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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: House Bills 861, 862 and 863 - Juvenile Graffiti

* * * * *

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

Thursday,
June 10, 1993
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Gregory Fajl Hon. Al Masland
Hon. Michael Gruitza

Also Present:

Hon. William Keller, Prime Sponsor
Galina Milahov, Research Analyst
Christopher Craig, Counsel, Senate Democratic
Appropriations Committee

Reported by:
Ann-Marie P. Sweeney, Reporter

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1 CHAIRMAN CALTAGIRONE: Good morning.
2 This is a public hearing on House Bills 861, 862 and
3 863 basically dealing with juvenile graffiti. This is
4 the House Judiciary Committee. I'm Chairman Tom
5 Callagirone. I would like the other members of the
6 panel and staff to please introduce themselves for the
7 record.

8 REPRESENTATIVE MASLAND: Thank you, Mr.
9 Chairman. My name is Al Masland. I am from the 199th
10 District in western Cumberland County, and I am a
11 member of the subcommittee.

12 REPRESENTATIVE KELLER: My name is Bill
13 Keller. I represent the 184th District, and I'm the
14 prime sponsor of these bills.

15 MR. CRAIG: My name is Christopher Craig.
16 I'm legal counsel to the Senate Appropriations
17 Committee, office of Senator Vincent J. Fumo.

18 MS. MILAHOV: Galina Milahov, Research
19 Analyst for the Judiciary Committee.

20 MS. TRICARICO: I'm Margaret Tricarico,
21 committee secretary for the Judiciary Committee.

22 CHAIRMAN CALTAGIRONE: And we had
23 Representative LaGrotta, who was here and had to go
24 over for another meeting but will be rejoining us, and
25 we have Representative Mike Gruitza, who is also

1 joining us on the panel.

2 The purpose of the hearing today is to
3 gather some testimony so that we can address the issue
4 of the juvenile graffiti problem. Representative
5 Keller has been heading up the point on attempting to
6 address this problem and the monumental problem that
7 they've been having not only in the city of
8 Philadelphia but in many of the urban areas around the
9 Commonwealth. We're going to hear testimony from the
10 Pennsylvania Retailers' Association, Harrisburg Police
11 Department, the National Paint and Coatings
12 Association, and also the Fraternal Order of Police
13 with Leo Marchetti.

14 And if we could, if you would like to
15 make some comments for the record and then what I'd
16 like to do is start off with the witnesses and Brian,
17 if you would like to come over and set up a while and
18 we'll get right along with the hearing.

19 REPRESENTATIVE KELLER: As I said, my
20 name is Bill Keller and I represent the very friendly
21 and hardworking residents of the 184th District in
22 south Philadelphia. My constituents and my neighbors
23 take care of the community and our homes. In fact, my
24 south Philadelphia neighborhood would be almost perfect
25 if it weren't for the amount of graffiti defacing the

1 homes and businesses in our neighborhood. I know this
2 problem bothers me as much as it does my neighbors.
3 This vandalism defaces our properties and costs us
4 hundreds of dollars to clean and repair the damage.
5 The fact is vandalism, like graffiti, will eventually
6 destroy our community if we don't do what we can to
7 stop it.

8 That's why I, along with Senator Fumo,
9 have introduced a package of legislation designed to
10 crack down on vandals defacing our community with spray
11 paint and permanent markers. My anti-graffiti package
12 contains four separate bills to curtail this
13 destruction. The first bill in the package changes the
14 Pennsylvania parental liability law by increasing a
15 parent's financial liability for their children for
16 destroying another person's property. Parents are
17 responsible for the actions of their children. As a
18 parent myself, I know that most people would take the
19 extra steps to control their children if they were
20 required to pay for their kid's artwork on their
21 neighbor's property. Short and sweet, this bill hits
22 parents where it counts - in the wallet.

23 The second bill in the package prohibits
24 the sale of spray paint and broad-tipped markers to
25 anyone under the age of 18. It's the opinion of most

1 police officers that minors usually are the ones
2 defacing buildings with graffiti. The fact is, as
3 these kids mature, they are less likely to commit the
4 acts of vandalism.

5 The third bill in the package makes it an
6 offense of institutional vandalism if a person carries
7 in a spray paint can or a permanent marker to another
8 person's property with the intent of defacing that
9 property.

10 The last bill would require community
11 service for anyone convicted of defacing another
12 person's home or property. This community service
13 would depend on the dollar amount of damage that occurs
14 and could include repairing the damaged property.

15 Thank you.

16 CHAIRMAN CALTAGIRONE: I'd like to start
17 off with the Pennsylvania Retailers' Association.
18 Brian, if you would introduce yourself for the record.

19 MR. RIDER: Thank you. Good morning. My
20 name is Brian Rider, and I'm here today on behalf of
21 the Pennsylvania Retailers' Association, and I would
22 like to thank Chairman Callagirone and the respected
23 members of the House Judiciary Committee present today
24 for the opportunity to present testimony on behalf of
25 the Pennsylvania Retailers' Association concerning

1 House Bill 861. I would also like to thank the bill's
2 prime sponsor, Representative William Keller, for
3 agreeing to hold public hearings on his legislation.

4 After lengthy conversations with
5 retailers in the Philadelphia area and throughout the
6 Commonwealth, it is our view that few people dispute
7 the graffiti problem that exists in the city of
8 Philadelphia and surrounding areas. While we
9 understand and respect Representative Keller's desire
10 to combat the graffiti problem in his district and
11 throughout the city, we must also consider the adverse
12 effects that House Bill 861 would have upon retailers
13 throughout the Commonwealth offering for sale aerosol
14 spray paint cans and broad-tipped markers.

15 House Bill 861 would prohibit retailers
16 from selling aerosol spray paint cans or broad-tipped
17 markers to any person under 18 years of age. In
18 addition, retailers offering these products for sale
19 would be prohibited from displaying the products in
20 their stores. A person convicted of doing so would be
21 sentenced to pay a fine of not more than \$1,000 or
22 imprisonment for not more than six months.

23 Once again, we are not opposed to the
24 objective Representative Keller seeks to achieve
25 addressing the graffiti problem in Philadelphia.

1 these products for persons under the 18 years of age
2 could also prove to be burdensome for retailers and
3 consumers alike.

4 Although we disagree with the manner in
5 which House Bill 861 attempts to address the graffiti
6 problem in the Philadelphia area, we do, however,
7 support several other legislative proposals that
8 address the problem of graffiti vandalism. We feel
9 House Bills 862 and 863, sponsored by Representative
10 Keller, and Senate Bill 609, 611 and 612, sponsored by
11 Senator Vincent Fumo, are more practical and effective
12 approaches to reducing the graffiti vandalism without
13 unfairly burdening retailers. And we would
14 respectfully request that the members of the House
15 Judiciary Committee review the aforementioned bills,
16 should the committee consider addressing the problem of
17 graffiti vandalism in the future.

18 Again, I would like to thank Chairman
19 Callagirone and the members of the Judiciary Committee
20 present today and Representative Keller for the
21 opportunity to present testimony on House Bill 861.
22 Should the members of the committee have any questions
23 regarding our comments or any aspects of House Bill
24 861, we welcome your comments at this time and will
25 attempt to answer any questions you may have to the

1 best of our ability.

2 Thank you.

3 CHAIRMAN CALTAGIRONE: Thank you.

4 Questions from the panel?

5 REPRESENTATIVE KELLER: Yeah, I have a
6 question.

7 BY REPRESENTATIVE KELLER: (Of Mr. Rider)

8 Q. Before the city ordinance went into
9 effect that we have now, the ban on 18 years old, what
10 did your association or the Clover stores do to stop
11 the graffiti problem in Philadelphia?

12 A. That, Representative Keller, I don't
13 know. We didn't discuss how they were attempting to
14 combat this problem before the city ordinance was
15 enacted, but if you would like, I could check with them
16 today and find out what steps or what measures they
17 took to try to reduce that problem. I would be more
18 than happy to do that.

19 Q. Okay. To your knowledge, how much
20 business loss is actually associated with the
21 compliance with the Philadelphia ordinance?

22 A. I cannot give you a dollar value, but the
23 fact where they, again, an example of a self-service
24 store such as a Clover, where the business costs
25 associated are also realized for the loss of sales

1 also. I mean, where they have to restructure the store
 2 to some extent, whether they are housing these products
 3 behind the counters now in designated areas or they're
 4 putting them behind glass, but where you have a
 5 customer who may venture into a self-service store, see
 6 the merchandise behind glass and stand around and
 7 because there may not be a sales associate immediately
 8 available to help them, the person sometimes becomes
 9 frustrated and leave. I mean, I'm sure that many of us
 10 have done that, walked in a store, not been able to
 11 find a salesclerk immediately, become frustrated and
 12 left, and that is a cost that is realized because of
 13 the city ordinance.

14 Q. Do you know of any of your clients of any
 15 of the stores, have they been graffiti vandalized?

16 A. That I do not know. But it would
 17 probably be a safe venture to say that they probably
 18 have in fact been.

19 Q. They have been?

20 A. I would say that would be a safe guess.

21 Q. Do you know the cost of any of that? You
 22 don't know the cost of that graffiti?

23 A. No, I do not, sir.

24 Q. If one of their stores were graffitied
 25 and they had to repair it, would you think that cost

1 would be passed on to the consumers?

2 A. Depending upon how that's budgeted. I do
3 not know that.

4 Q. But eventually it would probably have to
5 be passed on to the consumers, so even your retailers,
6 your clients have an interest in stopping this
7 graffiti.

8 A. Oh, I would agree with you that they do
9 have an interest in it, and again, that's why we are in
10 support of these other bills. We feel that that would
11 be a measure to control the graffiti problem.

12 Q. And like I said, the costs will
13 eventually be passed on to the consumer. The consumer
14 will even pay for the graffiti that's on the walls of
15 the retailers.

16 A. That's a hard question to answer,
17 Representative, because again, one, not knowing the
18 extent of the problem; two, not knowing how they deal
19 with it, you know, in repairs, building maintenance,
20 how that is budgeted, whether that would be passed
21 directly on to the consumer, I do not know.

22 Q. I imagine all their revenue is generated
23 through the consumer and if they have to pay to have
24 something repainted, eventually that cost will be
25 passed on to the consumer. I would imagine, as a small

1 businessman myself, I mean, where else do you get the
2 money?

3 A. It's a possibility. It also depends as
4 to whether or not the retailer owns the building or is
5 a tenant. But it's feasible that -- it's a possibility
6 that it could happen.

7 Q. Okay. Thank you.

8 A. Thank you.

9 REPRESENTATIVE MASLAND: Thank you, Mr.
10 Chairman.

11 I just have a couple questions. First of
12 all, maybe you don't know, Brian, maybe Mr. Keller
13 knows, is the ordinance in Philadelphia identical to
14 House Bill 861?

15 REPRESENTATIVE KELLER: Excuse me?

16 REPRESENTATIVE MASLAND: Is this bill,
17 House Bill 861, identical to the ordinance in
18 Philadelphia, the operative sections there dealing with
19 sale and display?

20 MR. CRAIG: No. It's different in two
21 aspects. One, all fines in the city of Philadelphia
22 for violations of ordinances such as this are capped at
23 \$300. That's as a result of State law.

24 REPRESENTATIVE MASLAND: Aside from the
25 fine though, would the prohibition on displaying the

1 items and--

2 MR. CRAIG: We indicate that such items
3 under the State law may be displayed, but only
4 facsimiles of those items. In other words, they don't
5 necessarily have to be under lock and key or an added
6 cost per se, but you can only have facsimiles. That
7 addresses the problem of shoplifting, which the
8 ordinance has not effectively addressed.

9 REPRESENTATIVE MASLAND: So the
10 Philadelphia ordinance doesn't have anything about
11 display?

12 MR. CRAIG: The Philadelphia ordinance
13 requires that display -- the copy of the -- the
14 ordinance indicates that the display must be done in a
15 manner as to prevent the items from being shoplifted.
16 And it mandates, I mean, the effect of the ordinance
17 mandates a cost onto the retailers by actually putting
18 in plexiglass, lock and key of such items and having to
19 then request the items, et cetera, to use.

20 REPRESENTATIVE MASLAND: All right. And
21 my understanding is that from the full Judiciary
22 Committee meeting the other day was that after this
23 ordinance was enacted in 1983, there was a dropoff
24 initially in the amount of graffiti, and that since
25 after a couple of years I guess it's picked back up.

1 MR. CRAIG: That's correct.

2 REPRESENTATIVE MASLAND: And that's
3 because you believe people are going outside of
4 Philadelphia and bringing it back in?

5 MR. CRAIG: It's also spreading to those
6 neighborhoods in the city of Philadelphia that border
7 other counties, such as northeast Philadelphia

8 REPRESENTATIVE MASLAND: Okay.

9 BY REPRESENTATIVE MASLAND: (Of Mr. Rider)

10 Q. Just getting to Brian now, I can
11 understand, I could see that there would be some
12 increased costs associated with offering the products
13 for sale just based on having to have facsimiles,
14 having to set up displays differently. I'm not sure
15 that I really understand how you can have such an
16 increased cost in additional sales associates. You
17 slick something behind a counter, you presumably have
18 somebody there behind a counter anyhow.

19 A. Well, in your self-service stores a lot
20 of times you do not, where in cost-cutting measures
21 with the economy in the state that it is, a lot of
22 these self-service stores have tried to limit their
23 number of employees, and when you do have a large
24 discount store such as a Clover or a Jamesway or
25 something like that where a sales associate is not

1 always immediately available and where some of these
2 stores where they have in fact kept additional people
3 on where these items have brought in more traffic and
4 where they deem it necessary. And in conversations
5 we've had in the past week, they have said that and
6 outside the areas where if this were to be enacted
7 statewide they felt that that could, in fact, occur
8 where they may have to have more people present or
9 bring them in from other parts of the store. But it's
10 a concern that was relayed to me.

11 REPRESENTATIVE MASLAND: Okay. I have no
12 further questions.

13 CHAIRMAN CALTAGIRONE: Any further
14 questions?

15 (No response.)

16 CHAIRMAN CALTAGIRONE: Thank you very
17 much for your testimony.

18 MR. RIDER: Thank you.

19 CHAIRMAN CALTAGIRONE: We'll next move to
20 Lieutenant Gregory King, Commander of the Criminal
21 Investigation Division, Harrisburg Police Department.

22 LT. KING: Good morning. I'd like to
23 thank the committee for the opportunity to provide a
24 law enforcement perspective on these bills that are
25 pending.

1 In Harrisburg, Pennsylvania, we do have
2 thousands of dollars annually in damage from graffiti
3 from marking pens and spray paint and that type of
4 thing. Most of those incidents we feel are done by
5 juveniles. In relation to House Bill 861, which is a
6 bill prohibiting the sale of aerosol paint cans and
7 broad-tipped markers to juveniles and the display of
8 the same items in the store, the bill seems to be a
9 very well-intentioned bill because it is designed to
10 get these items out of the hands of many of the
11 juveniles who would be using them for illegal purposes.
12 We have some concerns, though, about the enforcement of
13 this particular bill by the police departments. For
14 one thing, we have a concern about the definition of
15 exactly what would be prohibited as spray paint. What
16 would it be that the police should be looking for, or
17 whoever is charged with the enforcement of this
18 ordinance or this legislation would be looking for.
19 When you go into a store, some cans are labeled paint,
20 some cans are labeled primer. The way the bill is
21 written, it is very broad in that it says "spray
22 paint." Probably it would require some type of a
23 definition of what spray paint is either by labeling,
24 by the ingredients to be looked for in the can or
25 possibly some type of a code on the label so that they

1 would know what to look for.

2 The same type of thing would apply with
3 the broad-tipped indelible markers. Just exactly what
4 are we talked about by broad-tipped indelible markers?
5 They're sold, if we're referring to the types of pens
6 that kids use to make posters, school projects and that
7 type of thing, or if there's any particular -- by
8 broad-tipped, what we're looking for. That's one of
9 our big concerns.

10 Also, we feel that the definition would
11 be extremely important. We ran into -- there was a
12 similar situation with the definition when we had the
13 problem, I think it was in '92, with the underage
14 drinking law. Up until that point for years and years
15 it was pretty simple. If it smelled like beer and it
16 looked like beer, we assumed it was beer, and that was
17 accepted by the courts. In 1992, that was challenged,
18 and the assumption that because of those things it was
19 beer was not accepted in court. And for a short period
20 of time it required that if we made an arrest and we
21 felt it was beer, we had to have it chemically tested,
22 until the Liquor Control Board had published a list of
23 every kind of beer in the Pennsylvania Bulletin so that
24 the court could take judicial notice that that was
25 beer. And you could run into the same circumstances

1 here with the paint. So we have some concern with
2 that.

3 And also, who would actually be
4 responsible for the enforcement of this legislation?
5 Who would be responsible for going into the stores and
6 making sure that the stores aren't selling improper
7 items or displaying improper items? The items that are
8 described here are sold in virtually every store
9 around, from convenience stores to department stores,
10 hardware stores, and to maintain a list and monitor
11 this number of stores would require additional
12 personnel for the police departments. Or taking
13 personnel from patrol duties which we feel are
14 extremely important also and putting them on duty to
15 monitor this type of thing.

16 There's also a potential problem that you
17 would run into the situation where if a person went in
18 to buy paint and he was, maybe he was 18 years old or
19 what have you, and they would, the store clerk would
20 almost have to require identification in some
21 circumstances, and I know sometimes when they require
22 identification that leads to a confrontation and then
23 the police get called to quell the confrontation.

24 So these are some of the concerns that we
25 have. However, we do feel that the intent of the bill

1 is certainly well-intentioned.

2 With respect to House Bill 862, this is
3 the bill that would, it says, "A person commits the
4 offense of institutional vandalism if, with the intent
5 to violate subsection (a), the person carries an
6 aerosol spray-paint can, broad-tipped indelible marker
7 or similar marking device onto property identified in
8 subsection (a)." We don't see any enforcement problems
9 with this. We don't think it will lead to a lot more
10 arrests because it's based primarily on intent, which
11 is often difficult to prove. In most cases, you know,
12 with this type of thing the intent is proved when the
13 person actually commits the overt act, because in the
14 schools, probably half to three-quarters of the kids in
15 the schools will have these types of devices in their
16 hands. So they'll have them and it's a matter of
17 proving the intent. But it is another tool that the
18 police department has available to use for enforcement.

19 With respect to House Bill 863, the
20 criminal mischief, currently in the city if a juvenile,
21 or an adult for that matter, spray paints the side of a
22 building, puts graffiti on a building, we do charge
23 them with criminal mischief under the present statute.
24 The subsection that's being added may be somewhat
25 redundant because we consider somebody spraying the

1 side of a building tampering with tangible property and
2 creating a risk of damaging the property, so we
3 currently bring that charge with the existing sections.

4 With regard to the sentencing for
5 criminal mischief, we feel this is probably one of the
6 most important, one of the most important sections of
7 this legislation. This type of sentencing would have
8 the effect of teaching these kids some responsibility
9 for their actions. Currently, if we charge a kid with
10 a criminal mischief, the kid is issued a nontraffic
11 citation for the criminal mischief and the district
12 justice will assess some type of fines and costs, which
13 often aren't paid at all, or if they are paid they are
14 paid by the parents. These 12-year-old kids don't have
15 money to pay fines, and there's really no impact on the
16 kid. The impact is on the parent, which is good
17 because it is some incentive for the parent to control
18 their kids. However, I think it's also extremely
19 important that we teach these kids at an early age that
20 there are consequences to their actions, and this
21 section would go a long way towards doing that.

22 If the parents pay the fines for these
23 type of things, any education on the part of the kids
24 is left to the parents as far as punishment or anything
25 like that, and too often it's not being done, the

1 parents aren't following through with their
2 responsibilities. But this bill would certainly help
3 with that.

4 The only problem that you may have with
5 that is who would supervise and administer the public
6 service program, the community service programs? We
7 found that, we know that they're very expensive to
8 operate. It requires staffing and it also requires
9 liability insurance, which is astronomical. I know the
10 county probation office does have a program where they
11 have kids in a community service program where they
12 work part of fines and costs off, but they're somewhat
13 restrictive because of how many kids they can take in
14 because of the staffing problems. But if that type of
15 thing can be overcome, I think this is probably the
16 most important section in this legislation.

17 I would also suggest that this sentencing
18 procedure be expanded to cover any criminal mischief.
19 Because for the same reasons that this would be a value
20 to the kids in this situation, it would be a value to
21 the kids in any criminal mischief situation. And here
22 again, it's going back and showing them that there's
23 consequences for their action without actually
24 incarcerating or punishing per se. But it's at least
25 showing them that there's some type of responsibility.

1 We find that kids who commit serious crimes started out
2 committing these types of crimes, and if we can instill
3 that kind of responsibility to kids at this age, we
4 think that it would be a carryover to the older times.

5 Several years ago our department tried to
6 institute a community service program to have kids work
7 off fines and costs doing projects around the
8 communities such as cleaning up lots and that type of
9 thing. Since the district justices have the authority
10 to make that part of their sentencing, we were going to
11 try and take advantage of this and get some things done
12 and at the same time teach the kids some things. But
13 what we ran into was the astronomical cost of liability
14 insurance to run the program. We have a staffing
15 problem worked out but when it came to checking into
16 the insurance, the cost of the insurance was so high
17 that it simply wasn't feasible to do. But it would be
18 an excellent idea if it can be done.

19 So I wish to thank the committee for the
20 opportunity to present our views on this.

21 CHAIRMAN CALTAGIRONE: Thank you,
22 Commander.

23 Are there any questions from the panel?

24 REPRESENTATIVE MASLAND: I have some.

25 CHAIRMAN CALTAGIRONE: We also have

1 Representative Greg Fajt from Allegheny County joining
2 the committee.

3 Al.

4 REPRESENTATIVE MASLAND: Lieutenant King,
5 I'm glad you were here because my concerns also deal
6 with enforcement problems and although I can't be at
7 the hearing tomorrow, I think it might be helpful if we
8 can get some kind of background from the Philadelphia
9 Police Department as to how they have gone about
10 enforcing the existing ordinance, what, if any, costs
11 they have had in doing that, if they have a special
12 department doing it, because as I look at these three
13 bills, I don't know what's going to come first in the
14 way of enforcement. Are we going to have kids with the
15 indelible markers who are stopped and then we have the
16 difficulty of proving their intent? Obviously, as you
17 say, 80 percent of the kids at schools are going to
18 have some kind of marker like this. It's going to be
19 difficult to show the intent. Or if we do have some
20 kid late at night in an institution, you know, outside
21 a church or a synagogue with markers or a spray paint
22 can, then the question is okay, is this kid 18, 17, 16?
23 If he's over 18, it doesn't matter where he bought it.
24 If he's 16, then you have to go back and try to figure
25 out where he bought it or who bought it for him and if

1 there's a co-conspirator or something. But I have some
2 concerns there with the enforcement as to who is going
3 to go and check on the stores, if anybody is going to
4 check on the stores, or are we just going to wait and
5 see who vandalizes the property and then kind of
6 backtrack from there? So I think in that respect it
7 might be helpful to find out what some of the
8 Philadelphia experience is, and I'm sure you're going
9 to have somebody testify.

10 REPRESENTATIVE KELLER: In Philadelphia
11 it's enforced by the Department of License and
12 Inspections.

13 REPRESENTATIVE MASLAND: Okay. Is
14 somebody going to be testifying tomorrow on that?

15 MS. MILAHOV: Police Officer William
16 Bain, who is head of the graffiti squad of the
17 Philadelphia Police Department, will be giving
18 testimony. So hopefully we'll get enough background
19 material on the enforcement procedures.

20 CHAIRMAN CALTAGIRONE: I'm sorry, if I
21 could just interrupt, in your packet for tomorrow, it's
22 on the table here, it gives the list of those that are
23 going to be testifying, but you also have the
24 Philadelphia Anti-Graffiti Network and you also have
25 SEPTA that will be testifying, and I think they're

1 probably going to be able to relate the costs and what
2 they're trying to do, I would imagine, to stop the type
3 of graffiti that's occurring there.

4 REPRESENTATIVE MASLAND: Okay. Well, I'm
5 not going to be there tomorrow. I hope they can do
6 that. I think that will be helpful, to answer some of
7 the questions that Lt. King has raised here this
8 morning.

9 That's all I have.

10 Representative Keller: I have one
11 question.

12 BY REPRESENTATIVE KELLER: (Of Lt. King)

13 Q. Lieutenant, if the problem of the
14 definition was addressed, do you think this bill would
15 then help solve the problem of graffiti vandalism?

16 A. If the problem of definition is
17 addressed, I think we still have to address the problem
18 of how we're going to go about enforcing it. Like I
19 said, the other two sections of the legislation I think
20 are fine. I don't see a real problem with that, with
21 enforcement of those two sections. The one I see a
22 problem with is the sales and the display. If they
23 have a special unit in Philadelphia that covers that,
24 that may not be a serious problem in Philadelphia, but
25 it would be a problem for an area like Harrisburg city,

1 where we don't have a section that handles that type of
2 thing. We would have to take officers off of patrol or
3 off of investigations in order to monitor those stores.

4 Q. But as far as defining a spray paint can,
5 I mean, that's really--

6 A. Yeah. I just have the concerns that I
7 expressed with and I used the example of the beer and
8 the underage drinking that we had and that, you know,
9 it's kind of the same type of thing. I guess it would
10 have to be maybe a designation on the label that you
11 look for, or a particular ingredient that would be
12 common to all spray paint, or something of that nature.

13 Q. All right that's not a big problem.
14 That's what I'm trying to get at. Okay?

15 A. Okay.

16 Q. Thank you.

17 MR. CRAIG: I just have a couple quick
18 questions.

19 BY MR. CRAIG: (Of Lt. King)

20 Q. Do you believe that the costs of
21 enforcement of the graffiti -- I mean of the spray
22 paint ban would be higher than the current costs to the
23 city of Harrisburg to repair damaged property?

24 A. You mean to the overall--

25 Q. To the taxpayers of Harrisburg who pay

1 for damaged transit buses, damaged city property and
2 public buildings. Do you believe that cost is going to
3 be less than the enforcement of this bill?

4 A. I really can't -- it's a difficult
5 question to answer because what happens with the
6 graffiti situations is that in reality we very seldom
7 catch them putting graffiti on the building. What
8 happens is the following day we get a police report
9 that there was graffiti sprayed on the building. And
10 there's really no way to designate whether they are
11 juveniles or adults that are doing this, and this bill
12 would only affect the graffiti placed there by
13 juveniles. So I really can't give an answer on that.

14 Q. If I understand correctly, most of your
15 activities in the past have been dealt with, as you
16 described it, after the vandalism has occurred, is that
17 a correct statement?

18 A. Right. That's correct.

19 Q. Do you believe that a mechanism or some
20 form of law that prevents the crime or would attempt to
21 prevent the crime would be a more effective means of
22 dealing with it than as you described trying to catch
23 the criminal after the act had already occurred?

24 A. Well, I think prevention in any situation
25 is better than letting the crime occur and then dealing

1 with it later, sure. Absolutely.

2 Q. Can you say how many arrests were made in
3 the past year related to graffiti vandalism or just
4 vandalism in general to property?

5 A. I tried to do some research on that
6 through our records. Unfortunately, we don't have a
7 system where we really break down the arrests as to
8 whether it's spray paint graffiti or general criminal
9 mischief. In the area of spray paint and graffiti, I
10 can think of several incidents in the past year where
11 we have arrested kids and adults for spraying graffiti
12 on the sides of buildings.

13 Q. Do you think that the current enforcement
14 mechanisms are effective to stem or address the problem
15 of graffiti vandalism? Is the status quo appropriate
16 or adequate to deal with the problem of graffiti
17 vandalism?

18 A. Well, it's not eliminating it by any
19 means, no. It's certainly not going to eliminate it.

20 Q. And my very last is more of a statement.
21 You raised the concern about the liability for
22 individuals who run community service programs and
23 specifically addressed with the final bill and the high
24 costs of liability insurance.

25 A. Yes.

1 Q. The legislature last year passed Act
2 1992-1, formerly Senate Bill 303, that provided and
3 extended sovereign immunity to program administrators
4 and supervisors of such programs. That may be
5 something that ought to be taken a look at.

6 A. I wasn't aware of that. Has that been--

7 Q. It was passed in February of '92.

8 A. Okay, I wasn't aware of that, but that
9 would certainly cause us to look at that again, because
10 that was our major stumbling block in the community
11 service program.

12 Q. Okay. That's all. Thank you.

13 A. Thank you.

14 CHAIRMAN CALTAGIRONE: Okay. Are there
15 any other questions?

16 (No response.)

17 CHAIRMAN CALTAGIRONE: Thank you,
18 Commander. We appreciate you testifying.

19 We'll next turn to Heidi McAuliffe,
20 National Paint and Coatings Association. And if you
21 want to introduce yourself and your friend for the
22 record. You can join us at the table, sure. You came
23 up with her, you might as well be sitting with her.

24 MS. SABER: Thank you.

25 CHAIRMAN CALTAGIRONE: Just introduce

1 yourselves for the record.

2 MS. McAULIFFE: Good morning. My name is
3 Heidi McAuliffe. I'm a Counsel for State Affairs for
4 the National Paint and Coatings Association in
5 Washington, D.C.

6 MS. SABER: Good morning. My name is
7 Faith Saber, and I'm Director of Research for the
8 Anti-Graffiti Program sponsored by the Spray Paint
9 Manufacturers Committee of the National Paint and
10 Coatings Association.

11 MS. McAULIFFE: I'm very pleased to
12 address your committee this morning. Mr. Chairman and
13 members of the committee, I'm here on behalf of
14 National Paint and Coatings Association. National
15 Paint and Coatings represents over 80 percent of
16 America's paint manufacturers and their suppliers,
17 including over 35 companies with plants and facilities
18 in the State of Pennsylvania. Our members produce
19 approximately 50 percent of the aerosol spray paint
20 produced in the United States.

21 National Paint and Coatings has been
22 active in the fight against graffiti vandalism since
23 1986. It is the biggest single misuse of our members'
24 very useful and very legitimate products and we, just
25 like you, would like to put an end to it.

1 Regarding the legislation before you
2 today, our industry supports all three bills, with the
3 exception of one part of the sale and display language
4 in House Bill 861. Addressing the bills in reverse
5 order, we strongly endorse the community service
6 sentencing directed by House Bill 863 on the basis of
7 our experience with community anti-graffiti programs.
8 Too often graffiti vandals are diverted from the
9 criminal justice system or given mild punishments
10 because limited resources must be directed towards more
11 serious, more violent offenders. Supervised community
12 service, particularly getting offenders to participate
13 in the clean-up and the repairing of damage involved in
14 graffiti vandalism, provides a cost-effective
15 alternative to juvenile detention that benefits the
16 community and ultimately the juvenile offender, him or
17 herself. Juvenile officers comment that community
18 service often provides the offender with a perspective
19 of ownership of the newly restored property and a much
20 better understanding of what vandalism actually costs
21 the community in resources, time, and money.

22 Paying the price is a very positive
23 deterrent to repeat offenses. The most effective use
24 of community service sentencing in our experience has
25 been the use of a standard first offense sentencing so

1 that vandals know exactly what their price will be time
2 and time again. We endorse House Bill 862 also on the
3 basis of our experience. While some communities can
4 devote sufficient law enforcement resources to develop
5 a thorough knowledge of individual taggers and tagging
6 crews, through patrols, photo evidence and other
7 devices, many other communities don't have these
8 resources. In those cases, the ability of law
9 enforcement to intercept a potential vandal, charge
10 him, strip him of graffiti tools, is a very valuable
11 addition to the law enforcement arsenal. As an
12 attachment to my testimony, I have included model
13 possession language which we suggest to lawmakers and
14 have suggested in many other cases across the country.

15 Regarding House Bill 861, we have no
16 objection and we highly support a ban on sale of
17 aerosol spray paints to minors. A number of
18 communities in a few States have enacted similar laws,
19 having concluded that the product falls under the
20 category of items that require mature judgment for
21 proper use. In some instances we have provided
22 suggested signage and employee education materials for
23 stores providing warnings on the sale to minors and on
24 violation of anti-graffiti laws. We have also included
25 samples of those signs with this testimony. If we were

1 to suggest any amendments to the ban on sale to minors
2 language, they would be to specify acceptable proofs of
3 age and to make the purchase by minors also illegal.
4 As written, in the bill there appears to be a penalty
5 for the seller but not for the buyer.

6 Finally, Mr. Chairman, we respectfully
7 take strong exception to the language prohibiting
8 display and direct access to aerosol spray paint by
9 legitimate consumers. The facsimile language, the sale
10 and display language in House Bill 861, is a variation
11 on municipal spray paint lock-up laws that were
12 similarly passed in the mid-1980s, principally in New
13 York City and also in Philadelphia. The lack of
14 effectiveness, complexity of the expense of
15 enforcement, substantial losses in legitimate business
16 and in the jobs have moved other municipalities and
17 States away from this idea. While new product controls
18 are again being considered along with many other
19 approaches to the graffiti problem, we believe the
20 facsimile proposal to be a bad idea. A similar law has
21 been in effect in Philadelphia since 1984 with little
22 discernible effect on graffiti vandalism. One cannot
23 change a vandal's criminal behavior or his faulty value
24 system by simply making it more difficult to obtain the
25 tool. However, such legislation can and does have a

1 chilling effect on legitimate business, its employees,
2 and its customers.

3 Because of our experience in New York
4 City in 1985, and more recent in the retailing stores,
5 we can predict with some certainty what such a law in
6 would mean in Pennsylvania. Our projections, based on
7 conservative estimates, show that a loss of spray paint
8 and related sales in areas excluding Philadelphia show
9 a loss of over \$23 million annually, with an
10 accompanying employment loss in retail stores alone of
11 almost 270 jobs. This number does not include the
12 impact on distribution or manufacturing facilities for
13 places like Tru-Test, PPG, and Ace Hardware. The loss
14 of sales tax revenues to the State of Pennsylvania
15 would be almost \$1.4 million annually.

16 Mr. Chairman, these are solid projections
17 based upon Pennsylvania's use of almost 10 million
18 units of aerosol paints per year and our own knowledge
19 of customer behavior and retail practices. It appears
20 to us be a terribly high price to pay for what is at
21 best a highly questionable result. If the committee
22 has a concern for theft from retail stores, which seems
23 to be the point of the sale and display and the
24 facsimile language, we provide a service to communities
25 and to retail organizations that is designed to achieve

1 this goal. We call the program "Responsible
2 Retailing," and it provides guidance in product
3 placement and display, in signage, and employee
4 education and training for stores that really need it.
5 Through responsible retailing we've been able to
6 curtail product theft and illegal sales to minors
7 without losing legitimate retail sales or adding to
8 their costs.

9 Given the fact that with the ban on sale
10 to minors, juveniles will have no business around spray
11 paint displays in the first place, the facsimile
12 language appears to be a little bit more than overkill.
13 We would be happy to work with your committee on these
14 and other aspects of a comprehensive anti-graffiti
15 program should you choose to call on us.

16 I thank you very much for your time this
17 morning and I would be happy to answer any questions
18 that you may have.

19 CHAIRMAN CALTAGIRONE: Thank you.

20 Questions from the committee?

21 Galia.

22 BY MS. MILAHOV: (Of Ms. McAuliffe)

23 Q. Could you explain how you would go about
24 providing the "Responsible Retailing" training to
25 different stores?

1 A. The "Responsible Retailing" program is
2 basically a consumer and retailing education program.
3 We try to work through the local Chambers of Commerce,
4 through local retailing associations, and through other
5 local community groups. There are basically four
6 points that go along with the "Responsible Retailing."
7 The first one is employee education, the second one is
8 proper store signage displays, third point is the
9 proper display of products, and the fourth is community
10 promotion. There's basically a comprehensive program
11 designed around each of those four points, and our
12 program involves having a community coordinator or a
13 store coordinator work with local retailers in
14 producing a program that's easily understood by the
15 retailer's employees to put this in place.

16 Q. And could you look over your testimony
17 one more time and reiterate the number of spray cans
18 that are sold in Pennsylvania and the loss of taxes and
19 also possible loss of jobs in the State if this were to
20 go into effect? Thank you.

21 A. Okay. Let me give you a little bit of a
22 rundown of where all those numbers come from. That
23 might be helpful background for this testimony.

24 We calculate the number of aerosol spray
25 cans sold in Pennsylvania based upon the population of

1 Pennsylvania and the production of spray paint cans
2 across the United States and then we extrapolate down
3 to the population. Well, let me back up a little bit.
4 I didn't say that correctly. We start with the
5 population of the United States and the amount of spray
6 paint cans sold domestically in the United States and
7 then we can pinpoint that to population in
8 Pennsylvania. One thing we have done with the State of
9 Pennsylvania in these projections is exclude the city
10 of Philadelphia, since they have had a lock-up law
11 since 1984, I think, and our feeling is that there
12 isn't -- well, our feeling is that those numbers
13 wouldn't be relevant for the city of Philadelphia. So
14 our numbers do not include the population of
15 Philadelphia or any spray paint sold in Philadelphia.

16 What our calculations show is that each
17 -- the per capita consumption of aerosol spray paint
18 cans is about 1.4. So if you multiply that times the
19 population of Pennsylvania excluding the population of
20 Philadelphia, you get a number that's a little bit over
21 10 million units. We estimate that as to be the number
22 of spray paint cans sold in the State of Pennsylvania
23 excluding Philadelphia.

24 The average sale price of spray paint
25 cans ranges between \$.98 to \$6 a can. We average that

1 out to be \$2 a can. Our studies, studies of consumer,
2 customer behavior show us that when individuals go into
3 retail stores to buy spray paint, not only do they buy
4 spray paint but they buy other related products like
5 drop cloth, masking tape, sandpaper, the little mask
6 you put over your face when you paint, things like
7 that. Those other related sales come to about \$1 to
8 \$2. So in addition to the spray paint, there's a
9 dollar to \$2 of additional sales for retail stores.
10 When you extrapolate that out over the population of
11 Pennsylvania, we got, and I'll have to find that in my
12 testimony, I think \$23 million annually.

13 Q. And what were the tax losses?

14 A. At 6 percent sale tax in Pennsylvania,
15 that was \$1.4 million.

16 Q. Okay. One last question. Another thing
17 that you brought up in your testimony is that 861
18 appears to penalize the seller and not the buyer. How
19 could you turn that around so that -- or would it be
20 appropriate to try to turn that around so that the
21 buyer would be the one that would be responsible for
22 any penalty incurred?

23 A. I think it would be appropriate to
24 maintain a penalty for both the buyer and seller in
25 that instance.

1 Q. Thank you.

2 CHAIRMAN CALTAGIRONE: Representative
3 Keller.

4 REPRESENTATIVE KELLER: Yeah, I have a
5 question.

6 BY REPRESENTATIVE KELLER: (Of Ms. McAuliffe)

7 Q. Before the Philadelphia ordinance went
8 into effect, the ban on spray paint, were your
9 "Responsible Retailing" -- voluntary "Responsible
10 Retailing" program, was that into effect?

11 A. In Philadelphia?

12 Q. Yes.

13 A. No.

14 Q. What program did you have in effect,
15 because we did have a problem before that. What
16 program did you have in effect?

17 A. I'm not aware of any activity that we've
18 engaged in in the Philadelphia area.

19 Q. Okay. But after you see the problem now
20 we have "Responsible Retailing." Voluntarily we're now
21 trying to solve the problem.

22 A. Well, I don't know what retailers in the
23 Philadelphia region are doing. If they're complying
24 with the lock-up law, what the Philadelphia law says is
25 that they have to have a cage in their retail stores

1 with the products locked inside of it at all times. So
2 if they're complying with the law, then they have
3 employees who have keys and every time somebody needs a
4 spray paint can they have to go to the cage and get out
5 a can.

6 Q. Yeah, I understand. I just wanted to
7 know if before that law went into effect did we have
8 any "Responsible Retailing" before that?

9 A. Probably not.

10 Q. Okay, thank you.

11 A. Our program of "Responsible Retailing"--

12 Q. You're pretty good of finding out how
13 many jobs are associated with what. Do you know how
14 many jobs are associated with removing graffiti?

15 A. I'm sure that we don't have any facts and
16 figures that relate to that.

17 Q. Because we're trying to solve this
18 problem. I don't want to cost those people jobs if we
19 solve this problem.

20 Thank you.

21 A. If I could, Representative Keller, let me
22 expand on that just for one moment because I don't want
23 there to be any confusion around this. Mr. Rider
24 testified earlier that he was concerned that there may
25 be some loss of employment -- additional costs to

1 retailers in having to employ additional persons in
2 order to comply with this graffiti package. One point
3 I'd like to make is that we're concerned that there are
4 retailers out there who instead of hiring additional
5 people to comply with the anti-graffiti laws would just
6 decide not to sell spray paint at all. That, I
7 believe, would be a disservice to the people of
8 Pennsylvania, a disservice to retailers, and a
9 disservice to the manufacturing and distributing bases
10 in Pennsylvania.

11 Aerosol spray paints are a legitimate
12 product. Graffiti is an awful problem, it's a problem
13 that our industry has always recognized has been out
14 there, but it is not a product problem. It's a
15 behavioral problem. The people who use aerosol spray
16 paints with the intent to vandalize are where the
17 solutions to this problem ought to be made, not at the
18 product itself. And our experience in other areas of
19 the country has been that there will be some retailers
20 who instead of trying to comply with the law would say,
21 forget it, I'm not going to sell it. I don't need that
22 kind of headache, and out the window goes, you know,
23 however many sales that particular retailer gets
24 annually in the sale of spray paint and related sales.

25 Q. No, I agree with you. I just don't agree

1 that we're going to lose jobs with this bill. I just
2 want to make that point.

3 REPRESENTATIVE MASLAND: Thank you, Mr.
4 Chairman.

5 I was looking over your suggested
6 legislative language and one of the problems I
7 initially had with 861 and still do is that
8 broad-tipped indelible marker is really not clear as to
9 what a broad-tipped indelible marker. The thing I got
10 in my hand I don't think it's indelible, but if I use
11 it sideways it has a pretty good broad underlining
12 ability, however it's pointed, and you at least say
13 three-eighths of an inch in width. Now, I don't know
14 what you base that on, where you came up with that, but
15 I think it would be helpful to have some kind of a
16 guideline. Now, on the other hand, if you say it's got
17 to be greater than three-eighths of an inch, then
18 certainly all the stores and all the manufacturers can
19 make sure that all their products are only made
20 three-eighths of an inch. That adds, I think,
21 ultimately maybe to an enforcement problem. If you're
22 going to go in and check out a store and see whether
23 they had broad-tipped markers that are over
24 three-eighths of an inch, are you going to go up and
25 down the aisle and measure them to make sure that they

1 conform? So although I think it should be more clearly
2 defined, that could create a problem, and I don't have
3 necessarily a solution there.

4 Your final point on that attachment A is,
5 "It shall be unlawful for any person to aid or abet any
6 person under the age of 18 in the purchase or obtaining
7 of aerosol spray paint." Well, that may be a little
8 bit broad. I think that needs to be worked on because
9 you ought to at least have language in there that shows
10 that it was the intended use or that this can only be
11 brought about if after that juvenile has been arrested
12 or stopped for vandalism, because obviously the whole
13 idea behind this bill is to have people who are over 18
14 go in and do the responsible purchasing, whether it's a
15 parent, a teacher, or what not. You want to have those
16 people going in and doing it responsibly. So I think
17 you need to be careful as to the breadth of that
18 language.

19 That's all I have.

20 CHAIRMAN CALTAGIRONE: Thank you.

21 Chris?

22 BY MR. CRAIG:

23 Q. I was wondering if you could help me
24 understand some of this, because I'm just having a
25 little bit of difficulty. I understand clearly the

1 significant amount of business that your association
2 has projected makes in the Commonwealth of Pennsylvania
3 excluding the city of Philadelphia, as well as the
4 ancillary sales that are made when a can of spray paint
5 is purchased. Please take me through, because I'm just
6 not understanding then the next step in the reasoning
7 that an ordinance and/or statute making it inconvenient
8 to purchase spray paint, for example putting it behind
9 a cage or just having facsimiles displayed, would
10 result in the loss of sales. It's my understanding,
11 and I may be incorrect, that for most individuals above
12 the age of 18, the purchase of spray paint is not an
13 impulse purchase but is in fact an intentional
14 purchase, that you intend to buy that product for a
15 particular project, especially when you're making the
16 added investment of making these ancillary purchases
17 that you've described.

18 A. Well, I think there are several ways to
19 address your question. First of all, some of our
20 studies of customer behavior, of adult behavior,
21 behavior of adult consumers, has indicated that the
22 purchase of spray paint at times can be an impulse
23 purchase, and if they're walking down an aisle and they
24 see the Rustoleum and the other brands of spray paint,
25 then they'll think, oh, gee, I've got this project at

1 home, I might as well pick up the things to do with it.
2 They'll do that. If it's convenient, if they can just
3 reach on the shelf and pick it up. If they have to
4 find a customer representative or a sales associate and
5 ask them to unlock the cage before they can even look
6 at the different colors that are available, those
7 purchases may not be made.

8 Q. So basically, if I understand it, and if
9 this is a misstatement, if it's a difficulty or at
10 least an inconvenience to purchase a product for an
11 adult, some of that impulse business or sales would be
12 lost, is that a correct understanding?

13 A. That's correct.

14 Q. How much sales would be lost?

15 A. I don't think we have any facts or
16 figures that would be able to project that, other than
17 the experience we had in New York City.

18 Q. What was -- I mean, how much in the way
19 of impulse sales were lost in New York City?

20 A. In the first year of the lock-up law in
21 New York City, sales of aerosol spray paints dropped
22 almost 40 percent.

23 Q. And that was loss of impulse sales?

24 A. I'm not sure that I could say they were
25 all impulse sales.

1 Q. Has the sale of spray paint gone up since
2 that time?

3 A. I believe the lock-up is still there.

4 Q. No, the sale, have sales in the city of
5 New York increased since that time?

6 A. I don't believe it's recovered, but I'm
7 not sure about that.

8 Q. Do the facts and figures and projections
9 of job loss and sales loss, is that related at all to
10 the loss of impulse sales?

11 A. No. The figures with regard to the loss
12 of jobs or positions in retail stores comes from
13 another formula. What we did is we looked at -- let me
14 find my notes on that particular calculation before I
15 get into that. I don't want to give you any false
16 information. There is a survey published in the Census
17 of Retail Trade in 1987 which indicated the employment
18 to sales ratio, and in Pennsylvania this particular
19 census data tells us that in the total retail
20 environment it requires \$83,991 to produce one job in
21 retail. Now, if our earlier figures on the loss of
22 retail sales in Pennsylvania hold true, we divided that
23 number into \$23 million and came up with around
24 \$274,000.

25 Q. I'm sorry, you indicated that was retail.

1 Is that just retail sale of spray paint?

2 A. Exactly. That is just retail. That does
3 not indicate any alteration or loss of jobs in the
4 manufacturing facilities or distribution facilities
5 that engage in--

6 Q. But, I mean, that's the retail of just
7 spray paint?

8 A. That I'm not--

9 Q. Or is that retail of any product?

10 A. I think it's retail generally. I don't
11 think that's just retail of spray paint.

12 Q. Okay, so that's retail of any product,
13 it's not -- that figure then is not necessarily related
14 to the sale of spray paint.

15 A. It is, that relates to retail sales in
16 the SIC Code 52, which are building materials and
17 garden supply stores.

18 Q. Okay, so it's any retail sales out of the
19 building material or garden supply stores, everything
20 from a hose to a tree to--

21 A. Hose? Oh, outside hose, garden hose,
22 right. Generally where you find spray paint products
23 in places like--

24 Q. Again, I guess what I'm just trying to
25 understand, and I'm not quite that swift in

1 understanding numbers, that those figures are not
2 necessarily related to retail sales of spray paint.

3 A. No. To our knowledge, there are no --
4 there is no comprehensive survey of retail sales of
5 aerosol spray paints.

6 Q. Oh. Okay.

7 A. We've been unable to come up with that
8 data.

9 Q. So then these projections of possible job
10 losses are guesses? I mean, is that a fair and
11 accurate statement?

12 A. Well, they're based upon a per person
13 usage of aerosol spray paint cans. So, you know, any
14 reduction in the use of spray paint cans is necessarily
15 going to trickle down in the employment arena. So
16 they're not exactly guesses. I can't guarantee you
17 that you'll lose 270 jobs. You might lose 280, but you
18 may lose less.

19 Q. All right, then I just have a couple
20 quick questions about whether or not you've done any
21 cost estimates as to the cost to Pennsylvania taxpayers
22 to repair not only individual but governmental property
23 damaged?

24 A. No, but if I might, could I comment just
25 for a moment on that? There was a question earlier

1 about the cost of enforcement of these anti-graffiti
2 laws and the cost of graffiti removal or clean-up. And
3 there is a point that I would like to make, and that is
4 that National Paint and Coatings and other paint
5 manufacturers and distributors who are not members of
6 the association have for the last several years
7 actively engaged in campaigns to wipe out graffiti in
8 major urban cities, and one of the things that they've
9 been doing is establishing paint banks. For instance,
10 in Chicago, Chicago has a dearth of manufacturers in
11 that region, and Wisconsin, Illinois, Indiana, Ohio,
12 Michigan. And they have a terrible graffiti problem in
13 Chicago. One of the things that we've done in Chicago
14 is had our manufacturers donate paint basically to the
15 city to establish a paint bank, so that whenever
16 there's a community project or a program aimed at
17 cleaning up graffiti in the loop area around the L,
18 which is their rapid transit system, or things of that
19 nature that can just be painted over, they don't need
20 to buy the paint. They go to their paint bank. All
21 the paint has been donated by paint manufacturers. So
22 there are not a lot of added costs to the city in that
23 particular aspect. I don't have any facts or figures
24 on the cost of enforcement, but I do know that if you
25 ask for our help and if you ask the manufacturers in

1 your area for help in that regard, a project like that
2 or a program like that is very possible. It's very
3 feasible and it works.

4 Q. I guess I'm concerned when you say that
5 it's not a lot of -- that there's a potential of not
6 being a significant cost to government entities for
7 addressing graffiti vandalism, for oftentimes it's not
8 simply a matter of covering up the particular marker
9 but is actually removing it. I know from our own
10 research, SEPTA, one transportation alone in the
11 Commonwealth, has to spend upwards of a half a million
12 dollars a fiscal year just to address the problem of
13 graffiti vandalism, and that's one transportation in
14 the entire State. I'm just wondering about how
15 Pennsylvania taxpayer dollars could better be utilized
16 to employ more people way above 270 people if that
17 money was otherwise available for needed programs such
18 as job training but instead has to be used to repair
19 State buildings, public homes, et cetera.

20 A. I don't mean to downplay the costs of
21 enforcing any anti-graffiti laws because I understand
22 that there are significant costs to communities and
23 governments. Nor does the industry or our association
24 feel that the answer lies just in painting over the
25 graffiti. That's a temporary problem. It's a

1 temporary fix. There has to be a community commitment
2 with a very strong emphasis on law enforcement
3 activities, and I realize that there is an added cost
4 in that. However, those types of programs that place
5 an emphasis on active and aggressive law enforcement in
6 the area with community dedication to the issue and
7 with the support of industry have been successful in
8 other areas.

9 Q. I guess a final question, in addressing
10 most social problems, be it graffiti or other problems,
11 do you believe that an attempt to prevent the problem
12 from actually occurring is a more cost-effective means
13 of dealing with the problem than correcting the damage
14 that that problem has created?

15 A. Oh, absolutely. Absolutely. And that's
16 exactly why our "Responsible Retailing" program has
17 been successful in another areas and the community
18 outreach projects have been successful. I mean, what
19 they attempt to do is to educate not only the consumers
20 but the youngsters in the inner cities and get them
21 involved in these types of projects before they become
22 laggards and before they become proficient in graffiti.

23 Q. But the problem still exists.

24 A. Excuse me.

25 Q. The problem still exists.

1 A. Sure, the problem still exists, which is
2 why we're working harder and harder every day at it.

3 Q. Thank you.

4 REPRESENTATIVE MASLAND: Not to be
5 negative, but I think the problem is still going to
6 exist no matter what we do with these bills, so we're
7 just trying to lessen the degree of the problem.

8 CHAIRMAN CALTAGIRONE: I just want to go
9 back to one of the original comments at the beginning
10 of your statement. How much paint and/or aerosol
11 products are produced in Pennsylvania?

12 MS. McAULIFFE: Well, we estimate that
13 there are over 10 million units used in the State of
14 Pennsylvania excluding the city of Philadelphia
15 annually. How much are produced here or manufactured
16 here I'm not aware of.

17 CHAIRMAN CALTAGIRONE: How many paint
18 plants do we have? Do you know that?

19 MS. McAULIFFE: Over 30.

20 CHAIRMAN CALTAGIRONE: Over 30 major--

21 MS. McAULIFFE: Facilities, manufacturing
22 facilities or distributing facilities in the State.

23 CHAIRMAN CALTAGIRONE: Okay. Thank you
24 for your testimony. We certainly appreciate it.

25 MS. McAULIFFE: Thank you.

1 CHAIRMAN CALTAGIRONE: Our last testifant
2 will be Leo Marchetti, legislative chairman for the
3 fraternal Order of Police. And while Leo is coming up,
4 I just want to mention that the hearing in Philadelphia
5 tomorrow will start at 10:30. It will be chaired by
6 Harold James, and it will be held on the campus of the
7 University of Penn at the LRSM Building.

8 Leo.

9 MR. MARCHETTI: Thank you, Mr. Chairman,
10 members of the Judiciary Committee, and Senator Fumo's
11 representative also. I've listened very intently to
12 the discussion by all four people here and certainly
13 it's a step in the right direction when each come and
14 attempt to explain to you what their particular
15 department would be facing under this legislation. I
16 think it's a step in the right direction. I think the
17 city of Philadelphia specifically is having a terrible
18 problem down there with graffiti. I'm very fortunate,
19 I guess. I come from the other end of the State, and
20 last year we had a conference in the city of Pittsburgh
21 and everybody was so surprised that our subway, what it
22 is, of course it's not as big as what Philadelphia has,
23 but everybody said, my God, this is really great for a
24 big city. We saw no graffiti. And thank God we don't
25 have that problem, and I hope it remains in

1 Philadelphia, I'm sorry to say.

2 REPRESENTATIVE KELLER: It's not. It's
3 coming.

4 MR. MARCHETTI: What I would like to say
5 to you is that I think everybody that spoke is very
6 interested and very concerned for their individual
7 reasons, and certainly I listened to Lieutenant King
8 give you a rundown of the problem that law enforcement
9 sees possibly in these bills, and I think that if you
10 get into some detail as to a little bit more definition
11 of the wording in this bill, I think you're going to
12 take care of about 80 percent of any problems within
13 the law enforcement community in dealing with them.
14 Because our people are the ones that have to be out
15 there enforcing these laws. Also, you must remember
16 that in the larger cities, the school systems have
17 security people, and in many cases these people I would
18 suspect are going to have to have some special training
19 also because of some of the wording in this bill. And
20 I don't know how effective it's been in Philadelphia.
21 I mean, I'm drawing a blank here. I intend to find
22 out, however, in the very near future. I'm hoping that
23 you have seen a reasonable amount of success in your
24 law since 1984, was it? '84 it was passed. I know
25 it's been bad for many, many years and I'm very

1 familiar with it in going in and out of your city, so
2 if these bills have some definition correction, as I
3 say, I think that's important. I think that if we can
4 get together and work out a problem where law
5 enforcement can do an adequate job with this
6 legislation, I think we should all be working for the
7 success of the intent of these three bills.

8 I really don't have much else to say. As
9 I said, I think that Gregory King explained very, very
10 well the concern that we would have in law enforcement
11 with these bills.

12 CHAIRMAN CALTAGIRONE: Leo, one of the
13 things that we had talked about previous, and maybe we
14 ought to get it on the record, is that in addition to
15 community service for repealed offenders, that the CC
16 camps, the old CC camps, provided the work experience,
17 the work ethic and the responsibility for a lot of
18 young people at that stage of their life. What are
19 your thoughts on it? People keep coming up with
20 community service, which is good, which is
21 well-intended, let's say, for the first or second
22 offender. But the repeat offenders in this particular
23 area, or other areas, young people that aren't
24 committing violent type crimes, from your point of
25 view, and you've seen it all over the years, do you

1 think camps -- now, we do have the boot camp that
2 became law for young offenders, but they are more
3 violent type offenders. These would not be considered
4 violent type offenders, but would there be some merit
5 in looking at camps like that?

6 MR. MARCHETTI: Oh, I think there would
7 be a lot of good interest shown actually in legislation
8 that dealt in that area simply because we're having
9 more and more broken homes. Let's be as honest as we
10 can be. And a lot of the same problems that deal with
11 this graffiti I'm sure reflects back to the type of
12 home that some of these children are coming from. CC
13 camps served a very, very good purpose when they were
14 in existence. I happen to be of that era, so I'm very
15 familiar with it. I saw a lot of children going into
16 CC camps and when they came out, believe me, they were
17 gentlemen. And I guess we just have grown up under a
18 different era today than what we had in my day, but I
19 think that any type of a training program for children
20 who through no fault of their own just don't have that
21 home background instilled in them. And if the
22 government would feel that they could get into some
23 type of program like that without curtailing -- well, I
24 shouldn't even use that word, I guess. Without doing
25 something to children that really they don't want to

1 do, I think that's the big thing. In the CCs it was a
2 voluntary thing. A lot of children would be committing
3 juvenile crimes and when they would get to the court
4 system they were given the option of whether they
5 wanted to go into a CC camp or face the punishment that
6 was at hand, and a lot of those families chose to send
7 their children into these camps, and as I say, I saw a
8 lot of great people coming out of them. I don't know
9 whether the legislature wants to get into that area or
10 not, I don't know, but if you're asking me, the benefit
11 of CC camps during my day, I think they were very
12 beneficial.

13 CHAIRMAN CALTAGIRONE: Questions?

14 (No response.)

15 CHAIRMAN CALTAGIRONE: Thank you, Leo.

16 We appreciate your testimony, and we'll adjourn the
17 hearing. Thank you.

18 (Whereupon, the proceedings were
19 concluded at 11:25 a.m.)
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.

Ann-Marie P. Sweeney
ANN-MARIE P. SWEENEY

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