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TESTIMONY ON HOUSE BILL 1288
PRESENTED TO THE HOUSE JUDICIARY COMMITTEE'S
SUBCOMMITTEE ON COURTS ON JUNE 24, 1997

Good morning Subcommittee Chairman Clark and other members of the Subcommittee. We want to thank you for providing us with this opportunity for testifying on House Bill 1288. We are here today on behalf of the more than 10,000 members of the American Civil Liberties Union of Pennsylvania.

Initially, we want to make it absolutely clear -- the ACLU does not condone the lodging of false allegations against anyone. No police officer or citizen should be subjected to the trouble and expense associated with the criminal or civil defense of baseless claims.

Nevertheless, we do not support this legislation. Several years ago, we expressed our opposition to a bill that proposed criminal sanctions for those who knowingly filed false allegations of child abuse. The ACLU opposed that legislation because we did not think that creating another crime was the appropriate means for addressing the concerns that gave rise to that legislation. We also feared that such legislation could lead to a decrease in the number of legitimate claims of abuse that would be filed because of the chilling effect of potential criminal

charges being filed against a person reporting child abuse.

These same concerns lead us to oppose the present legislation. The ACLU does not think the way to resolve the problem (to the extent there really is one) of false complaints of police misconduct, is to create an additional criminal offense. Given the volume of cases in our criminal courts, it would be an unreasonable burden on prosecutors and judges to ask them to deal with disputes over the truthfulness of allegations made against police officers while they are trying to proceed with trials involving murders, assaults, property crimes and narcotics offenses.

The present legislation, if enacted, would also act as a strong disincentive against the filing of many complaints of police misconduct. The legislation not only makes it a crime to knowingly file false charges but also mandates that complaint forms contain a stark and visible warning. It is not hard to imagine that most citizens, when faced with such a form would think twice about even filing a legitimate complaint. The consequences of an adverse finding with respect to any complaint will just be too great for most citizens.

The possibility of criminal charges will undoubtedly intimidate persons who otherwise might seek redress for their claims of police misconduct. Unfortunately, we know that too many citizens already think that filing a claim of police misconduct is a futile effort. We receive dozens of phone calls and letters, from all parts of Pennsylvania, that describe allegations of police abuse and a fear that there is nothing that can be done to solve the problem. An intimidating warning on complaint forms will undoubtedly impede efforts to encourage people to address their concerns about police misconduct by filing complaints with the appropriate authorities.

We also believe that it would be detrimental to the Commonwealth and local

governments to further discourage the filing of complaints of police misconduct. As the recent experience in the 39th District demonstrated, it was the failure to seriously investigate complaints of police misconduct that resulted in a spiral of misdeeds by several police officers. The citizens' complaints should have served as an early warning sign to the supervisors in that district. Unfortunately, those complaints were not heeded. We hope that certain changes are being made so that repeated complaints against specific officers will be examined more closely in order to prevent future scandals. Discouraging the filing of complaints will only increase the likelihood of future scandals.

Because the ACLU of Pennsylvania is a statewide organization, we are very aware of the growing demand for more police accountability to the citizens. House Bill 1288 runs counter to that trend because it isolates police officers from citizen control. As evidence of the growing interest in citizen oversight over the police, I note the following:

A. The creation of a Police Advisory Commission in Philadelphia to investigate citizens' complaints of police misconduct. The Commission was created in response to the public's demand for a process that allows citizen review of allegations of police abuse.

B. The recent referendum in Pittsburgh in which 58% of the voters favored the creation of a police review board. The referendum was placed on the ballot by a citizen's group after the Pittsburgh City Council voted against the creation of such a board.

C. We have been contacted by a representative of the Greater Harrisburg Area Branch NAACP in Harrisburg with regard to the creation of a mechanism for police oversight.

D. We have also been contacted by citizens in the Allentown area who are concerned with allegations made against one of the higher ranking officers in that city's Police Department

and the manner in which the investigation of those allegations was carried out.

While the ACLU has litigated cases involving police misconduct and lobbied for citizen review boards, we have also initiated public education projects designed to improve community-police relations. This last year we held a series of workshops in Philadelphia in which we informed people about their rights and responsibilities with regard to the police. At those workshops we also provided community leaders with information about the agreement between us and the City of Philadelphia to institute several significant reforms in the Philadelphia Police Department.

In Pittsburgh we are preparing educational materials directed at teenagers that are intended to instruct them about their rights and responsibilities with regard to the police. We have had considerable cooperation with that city's Police Department in developing materials to be used in public schools.

We are encouraged by these educational efforts. We know that there are many police officers and community leaders who sincerely want to build greater trust between the citizens and those who enforce our laws. The ACLU believes that government can play a constructive role by fostering more efforts along the lines of the programs we have attempted. We also think that properly empowered and funded civilian review boards can assist in the creating better police-community relations.

On the other hand, we do not think that passage of legislation, like House Bill 1288 will have a positive impact. If anything, such legislation will only widen the gap between the police and the citizenry and increase the public's frustration with insufficient police accountability.

**SUBCOMMITTEE ON COURTS PUBLIC HEARING AGENDA
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- 11:35 A.M. Paul McCommons, President
Pennsylvania State Troopers Association
- 11:55 A.M. Bradley Bridge, Esquire
Defender's Association of Philadelphia
- 12:15 P.M. Leo Marchetti
Fraternal Order of Police