add that I listened very
5 intently to the prior two witnesses, the Chairman of the
6 Pennsylvania Crime Commission, Mike Reilly and the Director
7 of Criminal Justice, First Attorney General, Don Belsole,
8 and I do not have any quarrel with anything that they have
9 said. I agree 100 percent with everything that they said.
10 I think where I'm coming from, I'm coming from the law
11 enforcement, I am still a member of law enforcement. I
12 have been a member of law enforcement for 35 years.
13 Although I won't go through my credentials, I was not
14 attempting to toot my horn there. I listed those to try
15 to convince you that because of my 35 years of experience,
16 the last 20 being in intelligence and organized crime,
17 I have arrived at certain conclusions concerning organized
18 crime and certain conclusions as far as the mythology
19 and the models to be utilized in combating organized crime.
20 While the Commonwealth of Pennsylvania has many tools
21 necessary to combat organized crime, I think that the
22 technology and organized crime has advanced through the
23 years to this stage where more has to be done. And as
24 far as I am concerned, I don't think there is enough being
25 done in Pennsylvania.

1 While serving on the President Reagan's
2 Organized Crime Commission, it became apparent organized
3 crime had taken on a number of new dimensions requiring
4 law enforcement to enhance its crime control measures.
5 For example, to believe that LCN is the only organized
6 crime in the United States is a mistake. I might mention
7 something we did on the President's Commission. We
8 conducted a law enforcement survey, which was not published,
9 incidentally, this portion of it. It was sent out to all
10 the states and cities in the United States and came back,
11 and one of the questions within about approximately 40
12 questions in that survey, stated list the organized crime
13 groups within your area. We had them listed and all
14 they had to do is check it off, whether it was LCN,
15 Colombians, blacks, whatever. Next we said list the
16 number of individuals within that group in your area.
17 Then we said what criminal activities are they involved
18 in and then we said how much money do they derive from
19 these criminal activities.

20 Because of the methodology utilized in
21 conducting that survey, the commissioners questioned the
22 validity of that survey and we voted not to publish it.
23 But, and the feedback we got and when we put all the
24 figures together, the total figure of the members of
25 organized crime in this country totalled 500,000. Now

1 like I say, we questioned mythology, and even if there
2 is a 50 or 100 percent error, and you cut that to 250,000,
3 it is common knowledge that the LCN totals 1700 and that
4 is an accurate figure. And if you go ten to one on the
5 ratio as far as associates, you come up with 17,000. You
6 round it out to 20,000. If you divide that into 500,000,
7 you come up with four percent numerically of organized
8 crime in this country are LCN members.

9 I do want to emphasize the LCN does exist.
10 It has 25 families. It is a significant organized crime
11 problem and it should be vigorously pursued. I am not
12 trying to downplay the LCN. But what I'm trying to say,
13 there is much more to the LCN and you have it here in
14 your state. You have groups such as the Jamaicans; you
15 have the American blacks; you have Colombians; you have
16 Cubans; you have Chinese; you have Vietnamese; you have
17 Koreans; you have independent narcotic networks operating
18 within your Commonwealth. And how I know that is because
19 of joint investigations with other agencies within
20 Pennsylvania and also the cooperation that we have with
21 the Pennsylvania Crime Commission, the State Police, the
22 Philadelphia Police and other agencies within Pennsylvania.

23 I might add that without a doubt that narcotics
24 is the number one money-maker of organized crime. As far
25 as I am concerned, I don't think anybody would dispute

1 the statement organized crime makes more off of narcotics
2 than all the other criminal activities combined. That
3 is a fact. And I know you must have a narcotic problem
4 in Pennsylvania like we do in New Jersey.

5 While law enforcement at all levels have had
6 many successes against organized crime, and you have had
7 some successes here in Pennsylvania, I believe that much
8 more could be done and let me address several of these
9 initiatives. First, I believe that it is imperative that
10 the state make organized crime a top law enforcement
11 priority. By creating a special task force solely devoted
12 to organized crime control, a message is sent that the
13 state takes organized crime seriously.

14 Secondly, we can no longer afford the division
15 of labor or allow investigators the luxury of investigating
16 with no insight to the prosecutorial implications of its
17 actions. Basically what I am saying here is that you heard
18 Director Belsole. He talked about RICO and he emphasized
19 on the civil end of RICO and he said, we have had it five
20 years. We didn't start to use it until two years ago.
21 Well the criminal RICO came in 1970 and was not utilized in
22 15 years. Now, hell, if attorneys don't understand RICO,
23 how can we expect investigators to understand it. So I
24 think without a doubt you almost have to have a marriage
25 between investigators and attorneys to effectively utilize

1 RICO and criminal conspiracies against organized crime.

2 Third, and while it is listed third, I would
3 list it first. I think it rates the most important is
4 intelligence. And I would emphasize strategic intelligence.
5 Without a sophisticated intelligence system within your
6 Commonwealth, you are not going to know what the major
7 problems are, number one. In other words, let's use
8 for an example, we talked about narcotics being the number
9 one problem. What is the narcotic problem in the State
10 of Pennsylvania. I would venture to say there is nobody
11 that can tell you that. They may offer some opinions and
12 give you some guesswork, but has there ever been a
13 complex study to determine exactly what the narcotic
14 problem is in the State of Pennsylvania. Who are the
15 groups involved in narcotic trafficking in Pennsylvania.
16 Now while we mention a number of groups, I would venture
17 to say that right now that most of these other groups
18 other than LCN, that we don't know the identity of all
19 the members within those groups and we don't know their
20 particular functions within those groups. We don't know
21 what criminal activities they are involved in and we don't
22 know how much money they are making. So without a
23 strategic assessment to determine that how can you then
24 deplore your resources in any rational sensible way. So
25 I think intelligence is the start of any professional

1 organized crime program.

2 Fourth, I believe that legislative and
3 executive bodies must begin to exercise more oversight
4 over the evaluation of organized crime control programs.
5 And basically, I guess maybe what I am saying here is
6 I'm saying that a group such as yourself or an ad hoc
7 group appointed, you may already have it maybe on an
8 annual basis, ought to call the head of the State Police,
9 the head of the Pennsylvania Crime Commission and some
10 of the other heads of state government, the Attorney
11 General and whatnot and have them give them an accounting.
12 You want to know, I think the \$64,000 question is has the
13 problem been reduced. Don't listen to statistics.
14 People are going to appear before you and they want higher
15 budgets and they are going to justify by saying we made
16 10,000 narcotic arrests last year. We expect to make
17 15,000 this year. We are going to make 20,000 next year,
18 therefore, we would like to have a 50 percent increase
19 and most of the time they receive it.

20 What that tells me, that tells me their
21 program is ineffective because the narcotic problem is
22 increasing day by day by day. And I think you want to know
23 when are we going to decrease the problem, and you don't
24 necessarily decrease it by making arrests. Because for
25 every arrest that you make, there is 100 individuals ready

1 to take that individual's place. The money involved in
2 narcotics is so fantastic it is mind boggling. And those
3 people from the ghettos and from poor countries are going
4 to readily get involved. So there is other alternatives
5 to the narcotics problem in my opinion. I believe that
6 the key area you must focus on is the demand area. You
7 got to reduce the demand. You have got to reduce the
8 market area. I don't believe it is in arrests. Not to
9 say that we discontinue arrests.

10 Lastly, and perhaps most important, credibility
11 is the essence of a long-term organized crime program and
12 it was stated by Don Belsole that it has to be perceived
13 as apolitical. It has to be perceived that we are going
14 to be utilizing, there is going to be continuity in our
15 program. That we have to have career specialists and
16 to do that, we have to have the salary range that keeps
17 these type of people. In other words, what I am saying is
18 that we have to have skilled, professionals to combat
19 organized crime; investigators, accountants and attorneys.
20 And that we have to be willing to pay the price to keep
21 these people in place because it takes a long time to
22 develop this expertise, to learn who the players are,
23 to develop the ability, to analyze and to develop
24 strategic assessments. And once you have that, we would
25 like to keep them in place and what they are doing because

1 that is where they are valuable.

2 Now maybe I should add something, before I
3 close, from my own personal experience. Now here I am
4 I spent 33 years in the State Police. A question you must
5 have in your mind, well how are the Pennsylvania State
6 Police going to look at this. Well, I am sure they are
7 not going to be too happy if they believe that somebody
8 is trying to create a task force with attorneys and maybe
9 attorneys will have an equal say or maybe even be their
10 supervisors. Now we had the Criminal Justice Act came
11 into being in New Jersey in 1970. I had been a trooper
12 at that time for 18 years. I was in charge of the
13 Intelligence Bureau at that time. We were completely
14 self-sufficient. We drew up our own search warrants.
15 We didn't need attorneys. We went to a prosecutor when
16 we had a case. I have got to say that I wasn't too happy
17 when this came about. I have to admit that there was some
18 strong disagreements the first year or two, but then I
19 slowly came around and I will tell you why I came around,
20 because we started to make cases that we never made in
21 the history of the State Police. We made big cases
22 involving organized crime and their groups and we made
23 cases involving organized crime where they had corrupted
24 some of the officials within the system, including public
25 officials and members of law enforcement. And one case

1 that comes to mind was Operation Omega. I think it was
2 about eight years ago. But while federal establishment
3 takes credit for this, New Jersey was the first state,
4 the first agency, to ever prove the existence of the Mafia.
5 They developed a criminal conspiracy and the indictment
6 said that this organization known as the Mafia is structured
7 to commit criminal activities such as labor racketeering,
8 homicide, loansharking and whatever. It named the
9 individuals, it named the activities they were involved in
10 and there were convictions in that case. And I could
11 name case after case that came as a result of that. It
12 could not have been done without attorneys and investigators
13 working together. And I might add in that particular case,
14 wiretaps were utilized, bugs were utilized and consensual
15 recordings were utilized. Without them that case would
16 never have been made. Thank you and I am prepared to
17 answer any questions.

18 CHAIRMAN DEWEESE: Questions? Mr. Moehlmann
19 and then Mr. Caltagirone.

20 BY REPRESENTATIVE MOEHLMANN:

21 Q Mr. Dintino, you began to emphasize your
22 opinion that we had to take some significant steps in
23 reducing the demand for narcotic drugs. You kind of left
24 that just as I was expecting to hear you giving a few
25 sentences as to how we do that. I assume that we are not

1 talking about TV commercials. Would you expand on that
2 please?

3 A Yes, the reason I didn't go any further than
4 that, a strong belief of mine, and I think it would almost
5 take an hour to explain it in detail but I will try to
6 do it in 30 seconds or 60 seconds. While I would perceive
7 advertisement be as part of it, but while on the President's
8 Commission one thing that we learned was when President
9 Reagan declared war on narcotics, we developed all these
10 narcotics task forces throughout the country. The law
11 enforcement budgets were greatly increased. During the
12 same time frame the budgets concerning prevention and
13 education federally were decreased and during that same
14 time frame they were decreased in the State of New Jersey.
15 They were already meager, very meager, but they were
16 decreased. I found that to be somewhat horrendous.
17 Because if you look at the four areas in narcotics where
18 you can be effective are the four strategies, national
19 strategy. Number one is eradication. Eliminating narcotics
20 at the source country. Now, that has been in effect
21 since 1970. We have spent billions of dollars in that
22 area and I can tell you it has been completely ineffective
23 and will continue to be ineffective. I mean, we have
24 countries that we don't have any diplomatic immunity with,
25 and I think it is foolish to believe that we are going to

1 be able to have any effect by eradication when we have a
2 problem in our country growing marijuana. And one point
3 I even read where it was the number one cash crop.

4 The second area is interdiction. I mean,
5 now here is an area while we had some effect, I don't
6 believe that it is ever going to be effective because the
7 price of cocaine is at its all time low right now. Anybody
8 can afford it. Can we stop every ship coming into the
9 United States, every plane, search every vehicle? We
10 would almost have to become a country like Russia with
11 a wall like Germany, East Berlin, Berlin and search
12 everybody, a police state. We are not going to have that.
13 We don't want that. So while we should continue with
14 interdiction, that is not going to solve the problem.

15 The next area is the law enforcement, arrests.
16 They have done one outstanding job in arrests at all levels.
17 The arrests have increased year to year. The seizures
18 have increased year to year, but the problem gets bigger
19 day by day. So I say that while we continue with arrests,
20 we absolutely have to continue in that area. I believe
21 that the one area that is a viable area that we can have
22 impact is in the demand area, the marketplace. We have
23 got to concentrate on eliminating or reduce that demand.
24 You are never going to eliminate it but I think we should
25 start in kindergarten. I think we should start in the homes

1 when children are two or three years old and I think we have
2 to start a brainwashing process that you don't use drugs,
3 they are harmful to you and it is going to be long range.
4 It is going to be ten or twenty years. But I believe that
5 will be similar to cigarette smoking and we have seen a
6 reduction in cigarette smoking. Does that answer your
7 question?

8 REPRESENTATIVE MOEHLMANN: Thank you, Mr.
9 Dintino. Thank you, Mr. Chairman.

10 CHAIRMAN DEWEESE: You're welcome. Mr.
11 Caltagirone from Reading.

12 REPRESENTATIVE CALTAGIRONE: Thank you, Mr.
13 Chairman.

14 BY REPRESENTATIVE CALTAGIRONE:

15 Q So far this morning I have heard nothing
16 mentioned about the business of pornography. Your
17 experience with that industry and organized control,
18 organized crime control over that, what about pornography?
19 How big an industry is it? How bad a problem is it,
20 let's say, in New Jersey or Pennsylvania? What kind of
21 impact has organized crime had on the pornography business?

22 A That is a good question, sir. Organized crime,
23 we are now speaking of LCN have been involved in the
24 pornography business for years. They still are. They
25 basically control it throughout the country. It is very

1 profitable to them. I guess maybe one of the key areas,
2 child pornography, they seem to have shied away from that
3 in the last few years because law enforcement has put the
4 emphasis in that particular area. And while it is a problem,
5 I believe that law enforcement has looked at, say, narcotics
6 as much more of a problem and has focused more on that
7 area.

8 Q You had mentioned about strategic assessments,
9 and I was just curious, with the task force concept that
10 is utilized in New Jersey, what kind of budget are you
11 talking about, what kind of manpower and what kind of
12 convictions? I agree with you, arrests aren't the answer
13 but the convictions and kind of convictions against the
14 people at the upper level, the upper echelon. What has
15 been your experience in New Jersey, budget, manpower that
16 you assign to the task force at the state level and the
17 conviction rate?

18 A Well, when we started out in New Jersey in
19 1970, there was two lawyers that were assigned to the
20 Division of Criminal Justice. They had one clerical
21 and a couple of investigators and they basically worked
22 with the State Police. And then through the years they
23 have grown and now they have maybe four or 500 people
24 assigned to them. It is a big organization and the budget
25 is much more higher. It probably runs in the neighborhood

1 of about 30 million. But I can see that you can establish
2 a task force, I think, with a budget of about two million
3 dollars. I think that if you collect 40 or 50 people
4 with 20 investigators, good investigators, and maybe ten
5 attorneys and maybe ten accountants and some analysts
6 and some clerical people, I think you can do an exceptional
7 job with just a couple million dollars annually.

8 REPRESENTATIVE CALTAGIRONE: Thank you. Thank
9 you, Mr. Chairman.

10 CHAIRMAN DEWEESE: Any other questions from
11 members of the panel?

12 (No response.)

13 BY CHAIRMAN DEWEESE:

14 Q I just have one area of questioning. The
15 RICO investigators, what kind of special talents and
16 qualities do they have that other investigators do not have?

17 A Financial background, they have to have training
18 in knowing the elements of the RICO statute. They may
19 have to have some accounting background, because you are
20 basically looking into, particularly if you are talking
21 about civil, you are looking at financial assets and whatnot.
22 You want to be able to trace what they own, where they are
23 hiding their money, that type of thing.

24 Q How expensive are they, these agents vis-a-vis
25 other investigators, how much more; 5,000, 10,000? How

1 much are we paying?

2 A No more than the regular investigators you
3 would pay. I don't think you would pay them any more than
4 you would probably pay your State Police or your members
5 of your Pennsylvania Crime Commission investigators. It
6 is just that you would specialize. You would develop
7 specialists within this task force or within the State Police
8 or Pennsylvania Crime Commission. I look at them as
9 specialists. You train them and send them to school.

10 Q Real quickly and finally, I am not a country
11 boy. I don't necessarily represent that I am. But when
12 you hitch a team of mules ostensibly you are supposed to
13 hitch a strong one and a fast one together. Then
14 supposedly the results are best if that is the case.
15 Metaphorically speaking, is there any connection in your
16 mind between that kind of comparison I just made bringing
17 State Policemen and attorneys together and moving forward
18 in investigations? I think we might have you back here
19 someday if this thing evolves, because I can see a lot of
20 State Police personnel quizzical if not antagonistic about
21 this kind of procedure we are talking about developing.
22 I am thinking of it in a positive way. I am lucky because
23 I am the beneficiary of your point of view that after a
24 couple of years you came around. I mean, Nixon went to
25 China and Dintino decided the police and attorneys can work

1 together and we all believe they'll change their minds.
2 But do you think we are really going to have a tough, tough
3 problem convincing State Police personnel of the efficacy
4 of what you have shared with us today?

5 A I believe to be practical, using your description
6 of the mule team, I believe that maybe initially that
7 the mule team won't go anywhere. Maybe in the first few
8 months, six months there will be struggles between the
9 various groups but the core heads and the policy makers,
10 if it is presented right and they sell the program, it
11 will work. I mean, it has worked in other areas and I
12 am sure that members of the State Police right now are
13 aware of what is occurring in New Jersey. I don't know
14 that they have any problem with that. I am sure that
15 they would like to see the State of Pennsylvania be more
16 effective in their organized crime program.

17 Q They would realize kicking mules don't pull.

18 A Right.

19 CHAIRMAN DEWEESE: Thank you, sir. Any comments,
20 questions?

21 (No response.)

22 Thank you very much for your testimony.

23 MR. DINTINO: You're welcome.

24 (Complete prepared testimony of Justin J.
25 Dintino, was as follows:)

1 "Thank you, Mr. Chairman, for the opportunity
2 to testify before this joint Committee of the
3 Judiciary.

4 "My present position is the Chief of Organized
5 Crime and Intelligence with the New Jersey State
6 Commission of Investigation. Prior to that, I was
7 a member of the New Jersey State Police for 33 years
8 retiring as Deputy Superintendent. I served three
9 years on President Reagan's Commission on Organized
10 Crime. I am the immediate past General Chairman
11 of the Law Enforcement Intelligence Unit (LEIU),
12 having just completed six years as national chairman.
13 The LEIU is an international intelligence organization
14 created in 1956 dedicated to exchanging intelligence
15 concerning organized crime. For the past six years,
16 I have served as a member of the Policy Board of
17 the Middle Atlantic Great Lakes Organized Crime
18 Network (MAGLOCLN). MAGLOCLN is an eight-state
19 regional intelligence sharing system and is a part
20 of the nationwide RISS projects. During my 35
21 years in law enforcement I have had the pleasure to
22 work with the Pennsylvania State Police which I
23 consider an outstanding organization. Because of
24 my past experience of organized crime, I have some
25 knowledge about the state of organized crime in this

1 Commonwealth. I hope my remarks will assist this
2 Committee in legislative initiatives that will
3 enhance the state's response to the pervasive
4 threat of organized crime.

5 "Let me begin by stating that Pennsylvania has
6 many of the tools necessary to contain the spread
7 of organized crime. Electronic surveillance,
8 witness immunity, state grand juries, and a criminal
9 RICO law represent a progressive approach to combating
10 organized crime. But I must add, the technology
11 and environment have changed significantly from 1978
12 when these laws were passed. While serving on
13 President Reagan's Organized Crime Commission, it
14 became apparent that organized crime had taken on
15 a number of new dimensions, requiring law enforcement
16 to enhance its crime control measures. For example,
17 to believe that Las Cosa Nostra is the only form
18 of organized crime was a mistake. Other groups,
19 some more vicious, numerically stronger, reaping
20 more money, but far less known, are exploiting
21 various communities throughout the United States,
22 including Pennsylvania. The most dangerous criminal
23 organizations besides the LCN operating within the
24 Commonwealth include but are not limited to Jamaicans,
25 American blacks, Chinese, Vietnamese, Colombians,

1 cycle gangs and many other independent narcotic
2 networks. Most of the criminal groups operating
3 within your Commonwealth are involved in narcotic
4 trafficking their number one criminal activity and
5 by far their biggest money-maker. These groups
6 are exploiting our young, corrupting police and
7 public officials and killing competitors.

8 "Other criminal activities conducted by
9 organized crime are loansharking, illegal gambling,
10 prostitution, extortion, labor racketeering, white
11 collar crimes, arsons, chop shops, credit card
12 frauds and many others.

13 "While law enforcement authorities at all levels
14 federal, state, county and local have had some
15 outstanding successes against organized crime much
16 more needs to be accomplished.

17 "When states fail to do so, federal authorities
18 will step in sometimes much to the embarrassment
19 of state officials. There are a number of organized
20 crime initiatives that can be taken to bring a
21 state's organized crime control efforts into the
22 21st century. Let me address several of these
23 initiatives.

24 "First, I believe that it is imperative that the
25 state make organized crime control a top law

1 enforcement priority. Organized crime, when it is
2 permitted to operate with little or no law
3 enforcement intervention, ultimately destroys and
4 undermines the political, social, and economic
5 infrastructures of a community. By creating a
6 special task force, solely devoted to organized
7 crime control, a message is sent that the state takes
8 organized crime seriously. I believe this message
9 is most important in legitimating our institutions
10 of crime control.

11 "Secondly, we can no longer afford the division
12 of labor that allowed investigators the luxury of
13 investigating, with no insight into the prosecutorial
14 implications of its actions. If an organized crime
15 program is to be effective, the use of RICO and
16 forfeiture laws are essential. These laws strike
17 at the very essence of organized crime -- its
18 money-making capabilities. RICO and forfeiture
19 cases are most effectively developed and prosecuted
20 when prosecutors are teamed up with investigators.
21 This marriage, while at times a bit rocky, is
22 nonetheless an essential ingredient in an effective
23 organized crime control model.

24 "Third, intelligence, both tactical and
25 strategic, is the only responsible method of allocating

1 limited investigative resources. All too often,
2 the so-called "war against organized crime" is waged
3 by the seat of one's pants. Intuitions and personal
4 perceptions often replace a reasoned, systematic
5 analysis of the most compelling organized crime
6 problems. Not all illegal gambling is injurious
7 to the community; some is more injurious than others.
8 For example, a gambling syndicate which corrupts,
9 murders, or maims is far more worthy of law
10 enforcement's resources than say, an independent
11 entrepreneur who is capable of operating absent
12 these residual activities. Both are illegal, but
13 one is organized crime, while the other is criminal.
14 Without a sophisticated intelligence program, law
15 enforcement lacks the capacity to make such critical
16 distinctions. Gambling markets that may have been
17 heretofore unorganized, are now organized by the
18 reckless and/or ad hoc allocation of resources
19 toward the easier, but perhaps less injurious,
20 target. This is currently occurring in our narcotics
21 control efforts, which I might point out is not
22 synonymous with organized crime narcotics control.
23 While many independent narcotic operators are being
24 arrested; while there have been some impressive
25 seizures of cocaine; and while law enforcement has

1 increased its statistical output substantially,
2 narcotics networks of a sophisticated nature enjoy
3 their ill-gotten proceeds, immune from the scrutiny
4 of organized crime control units. Why? Because
5 narcotics control is believed to be synonymous with
6 organized crime narcotics control. They are
7 different and only through an intelligence program,
8 can law enforcement rationally allocate resources.

9 "We previously mentioned organized crime groups
10 operating within the Commonwealth. While they are
11 known to law enforcement authorities, only a small
12 number of their members have been identified, it
13 is impossible to develop strategies against these
14 groups with almost no intelligence data base.

15 "Fourth, legislative and executive bodies must
16 begin to exercise more oversight over the evaluation
17 of organized crime control programs. While
18 programmatic and sunset audits are conducted, the
19 auditors usually lack the knowledge to assess the
20 quality of the agency's organized crime control
21 program. You can not assess organized crime programs
22 relying on arrest statistics. This does not
23 accurately assess a state's organized crime program.
24 It is imperative that you examine the impact of the
25 arrests on the structure of the organization;

1 its ability to restructure and recoup lost territory;
2 and the effect it had on the assets of the
3 organization or those person(s) who comprise the
4 organization. This requires a far more sophisticated
5 analytical assessment than is normally applied.

6 "Lastly, and perhaps most importantly,
7 credibility is the essence of any long-term organized
8 crime program. The program must be perceived as
9 apolitical; the staff must be above political
10 changes in leadership. Career specialists, persons
11 knowledgeable in organized crime control methods
12 and techniques, must be nurtured and groomed so
13 that the program develops a life and stature.
14 Career training, nonpolitical appointments, and
15 specialization are essential to making the program
16 work. Absent this ingredient, the program will
17 flounder and will not be effective.

18 "Thank you. I am prepared to answer any
19 questions."

20 CHAIRMAN DEWEESE: The final witness for the
21 Joint Committee hearings today is Mr. Charles H. Rogovin,
22 Vice Chairman, Pennsylvania Crime Commission. I think
23 Charlie is going to talk about statutory changes to
24 effectively combat organized crime.

25 MR. ROGOVIN: Thank you, Mr. Chairman, members.

1 I appreciate the opportunity to be with you. I am sure
2 that your hunger pains are beginning if they have not
3 already begun and I will try not to be repetitive, but
4 I would like to emphasize certain areas in the course of
5 my comments. I request permission of the Chair to submit
6 for the record my prepared statement and rather than read
7 it to you, merely refer to it, Mr. Chairman.

8 CHAIRMAN DEWEESE: Certainly.

9 MR. ROGOVIN: Thank you, sir. Let me say
10 first that I, as a Pennsylvanian, very much appreciate
11 the willingness to collaborate with us in the Pennsylvania
12 Crime Commission and you in the Legislature of representa-
13 tives from the sister State of New Jersey as well as from
14 New York and from Arizona. There are people coming like
15 Mr. Belsole and Mr. Dintino, who come because of a concern
16 and an interest in our problems which are mutual problems
17 as Mr. Belsole and I think Mr. Dintino both suggested.

18 It is with some pride I say I am a Pennsylvanian
19 and n o t e t h a t I fled at an early age from the
20 State of New Jersey where I was born. But the conditions
21 there have changed so perhaps it would be not inappropriate
22 some day to return, but I have no intentions of doing that.

23 Now Mr. Chairman, with your permission, let
24 me address first a topic that I am extremely pleased, if
25 I may say so, without sounding patronizing to note you are

1 interested, you collectively. That is the proposed
2 integration of attorneys and investigators. I have more
3 than an academic familiarity with this. I come to an
4 academic position late at an old age to which I have
5 arrived and before that I was an activist in the organized
6 crime business for many years. I headed a section comprised
7 of State Police officers and attorneys in Massachusetts
8 for the former Attorney General of that state, Elliot
9 Richardson. In that capacity I was also Chief of its
10 Criminal Division. So I have more than a bookish
11 familiarity with the benefits. I agree with Colonel
12 Dintino who says there may be some resistance to an effort
13 to integrate, but I think it can be overcome amongst people
14 of good will.

15 Let me turn to what I think would represent
16 a significant and positive enhancement of the legislation
17 that this body has given to law enforcement previously but
18 which is in serious need of change and amendment. Let me
19 address first the RICO statute. RICO is probably the most
20 dramatic and important substantive criminal innovation in
21 the last 50 years. It is an extension beyond conspiracy
22 which is familiar as a concept or an operating mode,
23 depending upon your background, to many if not all of
24 you. RICO is an extremely complicated statute. I won't
25 even try to get into its nuances today because the materials

1 that we are providing to you have very specific draft
2 proposals and an outline of what the impacts of the proposed
3 changes will be. But I do want to invite your attention
4 most respectfully to the needs and why we are asking the
5 Legislature to consider these amendments.

6 Let me turn to in-rem forfeiture. Pennsylvania,
7 like a lot of jurisdictions, has very limited forfeiture
8 authority. That is described in my statement to you and
9 it applies, for example, to contraband of specific
10 character; smuggled liquor, untaxed cigarettes, gambling
11 paraphernalia, an instrumentality used in a particular crime.
12 But we have no ability, when I say we I mean law enforcement,
13 has no ability to reach materials used in criminal activity
14 in the broadest sense or which is the product of criminal
15 activity directly or derivatively. Illustratively, we
16 cannot reach the proceeds of narcotics trafficking when
17 it is turned into property interests. General in-rem
18 forfeiture provision would be extremely valuable and I
19 think critical in Pennsylvania. The complexity of organized
20 criminal transactions is such that unless we have not
21 only the capability to track the results but to seize
22 and deprive organized crime groups of the essential
23 wherewithal by which additional profits are made, the
24 effort becomes somewhat minimal at best. Again, I share
25 with Colonel Dintino the view that prosecution is critically

1 important but it is far from the only remedy in this
2 very complicated field.

3 We need civil remedial authority in the RICO
4 arena. That again is spelled out in my statement to you.
5 I won't belabor it, but therefore those of you who have
6 been civil practitioners, a very, very important distinction
7 between criminal RICO provisions and the civil provisions.
8 In the civil side, as you are well aware, the standard
9 of proof is not the criminal standard which is proof
10 beyond a reasonable doubt but essentially a preponderance
11 of evidence. A very significant difference in the
12 proceeding in the civil area.

13 If I may anticipate a concern that perhaps
14 some or perhaps all of you have, let me quickly turn to
15 private civil RICO actions. We do not propose and do not
16 suggest currently to you in the Legislature that you provide
17 for private civil RICO actions. There is too much
18 dispute, and the law, in our view, is currently too
19 unsettled to make that proposal to you at this time.
20 It is a bone of major contention in the Congress now,
21 but we do ask that you empower the Attorney General and
22 the district attorneys and the new entity which has been
23 described to you with authority to pursue civil RICO
24 remedies. A couple of other things that were touched on
25 in some of the questions I cannot neglect, if I may, again

1 let me presume here. In 1986, the Federal Electronic
2 Surveillance Statute was amended. It recognizes the
3 advances in the technology, and Lord knows I profess no
4 expertise in this area. But there are micro relay systems,
5 satellite transmissions. There is a broad range of
6 electronic activity which does not, did not fall under the
7 traditional notions of wiretapping or bugging. There is
8 a distinction there between intercepting and telephonic
9 communication or picking up a conversation in a defined
10 area.

11 Federal legislation requires that states which
12 have authorized electronic surveillance, as you did in '78,
13 be in accord with the federal law. We may, as Pennsylvania
14 has chosen to do, provide greater protections. But I urge
15 you to consider conforming our statute to permit law
16 enforcement to respond to the technological advances
17 advantage of which the other side is now taking. That is
18 a poorly constructed statute, but what I am saying is
19 the bad guys get the advantage of the electronic
20 surveillance, electronic advances, and we don't. I would
21 hope we'll be prepared to address that.

22 Colonel Dintino made what I thought was an
23 exceptionally cogent statement. Mr. Belsole echoed it
24 as I think did Chairman Reilly about the necessity and
25 the critical importance of carrying out intelligence

1 activity with regard to organized crime in the Commonwealth.
2 In its absence we are nothing but a reactive series of
3 enterprises and will never be pro-active. In that
4 connection, the computer today is utilized across a broad
5 range of fronts for a nearly infinite set of activities.
6 At a time when there were serious concerns in the minds
7 of many in the Legislature of Pennsylvania, some of whom
8 may still be on this Committee today, I don't know, and
9 some of whom may still be serving and some who may be
10 new with similar concerns. There was an unwillingness to
11 permit the computer with its capability to manipulate
12 and store data to operate for the benefit of law enforcement
13 or to be operated for the benefit of law enforcement.
14 I believe we are long past. the time where we should be
15 denying to law enforcement agencies the opportunity to
16 use the technology that exists. It has been demonstrated,
17 for example, time^{and} again in the serial murder investigations,
18 in the serial rape cases. That the ability to input data,
19 some of which is relevant and some of which isn't, massage
20 that data and pull out that which focuses and produces
21 leads. It is essential in the solution of some of those
22 cases. So too, if you want your law enforcement agencies
23 to be able to generate strategies, the representative
24 raised a question indirectly about strategies, it is
25 essential that you be able to manipulate intelligence data.

1 I say this to you as sincerely as I know how. The best
2 model I can give you is the State of New Jersey. New
3 Jersey, when it said about sophisticating its own
4 capability to deal with organized crime, recognized the
5 essential importance of a sophisticated intelligence
6 program. It developed a collection manual in which it
7 articulated what kinds of information it proposed to collect
8 in the organized crime field and how it would do so. And
9 then interestingly enough gave it to the New Jersey Civil
10 Liberties Union and said, here, there is no secret about
11 what we are proposing to do or how we are going to go about
12 it. We give it to you to review. If you have objections,
13 tell us. Essentially the ACLU of New Jersey said, we
14 don't like the idea, but what you are proposing to do is
15 rational, restrained and important. They, by the way,
16 did the same thing with the collection of terrorists
17 intelligence information.

18 There is no reason why law enforcement will not
19 and cannot do that in Pennsylvania. If the concern is
20 as to the collection of inappropriate information, the
21 oversight authority of this body and your oversight group,
22 I think it is called the legislative budget and audit,
23 your GAO would have the right to determine that the agencies
24 are operating in accordance with the statutes you articulate.
25 But to deny law enforcement the opportunity to use that

1 technology makes no sense in an era where you are obviously
2 concerned about a serious problem.

3 I strongly support the proposal to you for
4 the creation in this Commonwealth of an organized crime
5 institute. It sounds a bit academic and fuzzy. I hope
6 I don't sound academic and fuzzy. Rather, I would put to
7 you that we in Pennsylvania would be able to focus resources
8 in a way that nobody else is currently doing. We could charter
9 studies that will meet the questions that you are asking, for
10 example, about measures of effectiveness. You have heard
11 your witnesses that were prior to me today talk about the
12 absolute, inappropriateness of arrest statistics as
13 measures of effectiveness.

14 Let me tell you something very quickly with
15 your permission, Mr. Chairman, and I will stop. Work was
16 chartered five years ago on alternative measures of
17 effectiveness for the work of organized crime control units.
18 The jurisdiction for which or in which the work was done
19 was not Pennsylvania, not New York, not the Federal
20 Government. It was New Jersey. Because New Jersey five
21 years ago had the data base, it had the computer capability,
22 it had the sophistication in its law enforcement agencies
23 to be responsive. The work that was produced raised the
24 following kinds of questions, and this is the illustration,
25 Mr. Chairman. If you have pursued an investigation in a

1 labor racketeering context where the claim is that the
2 health and welfare funds of a union have been raped or
3 raided and that the working persons, men and women in that
4 union, have not gotten what they deserve, the measure of
5 true effectiveness of the anti-organized crime effort is
6 not how many racket people did you arrest and prosecute,
7 the true measure is to what degree have the benefits to
8 which working men and women been entitled of which they
9 have been deprived been restored. That is the measure of
10 effectiveness. It was that kind of thing that was proposed.

11 Unfortunately, the United States Department of
12 Justice chose not to fund the second phase of that study
13 which would have been the test of the proposed measures,
14 despite the willingness of New Jersey, to make its data
15 base available and despite the willingness of the researchers
16 to go forward. Pennsylvania would have, Mr. Blaum, I
17 think I address you correctly, would have, and all of you,
18 the opportunity if you create such an institute to carry
19 out work of that kind. Thank you, Mr. Chairman. Those are
20 the areas that I feel very strongly are major matters of
21 concern.

22 BY CHAIRMAN GREENLEAF:

23 Q Thank you. I have just one question. Do you
24 have any information, I know we have heard about other
25 states, how about other nations? Have you ever or anyone

1 in the Crime Commission looked into other nations, and
2 obviously, they have different legal structures than we
3 do, but they obviously have organized crime activities as
4 described here today. Is there anything that we can --

5 A I have personally been in England. Executive
6 Director Martens, who was here, may be even more capable
7 of response to your question, but within my own experience,
8 I have talked with the British authorities over time.
9 Unfortunately, for a variety of reasons, their attention
10 is not so much on organized crime as other kinds of
11 organized activity. But I am aware of the increased
12 sophistication in the British police in addressing problems
13 such as intelligence programming. I have talked on a very
14 limited basis with some of the Italian authorities, whose
15 problem is, in the Italian sense, the Mafia or La Mafia.
16 And I am aware to some degree of the efforts they make.

17 What I think is very important, Senator, I
18 know you have a concern in this area, we operate in the
19 United States under a system which very carefully safeguards
20 individual rights and liberties. There are very significant,
21 I am not suggesting the British aren't concerned or the
22 Italians. I am pointing out, however, that we have an
23 extreme concern, and I think appropriately so, for the
24 preservation and protection enhancement of those rights.
25 Foreign systems operate often to a lesser degree with that

1 concern. And I think that that makes the comparison
2 somewhat difficult. But on a specific basis, there are
3 a number of jurisdictions that might be of interest to you.

4 Very quickly, let me share two. In Canada,
5 the RCMP operates a highly sophisticated anti-organized
6 crime program in concert with provincial law enforcement
7 in the provinces of Quebec and Ontario as well as British
8 Columbia. They are persons from whom you might hear or
9 conceivably want to pursue specifics.

10 Second, the government of Hong Kong has had
11 for many years what is called the Independent Commission
12 Against Corruption and it does some very sophisticated
13 anti-corruption work, which again, might be of interest to
14 you.

15 Q Also, this idea that you have in regard to
16 Penn State, I know I heard that you have made some inquiries
17 there in regard to a sentencing commission. What specifically
18 is your idea as far as structuring that at the college?

19 A Well, I think at this stage, what would be
20 very early in its development if the Legislature feels
21 it is appropriate to initiate is to have them, because
22 this is their proposal with us, to create an institute.
23 It would be too small an entity at this stage. An
24 institute essentially represents a focus of talents that
25 would be available both in the university and that the

1 university could draw into itself for work that would be
2 relevant in this area. It might be a director and a small
3 staff and as funding becomes available, consultant resources,
4 I don't mean outside people necessarily, but people from
5 the university as well as outside could be brought together.
6 What it could do, for example, in very specific terms.

7 It could design the training curriculum for personnel who
8 might be assigned to work in this arena. Colonel Dintino
9 responded to your colleague, Chairman DeWeese, that there
10 are specific kinds of training necessary for people to work
11 in this field. That institute could deliver some of that.
12 That institute could launch certain studies and analyses
13 about problems of anti-demand strategies in Pennsylvania
14 in the narcotics field. That is the kind of thing that is
15 envisioned.

16 BY CHAIRMAN DEWEESE:

17 Q Just one quick interjection, could you finance
18 it possibly with increased forfeiture very well?

19 A We would certainly hope, Mr. Chairman, Mr.
20 Co-Chairman I guess it is or Mr. DeWeese, that out of
21 an organized crime trust fund, which has been proposed
22 to be generated from 15 percent of the forfeiture proceeds,
23 it could be funded through that 15 percent funding.

24 BY CHAIRMAN GREENLEAF:

25 Q I guess when I first heard of this proposal,

1 I thought what additional activities this college could do
2 or perform that the Crime Commission isn't performing. One
3 of the reservations I have about it is the fact that we
4 do have a Crime Commission. Obviously, the Crime Commission
5 isn't set up to set up a curriculum for the training of
6 law enforcement agents. Is there enough of a distinction
7 between the functions of this proposed college and the
8 Crime Commission to warrant the creation of another agency?

9 A I think, well I think that the point would be
10 not so much another agency, Senator. I think what you
11 would be chartering would be an activity within the
12 confines of an existing university.

13 But let me respond to the thrust of your
14 question. There are things that I don't think the Crime
15 Commission is in a position to do. I think the kinds of
16 strategic studies that we may be able to do out of an
17 intelligence base once it has been firmly established
18 even the tactical studies, we can do. But we are not
19 in a position to attract researchers of an academic bent
20 to an operating agency. Those people operate more
21 comfortably in an academic setting. They are already
22 there at Penn State. You and I, I am sure, share the
23 view it is an exceptionally fine institution with some
24 very good people. They would be comfortable working on
25 a problem in their home environment, but they are not likely

1 to be willing to go away for significant periods of time
2 into an operating agency. They want their base in academe
3 and that is where I think this would be appropriately placed.

4 CHAIRMAN GREENLEAF: I understand Representative
5 Heckler has a question.

6 REPRESENTATIVE HECKLER: Thank you, Mr. Chairman.

7 BY REPRESENTATIVE HECKLER:

8 Q I would like to make one observation first,
9 Professor. I thoroughly agree with your comments about
10 the Criminal History Record Information Act. That Act,
11 having wrestled with it and trying to explain, and trying
12 to, I tried to explain it to the district attorneys and
13 having concluded that it is largely inexplicable, it
14 seriously needs reworking and reworking specifically in
15 the areas that you have described concerning easing some
16 of the restrictions for storage of data in computers
17 and establishing systems for its retrieval.

18 I do have something of the feeling that we
19 are using the existence, the undenied existence, of
20 organized crime as a rationale for establishing yet more
21 bureaucracy than already exists. And I will confess,
22 as a prosecutor, always having had some severe doubts about
23 the efficacy of the Crime Commission and having had a
24 fundamental belief that investigators lost all usefulness
25 when they were divorced from the prosecutorial function and

1 that is what I have always seen the Crime Commission to be.
2 A bunch of investigators running around without prosecutors
3 to supervise them, and frankly, my tongue has been stayed
4 for some time out of deference to my view of the
5 professionalism and caliber of you and the chairman and
6 counsel to the Commission.

7 I think we spend more than a million dollars a
8 year on the Crime Commission and I do have some serious
9 concerns. I assume that this task force, which represents
10 an excellent idea, I mean, I become frustrated because
11 all of the concepts we have heard today are excellent.
12 Investigators have to work with prosecutors. Prosecutors
13 have to work with investigators to make good cases even
14 in difficult-to-solve street crimes. Let alone the kinds
15 of complex crimes that organized crime represents.

16 I assume that you would not propose that this
17 task force, which is one of the proposals we heard today,
18 would be staffed in any measure by the Crime Commission?

19 A That is correct. We do not propose that, sir.

20 Q Well that is one I would want to see some
21 justification.

22 A If I may, with the permission of the Co-Chair,
23 briefly, Representative. I share your view about
24 bureaucracy. Having been a prosecutor, I was Chief
25 Assistant DA in Philadelphia. I understand exactly where,

1 if I may use the term, you are coming from. But I think
2 that the backdrop in terms of Pennsylvania's history cannot
3 be overlooked. We have never had the remotest kind of
4 coordination on an institutional basis in this state. We
5 have had ad hoc relationships and those have been fine.
6 You know it and I know it. But never an institutional
7 set of relationships that have continued over time.

8 Your criticism of the Crime Commission is not
9 necessarily misplaced and I am not patronizing you. I
10 think, and I can only speak for the time that I have been
11 on the Commission. As I came on, as I have talked with
12 others, there was a kind of ambiguity or ambivalence about
13 what was it. Was it a case-making enterprise where it
14 would gather evidence of a particular matter and turn it
15 over to a prosecutor or was it something other?

16 Well, let me deal with what this Commission,
17 I think I speak for my brethren on here, and Mike Reilly
18 is here and I think Mr. Edwards is here. We see the need
19 in Pennsylvania for an entity which will carry out the
20 intelligence process for the benefit of law enforcement
21 to the extent that it commits and that you commit resources
22 in the organized crime field. We have never had it. We
23 talk about it. You heard Dintino mention strategic and
24 tactical studies and I know you are all familiar with it
25 because I was present when you enacted, I'm sorry, Senator,

1 on the other side, on the House side, a measure dealing
2 directly with the intelligence process which was passed
3 by the House and I am sure will come before your Committee
4 in the Senate. So I know you are familiar with the concepts.

5 The Crime Commission as we see its responsible
6 function is an intelligence activity and through it a
7 coordinated, a discharge of coordinated responsibilities.
8 The entity that we are describing to you, which you will
9 hear in greater detail about from Goldstock in New York,
10 which we think is probably the best model, is a means
11 by which Pennsylvania can get a focus of its resources
12 for work in this field. An integrated group of investigators
13 and prosecutors that supports that. I hope I have made
14 the distinction clear. If I haven't, please, if I haven't,
15 I would be glad to try again.

16 Q Thank you. You have. My respect for you
17 gentlemen as individuals remains unabated. It may be
18 that by simply bringing such an entity into existence,
19 you will have justified the money that we spend on the
20 Crime Commission to do a lot of things that I am still
21 very dubious about.

22 I would pose one other comment to which you
23 may want to respond, and this relates to your proposal
24 concerning the institute. That rang a bell with me
25 immediately because one of my last functions with the

1 district attorneys was to labor, with very little funds,
2 to bring about a district attorneys' institute which
3 we succeeded in doing initially without governmental money,
4 with \$100,000 grant money from one of the Mellon Foundations.
5 Now that institute does receive less than \$100,000 a year
6 and with that money succeeds in training all the new
7 prosecutors who enter service in the state each year.
8 Again, and that I had thought in your prepared testimony
9 was essentially the function that was being outlined.
10 Training prosecutors in place in the more sophisticated
11 techniques of fighting organized crime, civil RICO and
12 other techniques. And I think that is needed and excellent.
13 I would hope that when we get to the budgetary approach
14 to this, that the same kind of restraint in the use of
15 people who are in place, borrowing prosecutors from other
16 states and other agencies with minimal cost would be the
17 focus rather than establishing an ivy-covered building up
18 at Penn State and a bureaucracy to go with it.

19 A Let me assure you, Representative, the last
20 thing I would want to see happen would be the construction
21 of another building to be subject to the growth of ivy.
22 I want to see functioning intellects and there is more
23 than enough room in our state institutions. I don't mean
24 the funny farms. I mean the academic institutions to house
25 them. I want bodies not buildings.

1 REPRESENTATIVE HECKLER: Great. Thank you very
2 much.

3 CHAIRMAN GREENLEAF: Representative Josephs.
4 BY REPRESENTATIVE JOSEPHS:

5 Q Thank you, Mr. Rogovin, for your testimony.
6 I'm just wondering, you outlined a whole number of statutes
7 that you are going to be working enthusiastically for
8 in both these chambers and before the Governor, whether
9 you would be as enthusiastic in lobbying for enhanced
10 rehabilitation programs for drug users and so on?

11 A Without question, Representative Josephs,
12 not only do I not stand as some sort of an opponent of
13 those kinds of proposals, I think they make eminently
14 good sense illustratively. If you are going to do anything
15 about the demand for narcotics, rehabilitation of former
16 addicts is one of the areas, obviously, that needs relief
17 and assistance. So that you find no opposition to that
18 kind of strategic approach from this witness. That is
19 for sure.

20 Q I did not expect to find opposition. I guess
21 what I asked was for real action and what I have been
22 thinking while I was sitting here was putting you in
23 contact with a woman who lobbies for those programs very often
24 very unsuccessfully in terms of getting the kinds of
25 budget she needs for her agencies.

1 A I would have no reluctance in talking with
2 anybody on any project where I thought I could be of some
3 help.

4 REPRESENTATIVE JOSEPHS: Thank you.

5 CHAIRMAN GREENLEAF: Senator Lemmond.

6 BY SENATOR LEMMOND:

7 Q Counselor, in your written testimony you
8 indicated the single most important criminal statute is
9 the RICO Act in the federal field and that we have
10 emulated that to some degree here in Pennsylvania without
11 the civil and criminal forfeiture sanctions. Do I understand
12 that what you are saying is there will be no recommendation
13 on civil RICO, but there will be recommendations on the
14 forfeiture provisions of our criminal act?

15 A Oh, no, sir.

16 Q Tell me what --

17 A I'm sorry, if I confused you, I apologize.
18 I may have been speaking too rapidly. No, what I was
19 saying is we have and I urge upon you proposals for
20 both criminal and civil forfeiture. But we are not asking
21 that civil action authority on behalf of private parties,
22 which is in the federal legislation, be included. We are
23 not asking the Legislature --

24 Q Your banking cases.

25 A That is correct. That is precisely right.

1 Q But the civil and criminal forfeiture provisions
2 we will see.

3 A Yes, sir. They are in the package that we
4 are making available.

5 CHAIRMAN GREENLEAF: Representative Blaum.

6 BY REPRESENTATIVE BLAUM:

7 Q You mentioned in your testimony that advances
8 in electronic technology have outdistanced our current
9 laws as far as surveillance goes. I was wondering if you
10 could share with our Joint Committee some examples of
11 how that is true and what in the legislation, I guess,
12 you submitted to our Committees and what we might do.
13 What kind of technology and what do you suggest we put
14 into laws to counteract that and beat it?

15 A If I may, with all due respect, Representative,
16 bear with me. If I can find a tab and then make my way
17 through some of the technical aspects. Let me answer the
18 first part of your question though because I can do that.
19 I don't know anything about the technology in the mechanical
20 or electronic sense. I can tell you about micro relays.
21 You can see those huge towers on, I think it is the
22 telephone company building. They relay electronic signals
23 across which information flows. Our statute does not
24 permit, I am not trying to reach into the telephone company,
25 but that kind of technology is not currently reachable

1 under our statute. It is under the amended federal
2 statute.

3 Q Satellite.

4 A That is exactly right, satellite transmissions,
5 that kind of thing. We can't reach that. All we are
6 really asking our Legislature to do is to conform our
7 statute with the federal statute which has met the newest
8 of the technology.

9 Q And we do have the technology to intercept
10 those transmissions?

11 A Yes, sir. So I am told by the electronic
12 experts. That the technology for interception is available.
13 We are not allowed to use it which is the key thing.

14 Q And we don't have it in our laws?

15 A That is correct.

16 CHAIRMAN GREENLEAF: Representative Wogan.

17 BY REPRESENTATIVE WOGAN:

18 Q Professor Rogovin, in Philadelphia, we have
19 seen the use of some aspects of the federal RICO statute
20 in the abortion area. Do you have an opinion on the use
21 of the proposal that you have or the present state RICO
22 statute in that area?

23 A Well, (a), Representative, I don't have any
24 opinion about a particular case because I am not familiar
25 with the contents of it.

1 Q You are familiar with the use?

2 A Oh, yes, sure. I am aware, and I can state
3 to you unequivocally, that nothing that the Crime Commission
4 is proposing to you collectively makes any change in the
5 availability of the RICO statute as it currently stands
6 in Pennsylvania. We don't urge any extension of authority
7 under it. We are not urging any substantive change as
8 far as I am aware with perhaps one exception. I'm sorry,
9 I apologize to you. One change would be that a violation
10 of the RICO statute itself becomes a predicate for a
11 RICO prosecution later on. But in terms of your concerns,
12 I think I state this accurately and I will make it a point
13 to check so that if I am in error, I will so inform you
14 and your colleagues. We make no substantive expansion
15 along the lines that would extend authority beyond where
16 it is.

17 Q Nor is there any narrowing.

18 A No. That is correct, sir. And I think I have
19 stated that correctly. Counsel, am I correct in that?

20 UNIDENTIFIED SPEAKER: The abortion case you
21 are referring to, sir, was a federal private right of action
22 and currently in Pennsylvania the RICO law does not permit
23 a private right of action and the Commission does not
24 envision nor is it proposing any private right of action
25 like the state RICO. That would not be possible under

1 Pennsylvania RICO law presently or under the Crime Commission
2 proposal.

3 CHAIRMAN GREENLEAF: Representative McHale.

4 MR. ROGOVIN: Oh, one thing, if I may, Mr.
5 Chairman, Senator, in response to Representative Wogan's
6 question. The one important procedural authority that we
7 are proposing to you is that the district attorneys will
8 have, as government officials, civil RICO authority. I
9 just want to be sure that I am not misstating it.

10 CHAIRMAN GREENLEAF: The next question is from
11 Representative McHale.

12 BY REPRESENTATIVE McHALE:

13 Q Mr. Rogovin, a few minutes ago you made
14 reference to the intelligence function of the Commission
15 and specifically that function as reflected in House Bill
16 1684, Representative John Broujos' bill. I voted for
17 that bill when it was up for consideration and I think
18 I understand the intent of the bill as Representative
19 Broujos privately explained it to me. I have some concerns
20 about drafting a specific language in that bill. So I
21 guess my question has two parts. The first is a suggestion
22 to you, and actually I am making a suggestion as well
23 simultaneously to the Senate, that the language has a
24 problem in that it currently reads, "In accomplishing
25 the above duties to perform the function of intelligence

1 including collection, evaluation, analysis and dissemination
2 essential to the effective operation of the Commission."

3 My concern is, and I think this is inadvertent
4 draftsmanship, it doesn't say collection, evaluation,
5 analysis and dissemination of what. Those words convey
6 the necessity, I think, of an objective. We have to spell
7 out, I think, in the statutory language what we are
8 collecting, evaluating and disseminating. I think it is
9 implicit in the language and I am concerned that the
10 mandate without some further description is open-ended.

11 A I would agree with you, Representative. I
12 think even if you inserted the word information.

13 Q Yes.

14 A Or product, yes, you are right. It is implied,
15 but I think it could be improved.

16 Q Again, I think that mandated, if not proposed,
17 through a little bit more careful writing in the Senate
18 could conceivably result in a problem, a Fourth Amendment
19 problem, for the Commission somewhere down the line. Now,
20 I think the Senate could do a little bit better job of
21 draftsmanship than perhaps we did.

22 With that in mind, would you explain to us
23 what it is you do have in mind with that particular section?
24 What would you like to collect, evaluate, analyze and
25 disseminate? And as Representative Broujos explained,

1 the intent of this section to the Committee, he said that
2 essentially in his view, this didn't broaden the mandates
3 of the Commission. Simply clarified more specific language,
4 but not specific enough. A function that already belonged
5 to the Commission. If you could comment on that and
6 then perhaps your suggestions might be ultimately reflected
7 in some draftsmanship performed in the Senate.

8 A Certainly, sir. First, I share the
9 Representative's concern. And while we were not the
10 drafters of the bill, we certainly supported Representative
11 Broujos' presentation which you all adopted. I think an
12 amendment would be appropriate in that regard.

13 Let me deal with the larger question you asked.
14 What is it that is contemplated. Let me use, if I may,
15 Representative McHale, the problem of narcotics in
16 Pennsylvania. When we talk about narcotics, as you, of
17 course, are well aware, we are talking about a collection
18 of different things. We are talking about heroin. We
19 are talking about cocaine. We are talking about
20 methamphetamine. To many, narcotics means marijuana.
21 We are talking about the synthetics such as delautin.
22 We are talking about amphetamines and I could go on. We
23 lumped that all together as narcotics. As the Representative
24 to your right raised earlier with Colonel Dintino.

25 What I would see the Commission doing in terms

1 of launching, for example, studies, analyses and
2 intelligence effort in the narcotics field would be first
3 what is prerequisite, a defined and directed collection
4 effort to what narcotic products we are talking about.
5 If we want to talk about heroin in Pennsylvania, that
6 probably is, I say probably, a very different problem
7 than the problem of cocaine. We want to know where is
8 heroin being used, what kind of heroin is it, how is it
9 getting into Pennsylvania, because there is no indigenous
10 heroin in the United States, who is responsible, how are
11 the responsible persons organized, where are they
12 trafficking, what kinds of prices are being charged and
13 why and who the users are. Picking up Representative
14 Josephs' question. And that could constitute one of the
15 kinds of studies that those four words imply; collection,
16 evaluation, analysis and ultimately dissemination. That
17 is the kind of strategic study that provides the leads
18 for law enforcement to begin to focus its inevitably limited
19 resources. Do you want, for example, to focus on heroin
20 trafficking? If you could only work in one area, heroin
21 or cocaine. You would be able to make an assessment as
22 to why. If this body appropriates money for working
23 narcotics on the basis of such studies, its accompanying
24 reports could very well say, and we request and direct
25 the enforcement agencies utilizing these funds to focus in

1 Area A, B, C or D.

2 Currently, we cannot do that. That is the kind
3 of study that we are talking about and that you contemplated,
4 I think you contemplated, when you voted in favor of that
5 measure.

6 REPRESENTATIVE McHALE: Let me just say, that
7 within constitutional limitations, and specifically the
8 Fourth Amendment, I would encourage very vigorously pursue
9 that intelligence function once it is specifically authorized
10 by statute. I think it is a good idea. And my only closing
11 comment would be, I would hope that in the Senate, that
12 better language could be found to describe with greater
13 particularity what it is you have in mind. I think your
14 intent is laudible. I think we will have the legislation
15 enacted and you will be able to vigorously pursue those
16 kinds of investigations. I would encourage that but to
17 avoid what might be a constitutional invalidity of the
18 statute on its face, I think a little bit tighter language
19 has to be found in the other body to correct, perhaps,
20 an error made over here. Thank you, Mr. Chairman.

21 (Complete prepared testimony of Charles H.
22 Rogovin, was as follows:)

23 "I would like to thank you for this opportunity
24 to appear before this Joint Committee. As you are
25 aware, the ability of a state to combat organized

1 crime is dependent in part, on the authority that the
2 Legislature provides to its law enforcement officials.
3 Here in Pennsylvania, we were fortunate in 1978 to
4 have had Joe Rhoades and Anthony Sirica, as well as
5 the present Chairman of the Crime Commission, Michael
6 Reilly, to put together a high quality organized
7 crime control package that in part drew upon legisla-
8 tion from other jurisdictions. That package was
9 subsequently passed by the Legislature, and for the
10 first time in Pennsylvania's history, organized crime
11 faced a real threat from law enforcement. Electronic
12 surveillance, witness immunity, state grand juries,
13 and criminal RICO, all represented progress in
14 providing essential legal tools to law enforcement
15 as it seeks to identify and prosecute this most
16 invidious form of criminality. Today, almost a
17 decade later, we are looking to the Legislature
18 once again, to enhance our existing statutory program
19 and bring Pennsylvania to a state-of-the-art level.
20 Let me address what enhancements could be made to
21 ensure that Pennsylvania does not regress in its
22 efforts against organized crime.

23 "General In-Rem Forfeiture

24 "A statutory framework necessary to contain
25 organized crime is generally in existence in Pennsyl-

1 vania. Amendments to some of these statutes will
2 enhance Pennsylvania's organized crime control
3 agencies' effectiveness. Additionally, new statutes
4 such as a general in-rem forfeiture statute, that are
5 coordinated with these amendments, will provide
6 anti-organized crime control agencies with the tools
7 necessary to develop sophisticated, complex legal
8 actions that may result in a seizure of assets --
9 thereby undermining the ultimate power which organized
10 criminal networks derive from their illicit
11 activities.

12 "Currently, Pennsylvania does not have a general
13 in-rem forfeiture statute. Our law only allows
14 forfeitures in specific statutory areas, i.e., the
15 Controlled Substance Drug Device and Cosmetic Act,
16 gambling, untaxed cigarettes and liquor.

17 "A uniform mechanism for addressing general
18 criminal forfeitures is required in order that law
19 enforcement can successfully attack criminal
20 organizations. Although sanctions such as incarceration
21 aid in the control of organized crime, the
22 taking of property used in criminal activity and/or
23 the proceeds derived from criminal activity is an
24 equally if not more effective deterrent. Removal
25 of an individual from a criminal organization usually

1 has little long-term detrimental effect on that
2 organization. However, the seizure of property used
3 by that organization and the taking of proceeds
4 gained through criminal activity strikes at the core
5 of organized crime -- its money-making capacity.
6 Such a legal remedy removes the assets and the
7 organization's financial infrastructure required
8 to continue the criminal enterprise. For example,
9 the corrupt chief executive officer of a major
10 corporation operating in an illegal manner may be
11 indicted, tried, convicted and sentenced to
12 imprisonment. The chief executive officer would be
13 rapidly replaced and corporate profits continue or
14 even increase. However, if the corporation as well
15 as the chief executive officer were indicted, tried,
16 and convicted and the corporation's property, assets
17 and infrastructure derived from or utilized in
18 illegal activities were forfeited, the likelihood
19 of continued or future criminality by that
20 corporation would diminish greatly. Essentially,
21 this is what an in-rem forfeiture statute could do
22 to a criminal organization.

23 "A general, in-rem, forfeiture statute would
24 also allow prosecutors to use civil remedies to
25 attack a criminal organization's structure. The

1 advantages to the Commonwealth include the avail-
2 ability of the burden of proof commonly used in
3 civil trials -- a preponderance of the evidence --
4 as opposed to proof beyond a reasonable doubt, the
5 standard required for criminal proceedings; and
6 access to additional resources, i.e., use of the
7 forfeited property or the revenue derived therefrom.

8 "This type of statute would also allow the
9 Commonwealth to pursue a civil forfeiture action
10 even if a criminal action was unsuccessful or never
11 initiated. It is critical, of course, that the act
12 protect the rights of bona fide owners, lessors, or
13 persons holding security interests in the property
14 subject to forfeiture.

15 "RICO Statutes: Civil and Criminal Forfeitures

16 "Currently, the single most important substantive,
17 criminal statute in the organized crime field is the
18 RICO Act. It was first enacted by Congress as the
19 Racketeer Influenced Corrupt Organizations provisions
20 of Title IX of the Federal Organized Crime Control
21 Act of 1970. Pennsylvania subsequently enacted a
22 form of that federal act, paralleling its criminal
23 prohibitions and sanctions. Pennsylvania, however,
24 did not provide for either criminal or civil
25 forfeiture. It is these provisions which are

1 essential for more effective anti-organized crime
2 activity in the Commonwealth.

3 "RICO statutes focus on the systemic relationship
4 of criminal enterprises to economic institutions.
5 While eliminating individuals from an organization
6 is marginally effective, dismantling the entire
7 structure of a criminal organization is the most
8 effective approach to organized crime control.

9 "Convictions resulting in prison terms without
10 forfeitures are only a partial remedy. Forfeiture,
11 whether under criminal or civil provisions is a vital
12 tool. Criminal forfeiture, under RICO, would be
13 based on a finding that the enterprise had been
14 involved in criminal acts. Criminal forfeiture
15 allows the prosecutor to seize and retain property
16 previously utilized by a criminal organization.

17 "Possibly even more effective than criminal
18 RICO are civil RICO statutes. A civil RICO suit
19 may be used in conjunction with a successful criminal
20 prosecution that has resulted in convictions, prison
21 sentences and forfeitures, or can be a viable and
22 even more effective alternative to criminal
23 prosecution.

24 "In any civil case, as opposed to criminal
25 actions, the burden of proof is substantially less,

1 i.e., the preponderance of the evidence versus
2 proof beyond a reasonable doubt. In civil actions
3 there is no constitutional protection for a defendant
4 who fails or refuses to testify. In fact, with a
5 defendant who refuses to testify in a civil case,
6 the jury is permitted to draw an inference that such
7 testimony might have been to the disadvantage of
8 the defendant. Another advantage of a civil action
9 is the broader scope of discovery. Generally, in
10 criminal actions, the rules of discovery favor the
11 defendant. In civil actions, rules of discovery
12 apply equally to the defendant and the plaintiff
13 (the Commonwealth) and therefore civil discovery
14 becomes an additional tool that the government can
15 utilize against organized crime.

16 "It is important to note that Pennsylvania's
17 Corrupt Organizations Law does not allow private
18 parties to seek civil redress. Due to the existing
19 discrepancies in federal case law and the avail-
20 ability of private federal civil action, it would
21 be inadvisable to allow such an action on a state
22 level.

23 "Criminal History Record Information Act

24 "The Criminal History Record Information Act
25 currently prohibits the storage of investigative,

1 intelligence and treatment information in a computer.
2 This provision precludes law enforcement from
3 utilizing a computer to quickly access and analyze
4 critical investigative data. Current safeguards
5 utilized to protect information contained in computers
6 should eliminate a concern about the theft of data.
7 Unauthorized dissemination of such information is not
8 a function of computer capability, but is rather
9 directly related to the procedures adopted and
10 implemented by any agency with computer capability.

11 "The advantages to law enforcement in storing
12 this type of information on a computer are two fold.
13 Using computer capabilities to retrieve the data
14 saves time, is cost effective and enhances
15 productivity. More importantly, the computer has
16 the capability to relate seemingly unrelated data --
17 such as that found in serial murders or rapes --
18 at high speed.

19 "During such investigations, volumes of
20 information are reported over time. Some can be
21 significant and related and much other unrelated
22 and of no value. Placing and storing all investiga-
23 tive data in a computer allows the investigator
24 to command the computer to "pull together" the
25 related data from the various murders. Correlation

1 of this information allows investigators to develop
2 trends and patterns which may point to a suspect.

3 "It is 1987 and the computer is a relevant
4 piece of office equipment that allows for the
5 manipulation of data expediently and efficiently.
6 To restrict law enforcement from using the hi-tech
7 advances of the last decade has proven to be
8 penny-wise and pound foolish and over the longer
9 term will retard law enforcement in the conduct of
10 sophisticated investigation.

11 "Amendments: Wiretapping and Electronic Surveillance
12 Act

13 "Your Honorable Committees are currently
14 considering substantial amendments to the Wiretapping
15 and Electronic Surveillance Act, as proposed by
16 the Attorney General's Office. They are necessary
17 in order to bring that Act into compliance with
18 federal law. Electronic surveillance is absolutely
19 necessary to investigations of organized crime.
20 This was clearly demonstrated with the successful
21 prosecutions of Philadelphia roofer's union members
22 by federal authorities. "Wires" and "bugs" used
23 in this extensive investigation were monitored for
24 several months. Restrictions limiting electronic
25 surveillance to 40 days or less often precludes the

1 development of this type of prosecution.

2 "A most novel amendment involves the section
3 restricting the class of persons who may monitor
4 an interception. Currently, only investigative
5 or law enforcement officers certified under Section
6 5724 of the Act may monitor interceptions. The
7 Commission proposes an amendment that allows civilian
8 employees of investigative or law enforcement
9 agencies, designated by that agency as a "monitor"
10 to intercept communications. This amendment, in
11 conjunction with proposed changes to Section 5724
12 (training), requires the monitor to be certified.
13 Permitting the employment of civilian monitors
14 will enable police officers, otherwise assigned to
15 monitor, to perform other related investigative
16 duties. More importantly, establishment of civilian
17 monitors would allow persons who might otherwise be
18 excluded from law enforcement due to a handicap,
19 to perform a valuable law enforcement function.
20 For example, Scotland Yard currently uses blind
21 persons as monitors. Their positive experience has
22 shown that an individual with sight impairment has
23 proven to be a far superior monitor than the sighted
24 person, because their hearing and listening skills
25 are far more acute.

1 "Organized Crime Control Institute

2 "The remaining statutory change I shall address
3 is the creation of an Organized Crime Control
4 Institute at Pennsylvania State University. Organized
5 crime control is a unique discipline and it requires
6 preparation which transcends traditional criminal
7 investigation training. Strategies that alter the
8 structure of illicit market conditions are central
9 to a sophisticated organized crime control effort.
10 To develop such strategies and apply the appropriate
11 civil and criminal remedies, law enforcement
12 administrators and prosecutors must be schooled
13 in the application of such sanctions and how they
14 affect market conditions. For example, if the
15 construction industry were found to be controlled by
16 organized crime in Philadelphia, what civil or criminal
17 strategies could be applied and what would the con-
18 sequences be? Similarly, if we found aspects of
19 the sanitation industry controlled by organized
20 crime, what tactics could law enforcement use to
21 divest criminal control of the industry? Providing
22 the types of career training to address these
23 issues would be an innovative approach to organized
24 crime control education.

25 "Transcending this, of course, is the need to

1 maintain a corps of specialists in organized crime
2 control who are up to date on changes in law,
3 successful applications of civil and criminal remedies,
4 and new investigative techniques. The institute
5 would provide for career development courses on a
6 regular basis, expanding upon the model developed
7 by the Crime Commission in its annual Organized
8 Crime and Racketeering Seminar at Dickinson College.

9 "Essentially, the institute would serve as a
10 hybrid between a "war college" and a "Kennedy School"
11 for organized crime control. It would bridge the
12 gap between theory and practice, serve as a forum
13 for private and public groups to partake in organized
14 crime control education, and enhance the skills of
15 the professionals who are involved in organized
16 crime control. It could solicit research grants
17 from government and private foundations, and sub-
18 contract research to recognized scholars as well as
19 young researchers interested in the field. Nowhere
20 does this program now exist. Pennsylvania is thus
21 on the threshold of addressing a critical need in
22 criminal justice and public policy education.

23 "If we are to succeed in meeting the challenge
24 of controlling organized crime, we must establish
25 and maintain pace with the ever changing organized

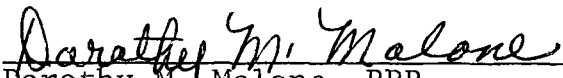
1 crime subculture. In 1978, this General Assembly
2 provided a strong foundation for organized crime
3 control. We must learn from our experience over
4 the past ten years and build on that 1978 foundation.

5 "As the nature of the organized crime problem
6 changes, Pennsylvania must be able to respond
7 effectively. Of equal importance, it must have
8 the capability to anticipate and address those
9 changes. When enacted these legislative proposals
10 will provide the opportunity to do so."

11 CHAIRMAN GREENLEAF: Thank you. If there are
12 no other questions, we thank you very much for being here
13 today. Thank you, witnesses for being here, House members
14 and Senators. We will recess this meeting until tomorrow
15 morning at ten o'clock.

16 (Whereupon at 12:45 p.m. the hearing was
17 adjourned.)

18
19 I hereby certify that the proceedings and
20 evidence taken by me in the within matter are fully and
21 accurately indicated in my notes and that this is a true
22 and correct transcript of the same.

23 
24 Dorothy M. Malone, RPR
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