

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: Oversight Hearing on the Office of Attorney
General

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Stenographic report of hearing held
in Room 140, Majority Caucus Room,
Main Capitol Building, Harrisburg, PA

Tuesday,
November 30, 1993
9:30 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Jere Birmelin
Hon. Peter Daley
Hon. Gregory Fajt

Hon. Frank LaGrotta
Hon. Al Masland
Hon. Jeffrey Piccola

Also Present:

Hon. Mark B. Cohen
William Andring, Chief Counsel
David Krantz, Executive Director
Richard Scott, Counsel, Legislative Black Caucus
Shelley Todd, Democratic Staff
Mary Beth Marschik, Republican Research Analyst
Karen Alden, Republican Counsel

Reported by:
Ann-Marie P. Sweeney, Reporter

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ORIGINAL X

CHAIRMAN CALTAGIRONE: We'll start the proceedings. I'm Chairman Tom Caltagirone of the House Judiciary Committee. This is the oversight hearing of the Office of Attorney General. For the record, the members of the panel, including staff and members present, if they would just identify themselves for the record. Starting to my left.

MS. ALDEN: Karen Alden, staff counsel, Republicans.

REPRESENTATIVE BIRMELIN: Representative Birmelin, Wayne County.

MR. SCOTT: Richard Scott, staff, Democratic.

MR. ANDRING: Bill Andring, Chief Counsel to the committee.

MS. TODD: Shelley Todd, staff, Democratic.

REPRESENTATIVE LaGROTTA: Frank LaGrotta, Lawrence and Butler Counties.

REPRESENTATIVE PICCOLA: Representative Jeff Piccola, Minority Chairman.

MS. MARSCHIK: Mary Beth Marschik, Republican Research Analyst.

MR. KRANTZ: David Krantz, Executive Director of the committee.

MS. TRICARICO: Margaret Tricarico, secretary to the committee.

CHAIRMAN CALTAGIRONE: Attorney General, if you want to proceed.

ATTY. GEN. PREATE: Mr. Chairman, thank you, and members of the committee. I appreciate the opportunity to provide you with an overview of the scope of the office and duties and responsibilities of the Office of Attorney General. We're a relatively small agency compared to other State agencies. We have 731 employees and a budget of \$66 million total for the current fiscal year. But our duties go beyond that of many other departments. We arrest, in our Drug Law Division, drug dealers and prosecute them. In our Public Protection Division we monitor charitable requests, such as Hershey Trust and the Barnes Foundation. We conduct, in our Criminal Division, wiretaps. In our Consumer Protection Division we not only do consumer protection lawsuits but we do consumer education programs. Also in our Criminal Law Division we prosecute polluters; and we, in our Civil Division, have lawyers that go out and defend the State every time the State is sued for a variety of claims, most of which are tort claims. So we investigate everything from public corruption, as in the Supreme Court

investigation, to contract killings, as in the prosecution in Erie this year of -- a successful prosecution in Erie of an organized crime murder.

We review approximately 25,000 State contracts a year, including the WAMs, and we help the district attorneys handle all kinds of conflict cases, and one of the reasons we're in the investigation in Philadelphia is because the district attorney recused herself and under the conflict statute referred the matter to us for investigation and prosecution, if any.

And then of course in our appellate section in the civil law area we even go to the various courts in the United States, including the United States Supreme Court, where we argue the constitutionality of statutes that the legislature passes and the Governor signs into law, and most notable among those, of course, is the Pennsylvania death penalty statute and the Pennsylvania abortion statute, both of which we successfully argued on appeal in the United States Supreme Court.

While our work in the fight against crime and drugs receives most of the public attention, and rightly so, because it is a major, major concern to the people of Pennsylvania, drugs and violent crime are very high up on the priority list of people in this

State. And we have, with the cooperation, and the bipartisan cooperation, I must point out, of the legislature, including you, Mr. Chairman, established I think one of the most successful drug investigation/prosecution programs in the United States called the Municipal Drug Task Force Program, and if you remember, four years ago at this time we had requested from -- around this time -- we requested from the legislature money to fund this program. The money had run out on a Federal demonstration grant and we asked the legislature and the Governor to support this concept, this idea, and we went from approximately 10 task forces that were then running out of money to now we just established our 56th task force, the last one being in Chester County, and we're hopeful to put another one on up in Centre County before the current fiscal year runs out in June.

So this program which started out five years ago as just an idea is now a full-fledged and vigorous investigator and prosecutor of street-level drug dealers, and the results have been remarkable. You get all over Pennsylvania the police officers and the community leaders tell us that this program works effectively to drive drug dealers off the local neighborhood street corners and it saves their

businesses from collapsing under the onslaught of drug dealers dealing out in front of their property, and so this has been a very successful program. It resulted in the arrest last year of about 4,000 or over 4,000 drug dealers, and it also provides us with an enormous amount of intelligence so that we can work cooperatively with the State Police and the Federal investigators and prosecutors to go after the higher level of drug dealers that are behind the street dealers. And so that program which is approximately about a \$5 1/2 million program gets a tremendous bang for its buck and it has been praised by the legislature when it reviewed the program just over a year ago, it's been praised by people like Bill Bennett when he came up here just three years ago. It's been praised by community people, community leaders and elected officials all across the Commonwealth for its assistance to the local fight against drugs.

That aside, it's also important to point out that we have a whole civil section in the office that does a remarkable job which doesn't get an awful lot of attention, but I would just like to point out that while our budget is approximately \$66 million, that we brought into the Commonwealth revenue of over \$31 million. In other words, 48 percent of our budget

we were able to go out and obtain from a variety of sources, people who hadn't paid their State taxes or their income tax or their corporate tax or delinquent in some fashion. Just yesterday I met a man in the elevator that paid off a State library debt of \$30 and our office collected it. So that's the kind of work that we do. It doesn't get a lot of press, but it gets a lot of money for this State. And that's \$31 million which then is able to be used by the State through the appropriations process.

And it is also important to point out that our tort lawyers who go in mostly through the Department of Transportation when every time a PennDOT truck driver gets in an accident or they build a road improperly, the State gets sued. And as a result of those lawsuits, there was approximately \$260 million that was at stake just last year alone in that, and I want to give you these figures because they are very, very impressive. We had, with those \$260 million of the State taxpayers' dollars at stake, our tort attorneys last year won 392 of the 403 cases that were litigated to judgment. That's a success rate of 97 percent. So we got some pretty good lawyers over here working for the State. And we are really very pleased to be able to continue that kind of level of quality in

our attorneys who obviously save the taxpayers of Pennsylvania an enormous amount of money when they -- because people sue the Commonwealth and they think the Commonwealth's got deep pockets and we go into court and we win 97 percent of the time. I don't think there's too many law firms that have that kind of success record.

So having said all of that about our fine Civil Division and our Drug Law Division and our Criminal Law Division, I just want to point out in regard to the Public Protection Division that we handled last year in 1992 29,000 consumer complaints and 168,000 telephone complaints. And we did that with 14 attorneys and 24 agents. And that's the same number that we had when I took office five years ago, and these people over there have worked extraordinarily well. Even though there's been a jump of 22 percent in the number of complaints filed, we didn't increase the staff of the office 22 percent.

We saved money through the mediation process for consumers, an extraordinary amount of money. In the last four years alone we returned in restitution to the people of Pennsylvania approximately \$96 million. Now, that's a lot of money to return to consumers. And we're continuing to do all of that

outreach work, investigative work, mediation work, and information/public education work. So we believe that while our office is small, we have a major impact in the delivery of important programs fighting drugs, consumer protection, defense of State statutes, defense of the Commonwealth in our agency, and I would be deleted to answer any questions that you might have, Mr. Chairman and members of the committee.

CHAIRMAN CALTAGIRONE: Thank you.

I'll open it up first for any of the members or staff members first.

Chairman Piccola.

REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

BY REPRESENTATIVE PICCOLA: (Of Atty. Gen. Preate)

Q. I just have one line of questioning, General Preate. The recent activities of your office relative to, well, just for example, the statewide investigative grand jury involving Justice Larsen, the investigation that you're now undertaking in Philadelphia concerning the election, in my mind, at any rate, point out what I think is a deficiency in the Commonwealth Attorneys Act, and that is where the need, for whatever reason, whether it's an actual conflict or the appearance of a conflict with the Office of the

Attorney General, for the creation of a mechanism for the creation of special counsel or special prosecutors or independent prosecutors, similar to what the Federal government has.

Just taking the Justice Larsen matter hypothetically, and I don't mean to imply that anything was done improperly, and I think I've told you and I've told others that the appointment of Mr. Dennis and Mr. Tierney were top-flight appointments and really the investigation could not have been handled any better or more independently under the circumstances, but just say, hypothetically, for whatever reason, your office had an interest in not vigorously prosecuting or investigating a Supreme Court Justice, and there are all kinds of reasons why that might happen, whether it be you or some future Attorney General, there's no mechanism in the law in the Commonwealth Attorneys Act for the creation of what I would consider really independent special prosecutors such as we have at the Federal level. Do you believe that that kind of a mechanism might be appropriate for the legislature to consider enacting into law and have you given -- if you believe that is the case or if you believe it isn't the case, have you given any thought to what kind of mechanism might be put into place? Because as I

understand it, I haven't studied the Federal model but as I understand it, there is some problem with the Federal model but I haven't really studied it in any detail.

A. Well, and I haven't studied the Federal model either much in detail except to know that they're trying to recreate an Office of Special Prosecutor in the Federal system and they've had some problems agreeing on what the limits and the reasons for Special Prosecutor's Office would be constituted. This is, as you well know, Representative, you're one of the folks that was helpful in the creation of this office and in the development of this office, and members of this committee too, this is a new office. This office is basically 13 years old. I mean, it used to be the Attorney General was the Governor's appointee and he had responsibilities, some criminal responsibilities, and he would be called upon under certain circumstances of conflict to do the investigations when district attorneys needed to recuse themselves or needed assistance. The legislature then established an independent office. They said, we don't want the Governor to appoint the Attorney General because it looks like the Governor would then be able to control the investigation. And so they wanted an independent,

elected, not appointed, an elected Attorney General. And they gave that independent, elected Attorney General the authority under the act to step in when district attorneys recuse themselves or there was allegations of State corruption. And so it has limited criminal responsibility, and I think appropriately so that its authority is limited.

And I think that there is a -- there is no mechanism in the office of Attorney General's charter, in the Commonwealth Attorneys Act, for the appointment of a totally independent, outside-of-the-Office-of-Attorney-General prosecutor as they would have in the Federal system. I think those occasions when that situation would occur where you need some outside counsel are so rare that I don't -- I would not be sure that it would be in the best interests of the Commonwealth to have such an independent prosecutor. But that's no firm opinion. I just note that there's all kinds of problems. When they created the office of independent prosecutor in Washington, there was problems of the scope, problems of responsibility, of fiscal accountability. It was just all those, and the people were very concerned about this unlimited grant of money to an office without any supervision or oversight.

And what I tried to do, therefore, in the absence of an independent prosecutor's office, is to establish a tradition here, establish a custom here in the Office of Attorney General when delicate, sensitive matters do arise--and they do arise from time to time--to insure that there is fairness and insure that there is objectivity in investigations, that I've done something extraordinary that other attorneys general haven't done around the United States who are similarly situated to this office, that I've reached out and appointed people to do an independent investigation as I did with Ed Dennis and Jim Tierney, even reaching out to another State to get help, and then reaching into the ranks of the State Police or reaching or even asking the FBI to give us assistance. And in that way even though there is no independent prosecutor's office, I'm fulfilling my responsibilities being the independent, elected Attorney General by reaching into other agencies and bringing together groups of people that would insure that there is fairness and objectivity in investigations.

I've heard, and I just mention this because my brothers and sisters in the offices of Attorney General around the United States have now looked upon what we did in the judicial investigation

here in Pennsylvania as a very good model short of going to the Office of Independent Prosecutor. And it worked. It worked.

Q. Dennis and Tierney will be busy.

A. Well, there will be other Dennis and Tierneys around the United States. But I think that what I've done is since I didn't have the ability to have an independent prosecutor created, nor did the legislature allow for such, I've done it by tradition. And I want the record to reflect this, and maybe decades from now people will come back and say, that's the way it should be handled. Let folks get appointed of impeccable integrity, give them an independent public charter, and that's what I did, to follow the evidence wherever it would lead, and from time to time make reports to us as the person independently elected but responsible to this legislature and responsible to the public, and in that way while we have some ability for you to inquire of us, as you did. And you know, Mr. Chairman and members of this committee, from time to time you asked for briefings as to where the investigation was and we would provide those to you and if you needed we would even bring in the two independent prosecutors in the judicial investigation to let you know at least some status.

I think it worked. And as I said, folks around the United States look upon this now as a model for doing that kind of special work. And I've tried to do that same thing here in the election investigation in Philadelphia, and I've asked John Dowling, who is a respected, retired judge here in Dauphin County, to advise us, and I've asked former President Judge of the Superior Court, another man of integrity, Ed Spaeth, to join in this manner and to continue the oversight of what we're doing. I've asked the State Police to come in and Glenn Walp, the commissioner, has given us all the assistance that I've asked for. I've asked, in response to the Acting Governor's support of our investigation, I've asked Bill Chadwick, the Inspector General, to supply us with people, and he has supplied us with investigators. And yesterday I asked the FBI for assistance and they will be supplying some people.

So, the net effect is that you wind up with an investigation that will have credibility because it has brought together virtually every law enforcement agency that can be helpful and that does have independence and that is known for its professional performance of duty. So while we don't have the statute, we do have in this Attorney General the desire to have a mechanism that would deal with

these unique situations, and I have done my best to get independence into these investigations, and I thank you for recognizing that effort.

Q. And I do recognize that with respect to the two that we talked about, although I have to differ with you a little bit that I don't think they're as rare as perhaps you've indicated, and I'll tell you the reasons why, and ironically, my sensitivity on this issue has been heightened by a rule promulgated by our own Supreme Court requiring that an attorney licensed to practice in the Commonwealth participate in a continuing legal education program, and also ironically the Supreme Court has mandated that the first, I guess, year or two of that continuing legal education shall require the attorneys to take courses in ethics, legal ethics. I will put the irony of that aside for the moment, but I have taken my ethics courses. In fact, I'm good up through April of 1995, for members of the press.

But one of the things that has been brought home to me in those courses is that conflicts for attorneys, and that is what the Office of the Attorney General is, conflicts can arise over some of the most minute kinds of situations. And I agree with you in your historical analysis. We took the office

out of the control of the Governor because of apparent conflicts. But when we created an elected Attorney General, we created the potential for other conflicts. Just running for election creates conflicts for you personally and for your staff. The one thing I read in the press over this election investigation from some prominent Democrat, I don't remember who it was, is, well, we know what Preate is going to do, he's a Republican. Well, no matter how distinguished Judge Dowling and Judge Spaeth are, that kind of public attack undermines the credibility not only of the investigation but of your office generally. And I think, I'm not suggesting we go back to a non-elected Attorney General, but I think that there should be some mechanism in the law, and I think the model that you have created in terms of your personal involvement in the two investigations that we've talked about is very admirable. I don't have any quarrel with it myself at all. But that's not to say some future Attorney General is going to participate in that kind of a procedure. And I personally would like to see the General Assembly, and perhaps this committee specifically, investigate the possibility of creating a mechanism for the creation of a truly independent special prosecutor for those kinds of cases where it

might be appropriate. But I'll just end my interrogation on that note.

Thank you, Mr. Chairman.

CHAIRMAN CALTAGIRONE: Any other members of the committee?

Representative Masland.

BY REPRESENTATIVE MASLAND: (Of Atty. Gen. Preate)

Q. General Preate, I want to apologize. I'm used to having 10:00 o'clock hearings and when I looked and saw it was 9:30 and it was already 9:40 until I got up here, Chairman Caltagirone started us a little earlier today, and I guess looking at the volume you have here for us, it's appropriate, because you do do a whole lot of things.

I'm going to change the tact a little bit and maybe this isn't something that I really need a response, but I think in light of the fact that we're going to be considering antitrust legislation in this committee very soon, it might be something that someone from your staff can contact me later on.

I've had to go back to school with respect to antitrust legislation, and in fact I spent a couple hours with Dean John Marr of the Dickinson School of Law and discussed the current bill 307 and basically got an historical account from him also, and

I don't have any problem with a mini-Sherman Act here in Pennsylvania, and I think in light of what the assistant U.S. Attorney General in charge of antitrust, Ann Binghamman, has said lately, that we probably do need some law in Pennsylvania with that respect. She basically said they're going to just look at the big cases, the substantial cases, the significant cases, whatever they may be, and leave everything else up to the State. So I can see that there is a possible vacuum there. But one concern which maybe your staff would like to sit down later on and discuss in more detail was raised as to whether we really need the merger and acquisition section, Section 6, in our act. We have the restraint of trade, we have the monopoly section, but do we really need merger and acquisitions? Dean Marr's feeling was that mirrors the Section 7 of the Clayton Act and it's replete with problems. There have been a number of inconsistencies in the cases and that we may just be getting ourselves into more trouble than we need to in that case.

And another red flag that he raised which I would be happy to discuss with staff too was with the last section, which I understand the business community may in fact want, which incorporates Federal case law on the subject. I think it's Section 12 or 13 in the

act. Dean Marr's position, and I can understand that, it sounds somewhat odd for the business community at one time to be saying, we don't really need this antitrust legislation, there have been problems with it the way it's been implemented on the Federal level, we have problems with it, but if we're going to go on with it, let's take all the Federal case law. And again, as in the case of merger and acquisitions, there are a number of inconsistencies. There's some case law that's out there that we may not want to incorporate right here in Pennsylvania.

So those are just a couple of red flags. I think a mini-Sherman Act would make sense but I'm concerned about merger and acquisitions and that last section, and I would be happy to talk with your staff at greater length on those things.

A. I'm glad you did bring up the subject of antitrust. We are the only State, as you know, that doesn't have an antitrust law in America, and we need one. And it's not needed to stifle business but it's needed to protect particularly the small business men and women of Pennsylvania as they try to start up their small businesses, which create most of our jobs in Pennsylvania. And they need kind of a level playing field to get started, and that's why we need an

antitrust law in Pennsylvania.

But I agree with you about that section dealing with mergers and acquisitions. As I think counsel knows, when we submitted the piece of legislation going back three, four years ago, it never contained a mergers and acquisitions section. That was added -- I believe Walter just informed me that was added over on the Senate side as an amendment by Senator Fumo. And we did not, I want to make it clear, we did not put that into our mini-Sherman Act.

And as far as the case law section is concerned, I would have to get some more information about that to talk to you effectively about it, but you may very well be right that we don't want to have all of the conflicting Federal case law incorporated into Pennsylvania. We might want to develop our own under our own antitrust law. And so in both those areas I think you're going to find a good deal of flexibility here in the Office of Attorney General to develop an antitrust law that's needed but that doesn't impose unreasonable burdens on the business community but protects the small business men and women.

Q. Thank you. I appreciate your comments, and as I said, I'm not dealing from a position of personal authority. I've relied, to a great extent, on

my discussions with Dean Marr, and I would be happy and I do intend to convey his comments and concerns to the rest of the committee when we discuss this bill, but I appreciate your position on the two things I raised.

Thank you.

CHAIRMAN CALTAGIRONE: Are there other questions from members?

Representative Daley.

REPRESENTATIVE DALEY: Thank you, Mr. Chairman.

BY REPRESENTATIVE DALEY: (Of Atty. Gen. Preate)

Q. Good morning. How are you?

A. Good morning.

Q. I also happen to say that I was unaware that we were starting at 9:30. I came in at 10 till, so I do apologize.

A. That's all right.

Q. The Charitable Trusts and Organizations Section of the Attorney General's Office is something that is of grave concern to me. Several years ago I worked with Fran on your staff for well over a year to develop the legislation that now has become the Solicitation of Funds for Charitable Purposes Act, primarily because of Marie Desilars and some of the things that she was doing in Pittsburgh at Children's

Hospital. My question basically is concerning that, the implementation of the act now. I read in your presentation and the one thing that was changed in my legislation when it went to the Senate by some language that you had placed in was that giving you investigative powers to uncover and prosecute solicitation practices. And it seems that's working. To what extent is that working and can you elaborate? Have these changes been to the better? Because we hear from many organizations that they really hate to disclose or pay the fees, if that's necessary, but I believe it is working. I think it's serving a purpose.

A. Well, I appreciate you mentioning that. You know, it's a small part of our public protection office, the Bureau of Charitable Solicitations and Trusts, and we have, since 1989, filed approximately 60 actions, legal actions, against professional fundraisers and so-called charities, and we've obtained \$6.6 million in restitution for legitimate charities and penalties and costs. It's on page 11 of our report to you, and we worked with you in the development of the new amendments to the act and we have begun to use that and use it effectively.

One matter already underway is against the American Association of State Troopers, which is a

Florida-based charitable organization, and against Telecom Telemarketing Services, its North Carolina-based fundraiser, and we're currently in litigation. We allege various misrepresentations by the AAST folks and because they are portraying themselves, at least on the phone in several instances, as employees, State Troopers, that they're currently State Troopers, and in fact the law specifically prohibits, another law specifically prohibits State Troopers from engaging in that kind of solicitation. And, of course, misrepresentation of someone, which the law now directly prohibits, is an important tool for us to make sure that the public which is being asked to contribute is not duped, is not deceived. And I commend you for working with us and the committee members that helped to do it. We want to do more of this work and we would hope that it would continue to be as effective as it has been in the past. But I appreciate your work on this. This was well-needed. This is an important statute and other States have now picked up on it.

REPRESENTATIVE DALEY: Thank you, General Preate.

CHAIRMAN CALTAGIRONE: Any other questions from members? Staff?

Counsel Andring.

MR. ANDRING: I have just a couple of questions.

BY MR. ANDRING: (Of Atty. Gen. Preate)

Q. For a number of years there have been various proposals in the General Assembly to take part of the drug forfeiture moneys and earmark them for community groups or community-based organizations that are involved in the war against drugs. Do you support that kind of earmarking of funds or a change in the distribution formulas?

A. No, I don't think that it's necessary to do that, Counsel. My sense is that you, you have to rely, I think, on the good faith and good intentions of the elected district attorneys and the elected Attorney General to spread around that forfeiture money. I don't believe that you have to say to the district attorneys of Pennsylvania that you have to give up 10 percent or 20 percent or whatever it is of their drug forfeiture money, or to the police departments of Pennsylvania that you have to give up 10 percent or 20 percent of your money to drug education or to support civic groups that are involved in drug fighting. I do it voluntarily. And in fact, I think it's one of the most important aspects of our drug fight is to support

civic and neighborhood groups. Just Friday night I was down in Philadelphia over in 19th and Spring Garden with the folks from the drug fighting community there paying homage to the slain police officer, and none of those groups are people that I had given money from our drug forfeiture account.

I would suggest one thing, and that's this: The Federal law permits us to use our resources in the drug forfeiture area for a wide variety of law enforcement purposes. But our State law restricts us in using those forfeiture moneys. And it's only for drug law enforcement that we can use those forfeiture moneys. Perhaps by broadening the State statute we could then permit district attorneys and police departments to contribute more of their State dollars rather than their Federal dollars to civic groups that are involved in drug fighting, drug education, or whatever. But as far as mandating a percentage, I would not think that that would be productive because what you would do would be taking away -- there's a certain incentive right now for police departments and district attorneys to go out and engage in this drug forfeiture activity, and in days of tight budgets, it becomes absolutely essential to have that forfeiture activity because if there's an appropriation that's

short, then you have to reach into your forfeiture account.

We had to do that last year. I reached into my forfeiture account last year for over \$700,000. Now, we depleted that account down to almost, what, about \$200,000 or something. So, I mean, we were at dangerously low levels. Normally we keep that account at around \$800,000 to a million. But when there was a shortfall in the appropriations process, we had to reach into that forfeiture account and give the money to municipal drug task forces, to police departments around the State. And so if we were mandated to take that money elsewhere, you know, we would have had no money left in the forfeiture account and no money left to fight drugs from the enforcement standpoint. So what we are trying to do is strike that balance, and I believe we did. But I do want to draw the distinction, Counsel, between the Federal law which permits us to do that kind of contributory work and the State law which does not permit us to do it.

Q. Do you have any idea of how much your office is distributing to community-based groups or how much the district attorneys statewide are doing in that respect?

A. I think that we're up around \$200,000.

It's page 32. I think it's around -- we have awarded \$200,000 to more than 175 organizations over the past 5 years, with 75 being awarded in fiscal year '92-'93. Some of them are repeat groups that they come back every year under our mini-grant program, and we've been increasing. Walter, are we up to \$2,500 now? We're at \$1,000. Our mini-grant program is \$1,000. And we require an application to come in from a group, it's not a very complicated one but it's an application and they submit a budget, they tell us what they're going to use the money for, and then we review it and modify it or whatever, and work with the group. They may ask for more than we can give them or they can get away with something less and we work with them and then we supply them with the necessary money and then we have kind of a follow-up to determine whether or not they've expended the money in the appropriate way.

So I would like to do more of that. I would like to do more of that work. The only restriction, as I said, is on my State forfeiture account. I can't use that in that way. I have to use my Federal forfeiture dollars for that kind of work because it's not for drug law enforcement, Counsel.

Q. Yeah. Another question relating to those funds. How closely are they monitored by your office,

the expenditures by the local agencies and their share of the forfeiture proceeds? And I ask that because the committee gets a report which is very cursory, but in looking at that it looks like there's at least a possibility that some of the larger counties are essentially using those funds as operating expenses as opposed to supplementary funds, which I think they're supposed to be directed specifically to drug law enforcement.

A. Well, we don't have any audit responsibility over the district attorneys how they use, we don't have any power to tell them what to do with that money or not to do with that money.

Q. Are the reports you receive basically no more detailed than what gets sent on over to us?

A. Basically. That's correct, Counsel. What you get is basically what we get. We have asked the district attorneys to provide more information. About half of them have provided us with more detailed information, and that's reflected in the reports. You'll see from some of the numbers are very specific. I believe Philadelphia is one of them. It's basically those offices that have the ability to computerize and to deal with those matters on an ongoing auditing basis. And of course, the Auditor General has

responsibility here to go in and audit, and so does the county auditors. They have responsibility to go in and do an audit, too. Perhaps you can address that situation with the county auditors, who I know have told me on many occasions they would like to do more to determine specifically where the money is, how much is there, and what's happening to the money.

I would not object to it because, frankly, if you or the chairman or members of this committee wanted to know where we are in our forfeiture account, I can tell you that in 24 hours because everything is on computer. We can push a button and it's on the State computer and we can give you all the money that's come in in the last 24 hours and all the money that's been expended in the last 24 hours. We are required to report to you almost on a daily basis. Particularly the Appropriations Committee. I mean, the Appropriations Committee, if they wanted to find out where we were with our forfeiture account, they could do that at any time. And I'm happy to be able to provide that kind of detail to them, and I think the district attorneys would be willing to accommodate some kind of similar accountability.

Q. Okay. Another question relates to the local drug task forces. Several years back there was

something of a dispute between your office and some of the DAs over who would have the ultimate control of those. And my question is, how did it eventually end up breaking down? How many counties does your office maintain the essential control in and how many did the DAs actually step forward and exercise their control? Not exactly, but roughly.

A. Well, a good question. First of all, let me just say I want to thank you, Counsel. You and this committee played an important role in resolving a jurisdictional question between the district attorneys and the Office of Attorney General, and that was resolved about two or three years ago. We've had no conflicts with the DAs since then. Our relationship couldn't be any better. And in fact, as we know, we continue to add on task forces. The issue of control has been resolved through the agreement that we've signed with the district attorneys, and I think that of the 57 task forces, I would say about, oh, maybe half a dozen of them have strong district attorney control, and the rest of them basically a coordinated, cooperative venture between the district attorney's office and the Office of Attorney General. And that's basically what we predicted would happen, that most of the counties would, particularly the smaller counties,

would rely more on the office of Attorney General's assistance and manpower to coordinate these drug task forces. And so it's worked out just basically the way we thought it would work out. In fact, Walter says that we have maybe one county in which, no, one county in which they've kind of officially taken over everything, and that's Cambria County. And a couple of other counties where they have de facto taken over administration of the task forces, Lackawanna being one of them.

But in most of the cases it was just a question of, you know, of are you going to invade our turf? And we resolved that with your help and we appreciate that, and as it turned out, everything is working fine. A very cooperative venture. The last task force which we created was the Chester County task force, and the district attorney there used to work for me, Anthony Scarcione is my Chief Deputy for Criminal Law, he is going to play a very substantial role in the conduct of the task force. But it will be a cooperative venture. And that's basically what it is around the State. Most of it is all cooperative ventures now.

Q. Yeah, I noticed Chester County was the one you mentioned, which is one of the ones most

recently which I think is one of the counties where there was a problem.

A. Yes, that's right. And guess what happened? When we went out there, the police departments were all very eager to join in in anticipation and the community was very eager to have the assistance, and it just takes folks coming together, and we did come together there and it's working very well. We hope that we'll be able to do it up in Centre County also. I just received a letter from the borough manager of State College and the police chief of State College, the new police chief, and I think we're going to wind up with a new Centre County task force, which is really needed. I want to say it's really needed up there.

Q. Okay. Could you provide a little more detail on the administrative set-up of the investigation of the voting case in Philadelphia? As I understand it, you have jurisdiction because that was a referral from the district attorney, or are you exercising independent jurisdiction?

A. Well, we received -- the reason why we got into this case in Philadelphia is because the district attorney wrote us a letter, under the Commonwealth Attorneys Act, recusing herself, saying

that she had an actual or potential conflict of interest since she ran with Mr. Stinson on the same ballot and had actively campaigned for him in Philadelphia. And so therefore, she recused herself from that, and properly so, and turned the matter over to us for investigation. We could have sought independent review of this matter and begun an investigation independently of her request because of the allegations of public corruption, which under the Commonwealth Attorneys Act would give us the authority to investigate acts of public corruption involving election officials. And we have done that in other cases. Without request from the district attorney we have gone in in other cases under that section of the Commonwealth Attorneys Act. But I choose in this instance to not exercise my responsibility under that or my authority under that section of the act. I wanted to be sure that since it was so sensitive that the district attorney had first opportunity to deal with it and she tried to deal with it and she did it and by recusing herself down in Philadelphia.

And so we then proceeded, once we received the request from the district attorney, I then proceeded to call Judge Dowling and Judge Spaeth. And I also dispatched one of my deputies to talk to Colonel

Waip over at the State Police to get investigative assistance, and then they supplied us, the State Police verbally agreed to supply us with investigative assistance. Judge Spaeth and Judge Dowling then joined the team and have been briefed on an ongoing basis. And, in fact, Judge Spaeth yesterday was meeting in Philadelphia with my two lawyers.

Q. Now, what exactly is their role?

A. Their role is to be special advisors to me under the act.

Q. So they're not acting in the same capacity as Messrs. Dennis and Tierney did?

A. That is correct. That is correct.

Q. They are in a different capacity?

A. Dennis and Tierney were acting basically as independent investigators of the judicial matters, while they were still in the Office of Attorney General, acting pursuant to my authority, the authority granted to me under the act. My charge to them, my private and public charge, was the same, and that is go wherever the evidence leads you and let you folks do the investigation. And they did, with the cooperation of the State Police, and then I hired an ex-FBI agent, Mr. Garrity, to come in and help. So that was a different type of investigation because it not only

went to the charges between the Justices but to the functions of the court itself. We're all involved in the court. I mean, we're there every argument term, we know every one of the Justices, and I wanted to get some outside, independent views, and I did. And they did the investigation and of course now as they've finished, they've turned the matter over to us for prosecution and we will continue to prosecute, in Allegheny County Court, Justice Larsen and will continue to work with you and this committee and the other members of the legislature as it moves forward on impeachment. This investigation that we have ongoing right now will be conducted by our office, by our attorneys.

Q. Who specifically?

A. Mr. Ebert, Skip Ebert, who is here right behind me, in charge of the Criminal Law Division. Mr. Ebert is from Cumberland County, your county, and he is a longtime, experienced prosecutor, and he will be assisted by my top deputy for criminal prosecutions would be Joe McGettigan, formally of the Philadelphia district attorney's office, who joined me in January of this year. And they are very competent, able, experienced prosecutors.

Q. Is this a grand jury investigation or

simply an administrative investigation?

A. Well, at the present time it is not a grand jury investigation. But I -- that's not to say that momentarily it will not be -- that it won't become a grand jury investigation. I mean, we might very well be in a grand jury in this matter in a short period of time.

Q. Okay. Do you have any estimates on costs for this investigation?

A. Counsel, I do not have any estimate on costs. We view this as the normal performance of our duty and we believe that we can handle this matter utilizing the resources that have been made available to us, particularly, and I want to commend the Acting Governor for this and the State Police. I made a request for assistance of the State Police and they supplied us with very, very good people, including document examiners. The Lieutenant Governor, Acting Governor, volunteered that whatever State resources that we needed he would make those available, to supplement our people, and we in fact reached out to the Inspector General's office and obtained the help of some very, very fine people, professional people.

Yesterday I asked for the FBI's assistance, in a conversation yesterday morning with

Bob Ryder, the Special Agent in charge of the FBI's Philadelphia office, and in fact, my folks met with my top deputy, Skip Ebert, and Joe McGettigan met with the FBI early yesterday, early yesterday afternoon approximately 1:30 to brief them on what we were doing and what investigative assistance we could get from them, and then after sundown the Justice Department indicated that it would supply us with investigative help and they would, in fact, be also doing investigations themselves into whether there were Federal law violations.

We do not believe, in our conversations with the FBI and with the Justice Department--last night I even spoke to Janet Reno personally yesterday--we do not believe that there would be any overlap of the investigations, that we would be looking for violations of State law, State election law, State campaign financing law, and State Crimes Code law - forgery, tampering with official documents, et cetera. So we have the sufficient number of State statutes that have been alleged to have been violated, that we are looking to see if there has been violation. And the Federal government will be looking into whether or not there have been Voting Rights Act violations and Civil Rights Act violations and any other Federal statutes

that may have been violated.

So we do not believe that the Federal investigation which we have asked for will in any way duplicate the efforts that are being made by our 25 agents, State Troopers, and agents from the office of Inspector General. So we expect it to be a fully coordinated, thorough, fair, objective, and expeditiously carried out investigation.

Q. Are Judges Dowling and Spaeth under contract to your office?

A. They are pro bono advisors. These are men of obviously great integrity. They are constantly being briefed. As I said, yesterday morning Judge Spaeth met with Mr. Ebert from my office down in Philadelphia reviewing documents, reviewing the course of the investigation. They are acting as advisors as opposed to independent investigators which existed in the judiciary investigation. We are asking them to review the actions that we are taking at virtually every step of the way. And so that they would have an ability to see where we're going, what we're doing, and we're very sensitive to all the concerns of the people in the communities in Philadelphia in the Second Senatorial District. We're not targeting any specific group, I might add. We are going to look at this

across the board.

Q. Okay. One other question. Your report says, on page 20, that organized crime and public corruption are the primary focus of the Criminal Investigation and Prosecution Section. Could you tell us, say for the last five years, what are the primary organized crime and public corruption cases that have been pursued by this section?

A. Well, I can get you a very detailed list, Counsel, but where we have worked with in the last five years have been not only in the drug and not only in the criminal law section but in the drug law section, because most of the tie-ins today in organized crime involve drugs, and so we've investigated the Calli cartel, for example. My agents specifically investigated and infiltrated the Calli cartel and seized drugs coming off a freighter in the port of Philadelphia. We did work with the Federal government in doing the wiretapping into the heroin case headquartered in the Poconos that spanned four continents. The FBI has repeatedly told us that our wiretapping capability is superior, and we have some of the best equipment and some of the best trained agents, and so they are frequently relying on us to do the wiretapping while they do the grand jury work.

We have murder cases that we've prosecuted. Mr. Ebert has prosecuted murder corruption, organized crime cases, I should say. Mr. McGettigan just finished an organized crime murder case in Erie where he obtained a conviction. The Iannelli case, which as Mr. Daley knows in Pittsburgh it's the top gambling ring in Pittsburgh, and we busted that organization a couple of years ago. The Stockard case, which was prosecuted federally but which we did the investigation on and turned it over to the Feds for complete finishing of the investigation. That was a very big organized crime case directly connected with Nicky Scarfo. But it was our case. We developed the investigation, we developed the prosecution, and then we went federally with the case.

And I want to say, this is an important point, that what we do is to try to work cooperatively with all agencies, and for example, with the State Police broke into the mob in New York last year and the Governor came down to make the announcement personally at Belmont barracks, announced this major investigation. We were a part of that. When the State Police, as I said, needed wiretapping, our office did the wiretapping. My agents supervised the State Troopers, and I personally approved the wiretaps of

organized crime, after reviewing stacks of documents and hearing from the State Troopers themselves and then we approved them, we supervised them. So we worked together jointly. It's no longer are you doing this and the State Troopers doing that and the Feds doing that? What it is now is everyone is pooling their precious resources.

There isn't a State Trooper investigation, for example, in organized crime that we're not involved in some way. Or when the Feds are doing an investigation, virtually all the Federal investigations--I won't say every single one, but matters of significance--we're involved. With the DEA and the FBI, the IRS, the Customs people, the Immigration people, almost all of our investigations are done cooperatively. In fact, I believe we have -- how many deputies have been cross-designated? We have five of our Deputy Attorneys General are cross-designated as Federal prosecutors. In fact, they go and take the cases into the Federal grand juries in the Eastern District, the Middle District, the Western District, and they actually are presenting the cases in the courtroom. Even though they're State employees, they are cross-designated as Assistant United States Attorneys and prosecuting cases in the Federal system.

That shows you how close we are working with a variety of law enforcement agencies. Whether it's State Police or the Federal government, we're working together.

So a lot of these things we're no longer saying, well, we're doing this and the State Police are doing that or the Feds are doing that. We're all so intertwined now that almost at every instance we're involved in some way or other. If not an investigation and the wiretapping or the supervision of the wiretaps or in the actual presentation to a Federal grand jury or a Federal prosecution, or even as assistant DAs. We have nine, Joe Peters, the Drug Law Division deputy just informed me, we have nine of our deputies who are cross-designated down into the DAs offices as assistant DAs, and that's fine. That's exactly what we're supposed to be. We're supposed to be working together cooperatively and helping people, and that's why I think we've done an awful lot of good work here in the last five years, and thanks to you and the committee for helping to make those waters smoother.

Q. I believe that's all I have.

CHAIRMAN CALTAGIRONE: Representative Cohen.

REPRESENTATIVE COHEN: Thank you.

BY REPRESENTATIVE COHEN: (Of Atty. Gen. Preate)

Q. General Preate, going back to the Second Senatorial District, you said among the other categories of the probe you wanted this investigation conducted expeditiously. Do you have any timetable for an expeditious resolution of this?

A. Well, at the outside it would be about three months, Representative. I think with the number of people that we have in there now, and, I mean, with 25 Troopers and agents in there, plus now the Federal government working together cooperatively with us, I think we're safe to say that we could have this thing resolved in basically two to three months. Provided we get the cooperation of everybody that's involved. And I always say that because, you know, if you don't get the cooperation of people all through the investigation, then all of a sudden the timetables get to be expanded. If this case goes to a grand jury, to the ninth investigative grand jury, and I'm not saying it's there yet, but if it goes that direction, then you could be looking at a little bit longer period of time, depending on the cooperation of witnesses before the grand jury.

Q. Do you expect it to go the grand jury?

A. I would anticipate that this case will go before the grand jury.

Q. So it will be more than three months?

A. Depending on cooperation. Depending on cooperation and the ability of the grand jury to officially work. Now, remember, we're going into the winter months - the winter being December, January, February and March - and then so travel becomes constricted in Pennsylvania and the grand jurors, which come from all over the State, you know, it's difficult to get everybody together.

Q. You mean the grand jury will be meeting in Harrisburg?

A. Yes, they will.

Q. Why isn't the grand jury meeting in Philadelphia, where all the witnesses are?

A. Well, the grand jury meets under the direction of the supervising judge, and it's traditionally met here in Harrisburg, and whether the case arises in Allegheny County or in Philadelphia or in Scranton or Erie, the grand jury basically meets in Harrisburg to--

Q. Are they required to do that by State law?

A. No, we're not required to do that by State law, but we find it convenient for jurors to come from all over the State to meet in Harrisburg. It's

more centrally located, and that's basically -- and the judge is here. The supervising judge is Tom Gates, and he's in Lebanon. So we try to -- and virtually all of the supervising judges of the State grand juries over the years have been residents of the midstate area, with the one exception, I believe.

And the other factor that I would point out as the reason why the grand jury does not meet in Philadelphia, would not meet in Philadelphia here, is that this would not be the only case that the grand jury would be considering. There would be other matters that would be constantly being brought to the grand jury's attention. That we may have -- we have 40 right now, 40 separate investigations that are presently before the ninth investigative grand jury. Forty.

Q. Wouldn't that be difficult for a grand jury to focus on one case if there are 40 other cases that they are meeting on simultaneously?

A. No. You're very capable of dealing with 40 or 50 different matters in a single day here, and you deal with budgets and you deal with all kinds of things, and these are pretty smart people. They're ordinary citizens, they're pretty smart people, and they're able to stop one case investigating a drug

dealer and move on to another case involving a corrupt public official or move on to another case involving some other criminal transgression. So there's a termination in the grand jury, the witnesses change, the investigators change, the lawyers from our office change, and so there's a supervisor, Mr. Graci of the grand jury, but there is a complete separate break between one investigation and the beginning or the continuation of another. There's always that. And they're told. And this is all done under the supervision of Judge Gates.

Q. As a Philadelphian, I found that most of my constituents, the vast majority of my constituents, are a lot more familiar with the State of New Jersey than they are with Harrisburg, and I wonder how you're going to get people up here to Harrisburg to testify?

A. Well, if we subpoena them, they better come. You know, they have come before and they will come again, and if they need to have -- and they do have expenses, the State will pay for the expenses of the trip. So no one should say I can't make the trip because I don't have the money. We will give them the train ticket to get here. We'll buy the ticket and we'll pay their meals. If they have to stay overnight, we do that, too. We take care of all the expenses of

any person that's subpoenaed before the grand jury or that comes voluntarily before the grand jury. We pay their expenses.

Q. Are you going to be subpoenaing everybody who voted by absentee ballot?

A. I don't know. I can't tell you that, and I would be prohibited from doing that if this case were in the grand jury. I could not respond to that question.

Q. But the case is now not in the grand jury?

A. The case is now not in the grand jury. I can tell you that what our agents are doing and the State Troopers are doing is interviewing everybody that they can find in Philadelphia concerning this matter and not targeting any single group. We're open to anybody's complaints. We're receiving complaints. In fact, we just received a complaint from Jonathan Seidle the other day concerning an election law violation, and so we're going to look into that, too. So it's not just Philadelphia that we're looking at. We're looking at complaints in Harrisburg here of violations in the filing of reports.

Q. And the Philadelphia Inquirer has reported, I've seen two different numbers, either four

or five Bruce Marks workers have been accused by the Philadelphia Inquirer of election fraud. You're going to investigate that also?

A. We will investigate anything that anybody brings to our attention. If there's a violation of State law, we will take the appropriate action in those instances. But as I said, Representative, I do this and I've said this many, many times, that this investigation will be done fairly, objectively, and expeditiously, and with so many different groups involved in it, I think you can be assured that it will be done exactly that way, with the State Police, with the Inspector General, with the FBI, the United States Attorney, the Office of Attorney General. This is going to be done professionally, and I've spoken to every single agent.

Q. And the same standard will be used--

A. The same standard will be used.

Q. --to investigate each absentee ballot, Democrat or Republican?

A. Absolutely the same standard will be used. Absolutely. I give you that assurance and I give this committee assurance, I give the public of Pennsylvania that assurance. We're going to let the chips fall where they may on this. And we always do.

If you have any information that--

Q. I would just reiterate that it would be very good, that to the extent the investigation is in Harrisburg, that is a delay that your office is imposing upon the process, and I would think it would be very good if there would be provisions whereby people could testify in Philadelphia. I think that would speed everything up and accomplish the goal.

A. Well, let me just say, Representative, if it becomes, if it's feasible for us to move the investigative grand jury and the supervising judge gives us permission to move it and we find suitable headquarters in Philadelphia and we can make those arrangements, you know, we would move it to Philadelphia. Now, we'd have to go back to the judge. In fact, we'd have to go back to the Chief Justice of the Supreme Court because he sets the situs, Chief Justice Nix, he sets the situs of the grand jury, and we would have to go and get that modified. But, you know, it's a ministerial act. And if it appears that it would be more accommodated to have this matter in Philadelphia, then we would have it in Philadelphia. But at the present time, and I say this, you know, in all candor, if we were going to a grand jury, at the present time it would be our intention to have the

grand jury which is now sitting in Harrisburg to have the witnesses come to Harrisburg. That may change.

Q. What grand jury? I mean, you named 40 cases, but you could say on these days 1, 2, 3, 4 we're going to focus on the investigation of the Second Senatorial District, can't you?

A. No, it doesn't necessarily work that way.

Q. It doesn't have to work that way, but it could work that way?

A. It could, but basically the grand jury may be working on four or five cases in any one day, and therefore while there is a lull in the proceedings in one matter, they go and take up something else, because maybe a witness doesn't show up and so in that timeframe they take up another matter. And then the witness shows up and they adjourn that and they go on to the next. And so we're trying to make most efficient use of the grand jurors' time, and as I said, it's possible. I'm not ruling it out.

Q. I think you could get a lot more witnesses showing up if it happened in Philadelphia.

A. I don't think they'll have any problems showing up if we have it in Harrisburg either because we're paying their way and they've got a subpoena and the court will enforce that subpoena.

Q. On another subject. You discussed in your written testimony the OHE Federal forfeiture funds that your office has given out.

A. Yes, sir.

Q. You've given out a lot of funds other than the Federal forfeiture funds to community groups, haven't you? For instance, settlements in environmental matters. You recently gave out--

A. Oh, yes.

Q. --\$10,000 to the Friends of Pennepack Park. I saw that in a local weekly Philadelphia paper.

A. Yes.

Q. And how much money have you given out to community groups in terms of--

A. Of the whole Office of Attorney General?

Q. Yes.

A. Well, as I said, it's around \$200,000 in drug forfeiture money. I think it's about, what do we have in terms of, we have a figure over the last four years for environmental cases, but just this year alone, this year alone we've paid out \$132,000 to environmental charities and community organizations such as Schuylkill River, Greenway, and environmental groups in Philadelphia, and Butler County Rails to Trails group. You know, they've been all over the

State that we've supplied the money.

Q. And what would be the total of the Attorney General, approximately, of money you've given out to environmental groups in settlements?

A. I'm sorry, I didn't hear.

Q. What would be the approximate settlement money that you've given out?

A. Millions.

Q. Millions?

A. Millions from our office to environmental groups and drug groups and money from antitrust settlements. You know, we're going to give out here, very shortly, to 30 or 40, how many Boys Clubs around -- 60 Boys' Clubs and Girls' Clubs we're going to give out approximately \$270,000. So, I mean, we're constantly, and these are basically court ordered. Except for our drug forfeiture law, we go into court and we say, Your Honor, this polluter or this phony charity, as part of their negotiated settlement, our office has agreed to do this. Would you impose this order on them? And the judge says, I think it's a fine idea, and approves that settlement and that consent decree, and we then distribute the money pursuant to court order.

Q. Will you have a total of the amount of

money you've given out in the past year?

A. I can get that for you, but as I say, it will run into the millions.

Q. Millions each year?

A. No, I wouldn't say millions each year, but I would say millions over the last 4 1/2 years. And I'm not speaking of settlements that we get by way of, for example, like consumer protection settlements.

Q. Where an individual person is victimized?

A. Where an individual person is victimized, but where we return money to that individual. For example, in the Bell Telephone of Pennsylvania suit, we returned \$40 million to various subscribers of Bell over a period of time. There was a \$13 million settlement we had of mortgage escrow problems with a company here in Pennsylvania. That was returned to individuals. So, I mean, those totals go into \$96 million. That's wholly separate. What I'm talking, and I understand you're talking about is when you get settlements, do you give some of that to local charity or civic groups or whatever, and we do a lot of that.

Q. And how do you pick the local charities that you give to?

A. Well, we ask. Some of it comes from Representatives and Senators. They suggest that this

is a local charity and it's a good one. Or we advertise. We say we're looking for people who are seeking funds and then they submit us letters. And it can even come from the court itself. But most of the time it comes from within our dealings with people in the area, working with the DER, for example, working with a local charity, a United Way, and you pick up information of people who are in need and the organizations that are in need. And in some instances we have to disappoint, because we have an overage in the number of requests, and so we can only pick two or three, and then you might have five or six applying, and you have to have some kind of mechanism to screen them out and who's the most needy of this group. There are others that we say, okay, look, the next settlement that comes along we'll supply you with some money from that settlement, and that's the way -- we say, we know you're worthy but we just don't have enough money.

For example, out of this settlement that we're getting in regards to the Keds sneakers, it's about \$270,000. I mean, we have a lot of people requesting money, but we felt that since this had to do with sneakers for kids, that the best way we could pay back the kids of Pennsylvania would be to give the money to Boys' and Girls' Clubs because we couldn't

identify all the purchasers. We just simply could not identify who purchased Keds sneakers at all the stores that they could purchase Keds sneakers in Pennsylvania, so we just said, well, look, the best way to reach them is just to give them to the Boys' and Girls' Clubs, and we had a lot of other people that have applied for money for that settlement, but we said, look, we'll get to you in another settlement somewhere down the road.

Q. Okay, thank you very much for your comprehensive explanations.

A. You're welcome.

CHAIRMAN CALTAGIRONE: Counsel Scott.

BY MR. SCOTT: (Of Atty. Gen. Preate)

Q. General Preate, under the Civil Rights Enforcement Section, specifically section 13 of your report, you mentioned programs to increase the awareness of the citizens of the Commonwealth for redress for ethnic intimidation. Would you be kind enough to expand on that? And a follow-up would be concerning hate crimes. Have they been, statistically speaking, somewhat static in the last few years or has there been some sort of an increase?

A. I think two things are going on in regard to hate crimes. One is that we're getting more reports of hate crimes because we passed, this legislature, you

know, has passed a statute regarding hate crimes and ethnic intimidation. And so that's in itself, and the education that goes on of the general populace that there's a statute now that is directed against hate crimes. And so people are reporting that.

I also sense that there is an increase in the number of hate crimes in Pennsylvania; indeed, in America. What we see is that reported, reported hate crimes grew by 60 percent from fiscal year 1990-91 to fiscal year '91-'92. And as I said, that can be explained in two ways. One, there's more of them being committed, and/or two, there's more people that are becoming aware that there's a statute and that there's a way that they can report them, and they're in fact doing it.

So both things I think have transpired. It's a sad day that we have this kind of a situation where synagogues get desecrated, where people get discriminated against because of race, creed, or color or ethnic origin, but it happens.

Q. But specifically, could you expand on this program that you have in the Attorney General's Office to increase the awareness?

A. Yes. First of all, we set up the first civil rights division in State history here, Civil

Rights Enforcement Section. We have worked with the State Human Relations Commission in many of these instances, working to resolve complaints of discrimination, and we have handled hundreds of phone calls, letters, and other inquiries from citizens seeking information, and we participate in educational efforts about civil rights. I just personally did that a month ago over at Harrisburg Community College. As I said, we make reports every year to the legislature of ethnic intimidation, of hate crimes. We serve with the National Association of Attorneys General on civil rights committee, and we've filed friend of the court briefs with the United States Supreme Court.

But, you know, one of the things that we did in filing an enforcement action was to go after the launderers and dry cleaners of Pennsylvania who were charging women more to clean virtually the same garment that men were submitting to the launderers and dry cleaners. In other words, a woman's cotton shirt that they frequently wear would be submitted to the launderer and dry cleaner and they would be charged let's say \$3 for that shirt. A man would submit the same kind of material, same kind of shirt, just a different size, and he would be charged \$1. And so we contacted the launderers and dry cleaners, our Civil

Rights Division did, and eliminated that practice on the part of launderers and dry cleaners who were discriminating against women in the pricing of their services. So those are the kinds of things that we're doing in the Civil Rights Section.

And in addition to that, of course you can use your office to make sure that you hire people who are minorities and you have an aggressive policy on that, and I do. I don't have a quota system in my office, but I want to seek out the best people wherever I can find them, and if it means looking harder and harder, then I'm going to do it. And we've done it, and I think the statistics show that over the last five years, if I can just read these to you, sir, the number of minorities in our staff has increased 35 percent during my tenure, and 40 percent of the lawyers in my office are female or minority, compared to 24 percent when I took office. So, and people, we're not talking about hiring a janitor, we're talking about people being hired to fulfill positions of supervision and responsibility for an entire bureau. For example, Rick Hicks supervises 14 attorneys, 24 agents, and 28 support personnel of one of our largest sections is supervised by Rick Hicks, who was born and raised in north Philadelphia. And a number of our drug law

offices are supervised by minorities or women right now.

And the attorneys, like I said, we've reached out to hire minority attorneys, female attorneys, and have increased their numbers significantly in our office. In fact, I think there's a statistic, if I'm not mistaken, Bob, you can give me, 48 percent of our hires have been minorities or women in the last four years. Forty-eight percent. In my five years, 48 percent of my hires have been minorities or women. I think it's a very good record. For those State agencies we wouldn't have glass ceilings, we wouldn't have people being unable to reach their dreams.

Q. All right, so that would appear that that's in the low level on or middle management.

A. No, not low level.

Q. What about your higher offices like deputy attorneys general and so forth?

A. I'm sorry?

Q. Deputy attorneys general and so forth, are there any minorities holding that capacity?

A. Yes. Rick Hicks is -- Rick Hicks, Trent Hargrove, and the women, for example, Jessie Smith supervises 80 tort attorneys. Janice Anderson

supervises the entire Bureau of Charitable Trusts and Solicitations. And my chief of staff is a woman. I have to mention that. And Fran is the head of my legislative section. I'm surrounded by woman who tell me what to do every day.

Q. All right, thank you very much.

CHAIRMAN CALTAGIRONE: Counsel Todd.

BY MS. TODD: (Of Atty. Gen. Preate)

Q. I just have one question that may go more to the fact that I'm new to this esteemed institution, but as you were talking about the functions of organized crime and the Criminal Division Section, I kept asking myself, how does what you do relate to what the Pennsylvania Crime Commission does? As I said, that question may have more to do with my newness to this environment, but how are these two functions distinguished?

A. Well, the Pennsylvania Crime Commission, I've had a long view of this over -- this is a 13-year view, Counselor, that they don't do much in the way of helping to deal with the problems of organized crime. They publish a lot of reports which are basically hearsay and innuendo, and my position is clear on that. I think that you should abolish them. Most of the district attorneys in Pennsylvania, most of them, I've

never met a law enforcement agency that's dealing with organized crime that says that they've provided them with assistance, you know, that resulted in a prosecution. You know, they write a bunch of stories, and that's what they do. And, you know, you have the opportunity to deal with that question here in this committee and to set the kind of parameters that ought to be set for that kind of -- that legislatively created body.

Frankly, I think you could do a lot better by giving the money that you spend, the \$2.5 million that you spend of the taxpayer's money, give it all to the Pennsylvania State Police. Let them put 40 or 50 State Troopers in the field and let those State Troopers who are professionals and know how to investigate according to the Constitution, let them go out and investigate and bring charges against people who are connected with organized crime. That's what I suggest that you do. Don't give a dime to my office. Give it all to the State Police. Let them take that money, that \$2.5 million. If you create in the office of the State Police a separate section that deals specifically with organized crime and public corruption, give them that \$2.5 million, you will get a tremendous amount of insight into organized crime.

They will actually bring prosecutions.

You see, the Crime Commission can't bring any prosecutions. They can't use the tools that law enforcement can use. They're an anachronism. They're a waste of time and money. And they're out -- and I say this, you know, this is a longheld view. It's not because they're out there investigating me. It predates that. And I think one of the reasons they're investigating me is because I've been saying this for years. Years. And so have district attorneys, so have other law enforcement agencies. You know, I mean, it's time to deal with this issue. Let law enforcement deal with organized crime and corruption. Give the money to the State Police. Let them fully fund an organized crime/public corruption section in the State Police. They have a small one now, but they should have a huge one. I mean, the FBI does. The United States Attorneys Office does. Let's give the money to somebody to legitimately investigate and prosecute according to the Constitution that does not use hearsay, innuendo, lack of credible witnesses.

Q. Thank you.

CHAIRMAN CALTAGIRONE: I guess I'm up.

ATTY. GEN. PREATE: Yes, sir.

CHAIRMAN CALTAGIRONE: I've got a few

questions to ask.

BY CHAIRMAN CALTAGIRONE: (Of Atty. Gen. Preate)

Q. First of all, I'd like to start off with this question: Could you tell us how much was expended by the Office of the Attorney General in connection with the recent grand jury investigation of the allegations made by Supreme Court Justice Rolf Larsen?

A. We spent approximately \$850,000. The legislature appropriated \$770,000 for it, so we were able to absorb the additional \$80,000 through our own office's budget.

Q. Do you know how much was spent by the State Police or the other agencies in connection with this investigation? Because they, of course, utilized manpower and some of their resources, as I understand.

A. No, I do not, Mr. Chairman. That's part of their normal duties, just as it is part of my normal office duties to prosecute the cases that come out of the grand jury, and we continue to do that through our normal investigators and attorney law process handling the Larsen prosecution.

Q. Do you have any idea of how many State Police were actually involved in assisting in the investigation?

A. Two.

Q. Any other agency personnel from any other areas of State government?

A. Two State Troopers. We then hired an FBI agent, Mr. Garrity, who retired out of the Pittsburgh office, and that's about it. That's about it. Those are the only--

Q. Was Garrity part of the \$850,000?

A. Yes, he was.

Q. He was.

A. Yes, he was. And he remains now, even though that investigation has terminated, he remains on our staff, so he's part of the \$850,000.

Q. And your office then picked up the excess costs that you incurred above and beyond?

A. Yeah. Basically, if you take Garrity's salary of approximately \$50,000 out of it, we were over by \$30,000.

Q. Can you tell us at this time how much money was paid to attorneys Dennis and Tierney and any of the other attorneys that were involved in the investigation?

A. Yes, I can. I can get you that exact number. I don't happen to have it with me.

Q. Approximately.

A. I don't have that with me, but I would

say--

MR. COHEN: That's roughly the \$800,000.

ATTY. GEN. PREATE: I would say that most of the money of the \$770,000, I would say most of the money went to Dennis, Tierney, and--

BY CHAIRMAN CALTAGIRONE: (Of Atty. Gen. Preate)

Q. And the investigators?

A. No, and the two assistants that were brought in, Eric Kreitner and Jack Davis. So there were four attorneys on the project.

Q. Four. And the going rate, would you say, about \$200, \$300 an hour?

A. \$200.

Q. \$200 an hour?

A. (Indicating in the affirmative.)

Q. So it would be fair to say that Dennis and Tierney probably got somewhere between \$200,000-plus each for the time spent on this?

A. I would have to give you that exact number. I don't have the exact number, but--

Q. I would appreciate it if you could share that with me.

A. Sure.

Q. There have been some questions.

A. They can get that back to you probably

later on in the day because I think they're all finished, if I'm not mistaken. They submitted their last bills. We've got a bill still pending. Not totally.

MR. COHEN: In fact, there is still a matter that is open before the grand jury, as we had indicated.

BY CHAIRMAN CALTAGIRONE: (Of Atty. Gen. Preate)

Q. Expenses, travel, meals, that was all part of that total amount that was allocated?

A. Yes.

Q. Throughout the course of the various inquiries into the allegations concerning members of the Supreme Court, I've done everything possible to assure that this committee acts in a nonpartisan, professional manner, that confidentiality was maintained and that all efforts are focused on those actions which would restore and enhance the integrity of the judicial system in Pennsylvania. Few things are as important to the people of this State as having a competent and honest judiciary. That is why I've been so distressed by allegations that confidential grand jury information was leaked by a member of the Office of the Attorney General to a candidate for the Supreme Court. I'm equally concerned by allegations that this

candidate then disclosed confidential grand jury information to members of the press. These allegations strike directly at the integrity of the justice system - our system - and I believe them to be very serious in nature. Is your office investigating any of the leaks or allegations that were made in Erie by a candidate for the Supreme Court?

A. First of all, I don't believe there's any leaks of confidential information from the grand jury, number one. Number two, we're not investigating what now Justice, soon-to-be Justice Castille knew or where he found it out and how he found it out. He has publicly stated that he obtained no information from the Office of Attorney General related to confidential information from the grand jury as to these matters from a court, and I have to take his word for it. He certainly didn't get it from me. And there was a lot of guessing that was going on. There was a lot of speculation in the press that was going on. And everything that I could see, you know, Mr. Castille said had to do with his guesses of putting together some information that was already publicly revealed by witnesses, by witnesses or their attorneys in the grand jury.

Mr. Costopolous, for example, made public

statements about matters. There were other witnesses that had been before the grand jury that spoke publicly, as they are permitted to do, as they are permitted to do. Because witnesses can go right outside the grand jury and as soon as they get outside the grand jury they can talk, and they did. And there was a published story in the Philadelphia Inquirer about Justice Larsen's drug problem, it was on the front page of the Inquirer months before the grand jury came down with its indictment. So as far as we're concerned, the information that Mr. Castille revealed was a part of public records.

Q. It was timing though. The timing. Before members of this Judiciary Committee, members in the Harrisburg area, I mean members of the General Assembly, knew anything about what he had revealed, he had revealed it to the press in the morning when he was up in Erie. We understand--

A. Then you ought to be having, you know, soon-to-be Justice Castille here.

Q. We may very well ask him.

A. You should be asking him these questions because I think it's inappropriate for him to do that.

Q. We were given to believe, according to press reports, that certain members of the Attorney

General's Office attended a cocktail party fundraiser in Philadelphia the night before.

A. The Billy Meehan cocktail party with 2,000 people present.

Q. Were there members of your immediate staff present at that cocktail party?

A. Yes, there were. Yes, there was, sir.

Q. Did they have any conversations with candidate Castille?

A. I do not know because I arrived there very late. I saw Mr. Castille as he was leaving the function. I had no conversation with candidate Castille concerning the grand jury matter.

Q. Did any of your deputies?

A. I do not know that.

Q. Deputy Cohen, were you at that, if I may ask?

MR. COHEN: Yes, I was.

CHAIRMAN CALTAGIRONE: Did you have any conversations with candidate Castille?

MR. COHEN: Yes, I did.

CHAIRMAN CALTAGIRONE: Did he in any way indicate to you that information about the grand jury that he tried to either indicate that he knew something or that he found something out or that you discussed

anything with him about the potentials of that case?

MR. COHEN: No, I didn't. I think the more important question is not that he revealed anything to me about the grand jury but did I reveal anything to him about the grand jury, and I didn't.

CHAIRMAN CALTAGIRONE: Did you reveal anything to him?

MR. COHEN: No.

CHAIRMAN CALTAGIRONE: Did anybody that you know of from your staff and the Attorney General's Office reveal anything to candidate Castille, to the best of your knowledge?

MR. COHEN: To the best of my knowledge they didn't. To the best of my knowledge other than myself, there was nobody on the staff of the Attorney General that would have known anything about even the presence of a presentment or the timing of the release of the presentment who was present in Philadelphia that evening.

CHAIRMAN CALTAGIRONE: Have you taken any statements from any of the other people that would have been involved in the information that Castille revealed the very next day? I mean, were you kind of shocked that that information, either of the two of you, was revealed in the press the next way and the way it was

revealed?

ATTY. GEN. PREATE: Yes, I was. And I expressed that concern to candidate Castille. I mean, he ought to know better than to talk about things that are, you know, as a former prosecutor you can't be talking about things like that. And particularly to speculate. I mean, he speculated that we were going to charge Justice Larsen with certain drug law violations, which were wrong. He was wrong in that. And it was--

MR. COHEN: Something about obstruction of justice, or something like that.

ATTY. GEN. PREATE: Obstruction of justice, he said we were going to charge him with obstruction of justice. We never did. We never charged him with that. We never charged him with violations of drugs that I think it was there was false swearing, he said, that we were going to charge him with, which we never did.

BY CHAIRMAN CALTAGIRONE: (Of Atty. Gen. Preate)

Q. You felt that his comments were inappropriate, at the least?

A. Absolutely. And I said that. I said that in the paper the very next day. I mean, you know as a prosecutor, you can't discuss the pendency of charges. It's Horne book law. You can't discuss the

pendency of charges. And even to speculate, I mean, that's up to the newspaper reporters and the editorial writers to speculate, and they in fact were speculating about those at the time, because everybody knew the grand jury report was come that week.

Q. Well, you know that this committee went to great lengths not to interfere at all with this investigation--

A. Absolutely.

Q. --or the grand jury proceedings, and we delayed our proceedings specifically so that there would be no action or appearance of any impropriety by this committee interfering with that process, and of course I was extremely upset, as there were other members of the General Assembly.

A. Rightly so.

Q. At the way that was played out and what was said in the press, and we were extremely disturbed, members on both sides of the aisle, I might add, at the comments that were made by soon-to-be a member of the Supreme Court.

A. And I join with you, Mr. Chairman, because I thought that was inappropriate to speculate like that in the press. You don't speculate on what charges are going to come down in a grand jury. And

everybody knew that the report was coming. I mean, it was not a secret when the report was coming. I mean, we had briefed a number of the members of the legislature. I had even spoken to the press that the report would be down around the middle of October, and it was delayed because the grand jury came back into session and they specifically wanted to review every single page of that report. And so all of that was public information. And so it was not -- it was not unheard of for him to say this week the grand jury report's coming down, because lots of people expected that report to come down that week. In fact, it was delayed at least two weeks by the grand jury itself as it went through the process of reviewing all the 247 pages.

Q. Talking about review, I would like to shift gears now. We've always been fondly kicked around and had pokes made at us for our WAMs. It was interesting, I call them AG WAMs that you utilize. I'm concerned or at least curious about the review process and whether or not the Auditor General audits the money that you do give out, and I would assume that she does. Is that not correct, or is it not correct?

A. Well, our WAM process, if you call it that, the AG WAMs, they are \$1,000 mini-grants, and we

require a detailed form to be filled out and a budget form to be filled out. I would be happy to show it to you, and I don't know whether the legislature requires similar documents to be filled out.

Q. They are.

A. Well, okay, fine. And so we require them to come in with a proposed budget and an explanation detailed down to the penny of where they're going to spend this thousand dollars. And then we award it by letter and we then double check to see if there's been some follow-through after the grant has been awarded, and the Auditor General can audit all of these things. They are all matters of public record.

Q. Does she though? But does she audit the grants or the money that you give out?

A. I don't know.

Q. I'm just curious. Does she, in fact, make an audit of that money, a State audit of that money?

A. All of my documents are open for inspection by the--

Q. No, I don't--

A. Does she do it?

Q. Yeah.

A. You would have to ask her that. I mean,

she could look at anything she wants to.

Q. To the best of your knowledge, she doesn't audit that expense then. You're talking about several hundred million dollars, \$30 million, \$40 million, \$50 million over the last five years? I'm just curious.

A. Several.

Q. Well, you were saying earlier when Representative Cohen had said how much money of the forfeitures and money that you have settlements and givebacks on the cases that you're involved in, in addition to the forfeitures.

A. Oh, there's a distinction between that which is court ordered and that which our office--

A. I understand.

Q. --gives out.

Q. With the forfeiture you hand out.

A. Right.

Q. How many millions is it with the forfeitures, would you say, in the last five years?

A. \$200,000. That's not millions. I never said there was millions.

Q. Now wait. You give out money to the local police departments so with the task force, let's say, if they need it?

A. Oh, yes.

Q. Okay, and how much does that total?

A. That is audited, absolutely.

Q. By the Auditor General?

A. By the Auditor General, by the Appropriations people. Every single dime. And we can give that to you. I can bring it over this afternoon if you want to look at them.

Q. But does the Auditor General audit all of the expenditures--

A. She audits them.

Q. --and the moneys that are given out to the grants to the various groups? You're not sure. You can let us know.

A. All I can tell you, Mr. Chairman, is that she is authorized to audit my books.

Q. If she so chooses?

A. If she chooses. I can't tell you whether she's done it or not, but I know that she's gone over them and from time to time they'll have some questions. But the most important review process here is this legislature.

Q. That's why I'm exercising the authority of the oversight.

A. And we were, if you would like to see our

books, they're on the State computer and they can be accessed with the appropriate codes at any time. Am I right? And Appropriations folks, Appropriations Committee and the staff, they are entitled to look at them and they can look at every single dime that comes into my office and goes out of my office. So I have, I'm very pleased to be able to do that. I want people to look at our books and to see, you know. I'm very confident that what we've done in the Office of Attorney General computerizing our appropriations and expenditures so that we can do exactly what you want, and that is to tell you specifically where the money came in from and where it went to.

Q. How much money are you requesting in the next budget year for your operations? I know that you're talking about your, in the front page here you had indicated you had a total budget this year of '93-'94 of \$66 million?

A. Yes. We're probably a little bit over, going to request a little bit over that.

Q. What would that little bit over be?

A. Let's see. This is the preliminary budget we submitted back in October. It looks like \$70.9 million.

MR. COHEN: No, that includes Federal

funds.

ATTY. GEN. PREATE: Oh, State appropriations? Okay, total State, it's on page 14 of our budget request for fiscal year 1994-95, page 14, and under the heading of 1994-95, it's \$67.8 million. \$67.8 million.

BY CHAIRMAN CALTAGIRONE: (Of Atty. Gen. Preate)

Q. Federal as well as State moneys?

A. If we put in all of the Federal funds and augmentations and other funds, it would come out to \$70.9 million. But for State purposes, State appropriation, it would be \$57.3 million. Federal funds, \$7 million. Augmentation is \$3.4 million, for a total of \$67.85. So what you would be -- what the legislature would be appropriating would be \$57.3 million is if they would accede to our request. And that's for the next year. Basically, the number one item that we are looking for to be funded over and above last year would be the insurance fraud task force, which would be about 10 investigators and attorneys, would be about \$1 million to investigate, list a little over a million dollars, which would investigate in waste and fraud in the insurance industry and in submission of claims, fraudulent claims.

Q. PennFree money that was utilized as an appropriation from this legislature that you basically handled totaled somewhere around \$92 million, approximately. How is the effectiveness of that money handled in regards to how many more arrests were made? We keep hearing the problem about drugs, crime in the streets, and this legislature and the taxpayers of this Commonwealth have paid a tremendous price financially and in many, many other ways, the effects on families and society and social illness. I keep wondering, you know, we keep talking about this problem, and we've walked down this road together with the members of this committee and the General Assembly with coming up with some of the toughest mandatories in the country. We've appropriated \$500 million to build additional prisons. We've appropriated \$200 million for the counties to add additional prison space. Do you think we're out of the woods yet with the problem, and is it going to require more arrests, more arrests, more arrests? Are we making a dent into the actual problem that we face on our streets? You're the top law enforcement officer, you've been there for five years. You've seen the battle that we're fighting. Are we winning it or are we losing it?

A. Well, we're winning it in certain areas

and losing it in others. And, you know, there's nobody that's a stronger advocate for tougher sentences and more effective investigations and prosecutions than I am, and we have put together the program, working bipartisanly with this legislature and this Governor, to deal with the problem of drugs in Pennsylvania.

Q. But I must say in all honesty, it almost appears to me, as one little worker in the bowels of the government here, that we're trying to plug a Kuwaiti oil well with a cork.

A. Well, what we're looking at is approximately 25 years of benign neglect, going back to the '60s, and, you know, what we're trying to do is address a problem that has been festering for an extraordinarily long period of time, and we've begun to address it in Pennsylvania, and the Pennsylvania plan, bipartisan plan, which you're a part of, this committee was a part of, the Governor is a part of, is probably one of the best plans in America. And that's not just from Ernie Preate saying that, people in the Bush administration said that, people who have had a chance to review what we've done independently have said that. Because what we combine in Pennsylvania is law enforcement with drug treatment and with education. We're one of the few States to have mandatory drug

education from kindergarten through 12th grade.

Q. But in all due respect, and in all honesty, and Reagan used to use this a number of times: Do you think the people of this Commonwealth feel any safer on their streets and in their homes now than they did four or five or six years ago? Honestly?

A. I don't think they do, and part of the problem is the proliferation of guns. And, you know, the legislature ought to deal with that. And the Federal government is dealing with that, and the legislature ought to deal with the juvenile thugs that are running around this Commonwealth carjacking, and the legislature ought to come up with a new juvenile court system to say to these juvenile thugs, you're not going to go to juvenile delinquency court, you're going to go to juvenile offender court and you're not going to get church and school cards and get probation, you're going to go to jail. And I ask the legislature to ban the possession of guns by juveniles. Anyone under 21, ban them. I ask you to do that right now. I ask you to create a--

Q. That's no problem, and let me tell you what the real problem is, and that's where I think those in law enforcement and prosecution miss the point. I just came off taking this committee around to

all of the juvenile detention centers in this State, both private and public, and some of the press and some other people, some of the members did go with us. We've walked the neighborhoods. We're going down to Ralph Acosta's district on the 10th to tour that with this committee and other law enforcement officers. You've got to look, and we're going to hold a two-week seminar in the beginning of January called, I've labeled it the roots of crime. It's the neighborhoods, it's society, it's the families, the morals.

A. No question about that.

Q. If we don't provide help for these young children, and that's what they are, and do the right thing in their neighborhoods by them before they get into the system, and once they get into the system we work with them intensely so that they don't become adult criminals, it's just going to continue to churn and churn and eat up all the valuable resources that we have available. All the laws and all the enforcement in the world, and I'm convinced of that now after spending the whole summer going around the State from one end of the corner of the State to the other, we're not going to win this battle by incarcerating and prosecuting and persecuting, really. And what do you see? The minorities. I mean, let's call it for what

it really is. Seventy, eighty percent of those that are being incarcerated in both the juvenile area and the adult area are either blacks, Hispanics, or low-income whites. What a sad commentary on our society for what we're doing or not doing for our fellow brothers and sisters out there to help them in their time of need. What do we want to do? Lock them up and throw the key away. Seventy, eighty percent of them are coming back out into society. You know, I think what we've done, and we've done it together, really wasn't the solution.

A. We've done more than that, Mr. Chairman. I beg to differ with you. We've done more than just lock them up. And I must say this to you, in all candor, we have done more in Pennsylvania than other States have done. And in fact, the numbers show that we have reduced violent crime, overall crime, in Pennsylvania greater than any other State that I'm aware of.

Q. Fifty percent of the people incarcerated in our State corrections are nonviolent offenders, 50 to 60 percent.

A. Well, I'm not the Governor of the State. You ought to have him here and you ought to be telling the Governor of the State this. If you give me the

chance to be Governor of the State, I'll put together a comprehensive program that will do exactly what you're suggesting to do. But I don't have that chance. And if you want to make a statement, fine, you know, in front of the press here, but let me have a response, all right?

Q. You've done it.

A. And my response is this: That you've got to look at this program in a comprehensive way. We have begun to do that. We've beefed up, for the first time, our law enforcement system. We've beefed up our correctional system. But we can't stop there because that is not the answer, and you and I agree on that.

Q. And has it been the same? You know that's not our solution.

A. No, we've got to spend more of our dollars doing prevention work, we've got to spend more of our dollars doing prevention and treatment work. And that's why we passed Act 211 in 1990, to get into the schools at the earliest of ages, the kindergartens and the first graders and second graders to stay away from drugs, which constitute or are involved in 70 percent of all crime. So that that program is going to take time to work. Don't give up on it yet, Mr. Chairman. That's going to take a decade for those kids

to go through the system of getting drug education for the first time in 1991-92, to get to the year 2000. We're looking at the long-term solution here.

Q. But it's resources and the valuable and scarce resources of the State that we're going to have to deal with in the next several months when we start to work with the budget. And every area of government, and I think over the years we've taken good care of you and your requests that you've made to the General Assembly.

A. And I haven't made any more requests. And I'm just telling you, I would like to, you know, we're not asking for any more money for investigators or prosecutors to start new programs. You don't hear me saying that. What you hear me saying is let's make sure that all 501 school districts in Pennsylvania are instituting mandatory drug education programs. Bring the Secretary of Education over here and ask him how many of our schools in Pennsylvania have mandatory drug education? And that doesn't cost a dime. Okay? To retrain teachers, to get them to work and integrate into the curriculum the drug education that's necessary.

Q. The State has, in fact, instituted many of those programs. I know in the Reading School

District and the 18 school districts outside of Reading, almost every one of them have instituted those things.

A. Well, give them a chance to work. Give them a chance to work, Mr. Chairman. I mean, you're asking for instant results of a kid who's just in kindergarten. I mean, that kid has got to go through 8 or 9 or 10 years of education before you begin to see the results of that. And if it's constantly done over the period of that time, by the year 2000 we're going to start to see those kids saying no to drugs, as they are saying no to drugs in ever-increasing numbers, by the way. You know, in the last four years, I think it should be pointed out that we've seen drug acceptance and usage by high school seniors in Pennsylvania drop 50 percent. Now, we've had--

Q. That's a commitment from this General Assembly, I might add, as you well know, without the support of the taxpayers' dollars and our funding of the budget and the various programs that we've committed to those things that you're now talking about would never become a reality. But we're also realists enough to know that continuing to build more prisons and fund more law enforcement officers is certainly not going to be the solution because how many people can

you incarcerate in this State?

A. Well, and I'm not asking for, and I don't know anybody that's asking for more police officers for this office, okay? But I'll tell you one thing, the public of America is saying to the President of the United States and to the Congress, we want more cops. And I agree with them. All right? The President of the United States says he's going to give us 100,000 more cops, and I would like to get more in Philadelphia and in Pittsburgh. And maybe you don't, but I do.

Q. I would rather see that money used to help to keep--

A. Well, maybe you can tell that to the people of America and to the President of your own party.

Q. And I've said it, and if they want to report it, they can report it, that I think it's better spent in education, in helping to keep families together and in doing the kinds of things at the grassroots level that are absolutely needed, because our society is being torn apart at that level. You talk about drug dealers--

A. And I will tell you that too. I will tell you that too. I agree with you. Look at--

Q. Every time you take one off the street

there's another one replacing it, and you know that as well as I do.

A. All right, well, let's look at that problem you said about taking apart of the families. I've been advocating for years that we reform our welfare laws here. Why do we have welfare laws that push apart families, send fathers away from mothers and kids? Why? So they can get more welfare dollars. Why don't we do what they've done in New Jersey? I've been advocating a welfare reform program for the people of Pennsylvania for years. Let's do what they've done across the river in New Jersey. Reform the welfare laws. And I'll come to you, I'll present to you a welfare reform proposal that will not reward illegitimacy. That's what we've -- our welfare system is rewarding illegitimacy, and it's got to stop, and you have the power to do that here in this legislature.

Q. No disrespect meant, I've served under Shapp, Thornburgh, Casey, and now Singel, and I know that even under and your deputy, your first deputy--

A. He's served under all of them, I think.

Q. --I think served as the Welfare Secretary, and he had that tiger by the tail, and I think they absolutely tried to do things as we speak now about that situation, but it's a monster. And I

think many good men came and left and tried to tangle with that tiger and many of them got chewed up and spit out because it's a monstrous department - \$9 billion, I believe, it's spending of our taxpayers' money today.

A. Well, let's not reward illegitimacy.

Q. I agree with you.

A. Well, then let's you and I work together, Mr. Chairman, and come up with a law that doesn't reward illegitimacy. I'm happy to do that. Let's come up with a law that says you have to get a job or get off welfare in two years, just like they did in New Jersey. All right? We'll get you training, we'll get you all the help you need, but let's--

Q. A bridge program. A bridge program to help bridge those gaps.

A. Let's do that. Let's you and I work together on that.

Q. You have my commitment on that.

A. All right, there you go. See, I like working with him, Walter.

Q. Since you're a super salesman, I want to ask you to rethink your position on the Pennsylvania Crime Commission, and we'll end with this because I want to have some comments and I have to rebut you because I've done a little bit of homework. As you

know, I'm the advocate in the House, and I think when that issue comes up next week there's absolutely no question in my mind that the votes will be there. When you have such diverse personalities as a Matt Ryan coming out publicly as he did this last week in the newspaper supporting the retention of the Crime Commission, and for the record, I would just like to add Commissioner Walp, the similar companion agencies in New York and New Jersey, which I have letters from those gentlemen that operate similar type agencies in those States, absolutely support the Pennsylvania Crime Commission.

A. But they don't smear, Mr. Chairman. They don't smear in New Jersey and they don't smear in New York. They have no immunity from libel and slander. There is a big difference, my friend.

Q. Well, let me just continue on. There has been documented, and this will be told to the members in this room and our caucus next Monday, as well as a possible follow-up press conference to Veon, who is advocating their demise, any number of testimonials from district attorneys and other law enforcement agencies, including the FBI, the U.S. Attorney's Office, of casemaking ability that they have helped in and spearheaded in organized crime and public corruption,

the city of Chester just being one of them, as a matter of fact, where the mayor and others I think ended up in jail because of what the Crime Commission had uncovered down there, and there have been--

A. The mayor of Chester went to jail?

Q. I think it was--

A. That was a Federal investigation.

Q. Well, it was a Federal, but the spearhead of that and the information that was given to the Feds was developed by the Pennsylvania Crime Commission. That's documented.

A. Well, I'm not going to quarrel with anything like that. All I'm suggesting to you is this: That any agency which is licensed to abuse the Constitution as they are and to libel and slander people with innuendo, hearsay, and lack of credible evidence is not worthy of funding by this legislature. You don't have that immunity from libel and slander but they do. I don't know of any other. In fact, the United States Congress just said in the crime bill that just passed that they don't want any more reports like the report that just came out about Ed Meese down there on the Iran contra thing because it's all -- a lot of it is hearsay and they don't want to see that. And I suggest to you that there are some ways that this--

Q. The history of this agency was a creation of the legislature. They answer to us, not to you, not to the Governor. They answer to us. Now, why? And I'll tell you why. When I was part of the Shapp administration as a General Assembly member, it was embarrassing for the number of Democrats and Republicans that were in office that were convicted of crimes and went to jail. I mean, and that's a fact, a historical fact. Corruption was rampant. And it was embarrassing. Not only to be a member of the General Assembly but to be a Democrat, because there are a lot of honest, law-abiding Democrats, as there are Republicans. But it doesn't do the system any good. There were questions about the propriety of the State Police and/or the appointed Attorney General during those days, I might add. The only thing that was a saving grace for many members of the General Assembly was the Pennsylvania Crime Commission, whether we liked it or not, whether we liked the reports that they published or not.

They are our intelligence gathering agency. They serve the purpose. The mission may very well be adapted and/or changed. That is something that the General Assembly will decide within the next two weeks. But I think, in all fairness and honesty, they

have done a commendable job servicing the General Assembly, for which they were originated, and the information that they provided to us. The RICO Act and the wiretapping information, they had pushed for that for years to make it law. There was a lot of other recommendations over the years that they pinpointed because of the corruption and the other problems that they uncovered that they shared with the General Assembly and pleaded with us to make it law so it would assist law enforcement agencies like yours, like the local DAs and others around this Commonwealth. They serve a very useful purpose, I think.

A. And Mr. Chairman, if that was their purpose, then fine. If that was their purpose. But, I mean, to issue a report, I'm just saying to you this in this regard, and maybe this is where we can find some common ground, and that is that I think since they are your creation, and you're entitled to receive information from whatever sources you want to and they can be commissions, and you and I have served on such a commission. The Local State Government Commission we examined the mental health laws, and you know that.

Q. Yes, that's true.

A. So what I'm opposed to is the publication outside of the legislature of matters that are hearsay

and innuendo and that are not supported by credible evidence and people who are, because of their ethnic origin are seemingly spread all over the pages.

Q. Ernie, you know as well as I do that I'm 100 percent Sicilian on both parents' side. I don't resent their inference of a Nicademo Scarfo or Sam Clemente.

A. I don't either.

Q. I think they're scum. I think they've ruined our nationality. They've done more to hurt us and our people for what they've contributed to this State and this nation as Italian-Americans, and it doesn't offend me in the least to have them on the run down there.

A. And it doesn't offend me either, and I agree with you on that. We've put Nicademo Scarfo and one of his top lieutenants in jail, that's Mr. Stockard. But I did want to say to you, and this is where we might find some common ground, that if you're interested in receiving reports and information on organized crime and then you can get it from us and the State Police and any other agency that you want to create, but I would just say, you know, and these other agencies in other States do not have immunity from libel and slander, and therefore, their reports have to

be very factual, have to be based on credible evidence.

Q. Well, the annual report I've always indicated should be eliminated. As a matter of fact, the commission itself has felt that that annual report should, in fact, be eliminated. Yeah, my piece of legislation would actually eliminate that annual report because that's the bone of contention that I think everybody's got stuck in their craw.

A. But it's the immunity, too. I mean, let me just say this to you, I think that nobody, I'm not immune from libel and slander and neither are you, except when you speak in that hall.

Q. The floor of the House.

A. I mean, because I can still be sued for civil rights violations too outside of my prosecutorial abilities. But I do want to emphasize that a report that is legitimately concerning organized crime I support.

Q. Would you agree that it wouldn't make sense to phase out the Pennsylvania Crime Commission at the end of this month without an orderly process, number one; or a possible review and changes of their mission, which would give it an extended life until the end of June of '94?

A. You know, I would be glad to discuss

those kinds of things with you, as we've done on a number of occasions to work with you to see what we can do. But at the present time, my feeling is that we've taken a position and we're going to stick with that. But I would be happy to work with you and anybody else, because this is your creation. I'm not going to tell you not to do it either way, but I would like to make some suggestions to you that they're in keeping with an orderly process.

Q. Well, I know that it's been suggested that they be put either under the Attorney General or the State Police. I can also make the counter suggestion that possibly the Office of Consumer Protection be made independent, and we could debate that ad infinitum because I think they should stand unto themselves, and I think I have a piece of legislation, if I recall, doing just that so that they would take their people with them and the authority and the budget and whatever else to be a little bit more aggressive in the areas of consumer protection that I'd like to see them and to have them really stand independent to do the kinds of things that I think they might be able to do a little bit more aggressively. Because the focus I know primarily from your thrust is on the criminal area, and the consumer area I know

you've done a good job in in many respects, but I think a lot more could be done if there was more emphasis placed specifically, and having been the former Consumer Affairs chairman and working with Danny and some of the other people I guess--

A. Dan Clearfield.

Q. And Barasch I guess.

A. Dave Barasch was the predecessor.

Q. Yeah.

A. No, Dave Barasch was over at Consumer Advocate, which deals with the PUC.

Q. Right. We worked together on the various issues as they overlapped one another.

A. Um-hum.

CHAIRMAN CALTAGIRONE: I don't want to dominate any more of this, but if there's any other questions.

REPRESENTATIVE COHEN: Mr. Chairman, could I be recognized to follow up?

CHAIRMAN CALTAGIRONE: Go right ahead.

BY REPRESENTATIVE COHEN: (Of Atty. Gen. Preate)

Q. A couple of things. First, you talked about you favor banning possession of weapons for people--

A. Yes.

Q. --under 21?

A. Yes, sir. Except for legitimate target practicing and hunting.

Q. Will you be submitting any laws to us?

A. I would be happy to do that. I think that there's - in fact, Frank Oliver might have already submitted a bill along those same lines, Representative Oliver.

Q. If he did, you would be supporting that?

A. The second thing that I would suggest, Representative, is that we create juvenile violent offender courts so that we don't have to debate this is he an adult or is he not an adult? You just try him as a serious offender juvenile. You set up a separate juvenile offender court.

The third thing is I would like to create boot camps in Pennsylvania. We don't have a single juvenile boot camp. We only have one adult boot camp, and that's up at Snowshoe. We ought to do more of that work because that's rehabilitative.

And the other thing that I would suggest that we can do is to put more juvenile probation and parole officers and more adult probation and parole officers on the street. Why? Because their caseloads have doubled and tripled in the last several years and

they're overwhelmed, and we know that one of the most effective ways to cut down on recidivism is not to lock people up but to get them serious, intensive probation services after they're out of jail. After they're out of jail. And I've suggested this to none other than Joe Biden, the chairman of the Senate Judiciary Committee in Washington who I've worked with on that Senate crime bill, the House crime bill down there, and I suggest that we do the same here. Let's give our probation officers the necessary, if you want to really have an impact on crime, I would say add 50 or 100 new probation and parole officers around this State and you'll have an immediate impact because they'll cut down on the recidivism rate which is running right now at a third.

Q. Okay, on another subject. Philadelphia has passed a bill restricting assault weapons in their Philadelphia city council. I understand Pittsburgh will be passing a similar bill this week. There's a move in the legislature to ban such ordinances which recently the Pittsburgh Post-Gazette and the Harrisburg Patriot editorialized against such moves. The NRA obviously supports banning such local ordinances. Where do you stand?

A. Well, it depends on, you know, looking at

the Constitution. Do we want to have local ordinances or do we want to have a State law? I mean, it doesn't seem to me to be productive to just ban them in one city or one town and then they can buy them in the next town. I mean, I've been also informed that we have a constitutional problem in our State Constitution, as I did mention before as I prefaced my remarks. But at the same time, looking at it effectively, is it going to make a difference if you just ban it in one town and the next town over they can buy it?

Q. Obviously, it would be better if the State could ban it. Obviously also there are not the votes in the legislature to ban it on a statewide basis.

A. Well, the Federal government stepped in here, they just passed a bill, so we're going to be mandated to do some things along those lines. I was a marine. I used assault weapons, and they're not for hunting, they're for killing people.

Q. But you would not favor allowing local governments to ban them though?

A. I would have to look at, we did this, and I just say this because I don't remember, about six months ago we looked at this question when it came up and we found that there might be a constitutional

problem. Might be. And I don't want to--

Q. Well, if there's a constitutional challenge of the laws that are filed, if the courts would rule that the Philadelphia and Pittsburgh ordinance were unconstitutional, they would be thrown out.

A. That's right, because of our State Constitution, the way our State Constitution is worded. And so let me go back and research that and then if you want a letter to that effect or something like that, we could probably send one over. I'm sure the Governor's Office, the General Counsel's Office can also give you advice as to the constitutionality problem, which, you know, is different. Lots of things in our State Constitution are different than the Federal Constitution. So what may be okay to do under the Federal Constitution may not be permitted to do under the State Constitution. Let me just say that.

And the other thing is on the matter of effectiveness, just reiterate my point that, you know, when you have one town ban them and another town they can buy them another mile away, it doesn't seem to be an effective way to have it policed. Because the police will have to do that. They'll have to go out there and they'll push somebody right across the border

from Philadelphia into Bucks County.

Q. On the issue of the Crime Commission, I have some amendments to Chairman Caltagirone's bill which in effect offer editorial requirements to the Crime Commission. I am disturbed at what I view as ethnic stereotyping. You don't have an office of Asian crimes or Italian crimes or Jewish crimes. Nobody else does. There's no Bar Association committee on Asian crimes or Italian crimes. I'm disturbed at the ethnic stereotyping, I'm disturbed at facts and innuendoes all lumped together, and I have some amendments to improve the editorial product and for whatever it's worth, I'll be glad to share with you.

A. Thank you. I'm sure that the chairman has some, you know, thoughts along those same lines. You want to get the same thing. We want facts and not innuendo or hearsay.

CHAIRMAN CALTAGIRONE: Are there any other questions?

(No response.)

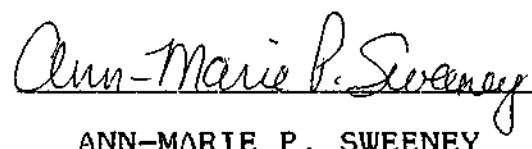
CHAIRMAN CALTAGIRONE: We'll conclude this hearing.

ATTY. GEN. PREATE: Okay, thank you, Mr. Chairman and members of this committee.

(Whereupon, the proceedings concluded at

12:10 p.m.)

I heroby 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

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