

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

* * * * *

House Bill 147

* * * * *

House Judiciary Subcommittee
on Crimes and Corrections

Main Capitol Building
Room 418, Minority Caucus Room
Harrisburg, Pennsylvania

Thursday, November 13, 1997 - 9:30 a.m.

--oOo--

BEFORE:

Honorable Jerry Birmelin, Majority Chairperson
Honorable Timothy Hennessey

IN ATTENDANCE:

Honorable J. Scot Chadwick
Honorable Thomas Caltagirone

KEY REPORTERS
1300 Garrison Drive, York, PA 17404
(717) 764-7801 Fax (717) 764-6367

1997-135

1 ALSO PRESENT:

2

3 Brian Preski, Esquire
Majority Chief Counsel

4

5 Judy Sedesse
Majority Administrative Assistant

6

7 John Ryan
Minority Counsel

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C O N T E N T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

PAGE

Major Katherine Douth Bureau of Patrol, PA State Police	5
Paul T. McCommons, President Pennsylvania State Troopers Association	35
Pennsylvania Fire Service Institute John Bierling, Fire Chief West Manchester Township	60
John Brenner, Executive Director	69
Frederick Engle, Liaison Fraternal Order of Police	70
Edward Connor, Chief of Police Ferguson Township	80
Vern Smith, Sheriff Clarion County	98

1 CHAIRPERSON BIRMELIN: Good morning,
2 Major Dutt. We welcome you here this morning.
3 The House Subcommittee -- the Judiciary Committee
4 on Crime and Corrections is meeting this morning.

5 We had a meeting yesterday afternoon in
6 Media, Delaware County; and we're continuing
7 today with the people who are testifying on the
8 bill in consideration before us is House Bill No.
9 147.

10 The bill deals with the restriction on
11 police officers on the types of arrests that they
12 can make for certain violations. The sponsor is
13 Representative Lynch, who I don't see yet here
14 this morning but has been invited, and he may
15 join us at a later time.

16 Let me introduce the members of the
17 Committee who are here with us this morning. To
18 my far right is Representative Scot Chadwick.
19 Bradford County, I believe. Immediately to my
20 left is Representative Caltagirone from Berks
21 County and his counsel, John Ryan.

22 And as we are joined by other members,
23 which I'm sure will happen over the course of the
24 next 2 1/2 to 3 hours, I'll do my best to
25 introduce them so that you all know who they are.

1 Major Dutt, you've been before this
2 Subcommittee before --

3 MAJOR DOUTT: Yes, sir.

4 CHAIRPERSON BIRMELIN: -- and on a
5 different subject; but apparently you're getting
6 to be the testifier of choice for the State
7 Police. And we appreciate your ability to be so
8 well versed in all these issues and to share with
9 us your testimony. We do have a printed version
10 of it, and we thank you for coming. And feel
11 free to begin your testimony.

12 MAJOR DOUTT: Thank you, sir. As you
13 noted, I am Major Katherine Dutt, Director of
14 the Bureau of Patrol for the Pennsylvania State
15 Police.

16 On behalf of Colonel Paul J. Evanko,
17 Commissioner of the Pennsylvania State Police, I
18 would like to thank you for inviting the State
19 Police to present testimony before the
20 Subcommittee on Crime and Corrections of the
21 House Judiciary Committee on rogue police
22 officers, unmarked cars, and House Bill 147.

23 As you well know, over the past few
24 years, these issues have been the subject of
25 considerable concern for the public, the

1 Legislature, and the police due primarily to
2 reports of police impersonations by criminals.

3 Much of this concern has come from women
4 who are afraid to stop at night for a police
5 officer fearing it is not really a police officer
6 but someone impersonating one.

7 As a result, some individuals believe
8 the answer is to eliminate unmarked police
9 vehicles for traffic stops, at least for summary
10 offenses. However, before we look at this
11 extreme solution, the Pennsylvania State Police
12 would like you to seriously consider a number of
13 related issues.

14 If the term rogue police officer refers
15 to an officer abusing their authority and the
16 public trust, the cases are extremely rare and
17 eliminating unmarked police vehicles for traffic
18 would have little consequence.

19 If the term refers to a nonpolice
20 person -- that is, someone impersonating a police
21 officer -- then we then we must try to address
22 the frequency of the problem as well as all
23 possible solutions, hopefully without diminishing
24 public safety in any way.

25 In this light, the State Police

1 attempted to research the incidence or frequency
2 of police impersonation. Because Title 18, the
3 Crimes Code, does not differentiate between
4 impersonating a public servant and impersonating
5 a police officer, we instituted a computerized
6 search through NEXUS for news articles or
7 abstracts of articles for reporting on such cases
8 in Pennsylvania.

9 In 1997, this research showed only ten
10 such cases reported in the news, of which two
11 were later verified -- or excuse me -- were later
12 proved to be fabrications. There was only one
13 verified incident involving the pulling over of a
14 vehicle.

15 This occurred on the turnpike where the
16 defendant used a spotlight and hand gestures to
17 pull a male victim over. The defendant
18 subsequently identified himself as a federal
19 agent and, in the verbiage of the article,
20 threatened to write the other motorist a ticket.

21 The two known cases of fabrication came
22 out of Southeastern Pennsylvania where fears of
23 police impersonation have been heightened because
24 of a high-profile homicide.

25 Actually, in a relatively short period

1 of time, four incidents were received in that
2 area of the state from members of the public
3 believing they had been the subjects of traffic
4 stops by people impersonating police officers.

5 Even the two cases which were proved
6 false following extensive investigation allegedly
7 reported the use of flashing blue lights -- not
8 red lights or a combination of red and blue,
9 which are used by police -- to pull them over.

10 A third report of police impersonation
11 in this area also involved a motorist pulling
12 over for a flashing blue light. This motorist, a
13 male, was not approached by the offender and, to
14 my knowledge, the case has not been resolved.

15 The fourth report when investigated
16 revealed a traffic stop that was actually
17 initiated by a State Police trooper. There was
18 no impersonation and no abuse of power.

19 As you can see, the actual number of
20 incidents reported in the news of police
21 impersonation involving the stopping of a
22 motorist was two: the one on the turnpike
23 where the defendant identified himself as a
24 federal agent and who was shortly thereafter
25 arrested for driving under the influence,

1 impersonating a public servant, disorderly conduct,
2 and harassment; and the one in Southeastern
3 Pennsylvania where the offender never approached
4 the victim's car.

5 The concern for rogue police officers
6 was nationally generated by the videotape of
7 a South Carolina State Trooper out of control
8 after a chase. The inflammatory film footage
9 showed the trooper yelling at a female motorist,
10 dragging her out of her car and striking her.

11 This incident is an anathema to every
12 professional police officer, and the South
13 Carolina authorities acted swiftly in dealing
14 with the offending officer.

15 This type of incident, although
16 horrifying, would not necessarily be prevented by
17 eliminating the use of unmarked police vehicles
18 for traffic stops. These incidents can only be
19 prevented by the proper recruitment, training,
20 and supervision of police officers.

21 There was a law enforcement tool in
22 evidence in that situation, however, which helped
23 clarify the events as they occurred and which
24 aided South Carolina officials in taking
25 immediate action.

1 That tool was a Mobile Video Recording
2 Device, also referred to as an MVR. This tool
3 over the years has recorded high- and low-speed
4 chases. It has recorded the interaction of
5 police officers with the motoring and ambulatory
6 public, and it has also recorded the murdering of
7 police officers.

8 It has immense value to all associated
9 with police work. Although some police are wary
10 such taping will be used in a punitive fashion,
11 the fact is the MVR will usually exonerate the
12 professional officer who conducts themselves in
13 the appropriate manner in which they were
14 trained.

15 The Pennsylvania State Police under
16 Colonel Evanko has been able to acquire and equip
17 approximately 65 patrol vehicles with MVRs. And
18 although there are legal issues which we are
19 trying to address through legislation relative to
20 voice recording to supplement the visual
21 recording, we anticipate this technology will
22 show the high level of professionalism employed
23 by and expected of our members.

24 I would like to address the effect we
25 believe House Bill 147 would have on the overall

1 delivery of police services. And although I am
2 here to plead the case for unmarked vehicles for
3 patrol, it is important to recognize the majority
4 of our patrol vehicles are, in fact, marked.

5 The State Police recognizes the majority
6 of the public relates the term State Police
7 officer or trooper to someone in the gray uniform
8 with the gray, Smokey-the-Bear style campaign hat
9 usually in a marked car patrolling the highways.

10 But as you know, our mission is much
11 larger than that. We are charged with the
12 enforcement of not only the Vehicle Code, Title
13 75, but the Crimes Code, Title 18; the Fish and
14 Game laws; and other such responsibilities as
15 the Governor may see fit to assign such as
16 assisting other state agencies in the enforcement
17 of laws applicable to them.

18 These enforcement duties are carried out
19 throughout the Commonwealth, although we are
20 primarily functional in those areas of the state
21 without a full-time police department. In
22 general, we protect the lives and the property of
23 the citizenry of Pennsylvania.

24 In accomplishing this mission, the
25 Pennsylvania State Police are first generalists.

1 Our troopers are initially assigned to patrol
2 duties following their training, and the majority
3 of troopers remain in that function.

4 Patrol, however, is not limited to
5 traffic. In fact, as the demands for police
6 services have increased, our preventive patrol
7 has been severely curtailed and many selective
8 traffic enforcement programs are conducted on an
9 overtime basis.

10 It is extremely rare, if ever, that a
11 uniformed trooper can exclusively devote their
12 day or even most of it to a proactive enforcement
13 and prevention effort; and, yet, it is the patrol
14 trooper who is the first line of defense in
15 preventing traffic crashes, easing congestion,
16 preventing and discovering criminal activity, and
17 reporting violations.

18 They are usually first to arrive at a
19 crime scene, and the majority of initial criminal
20 investigations are made by them. They are
21 primary investigators of many of the less complex
22 crimes.

23 By virtue of their general patrol
24 assignments, they also solve many of these
25 investigations because of their ability to

1 immediately follow-up with interviews of
2 neighbors of victims or of known suspects.

3 They serve warrants on those who do not
4 respond to court summonses, and they provide
5 surveillance during their regular patrol of areas
6 in which criminal activity has been occurring.

7 State Police selective traffic
8 enforcement programs are aimed at reducing
9 crashes and saving lives. We focus our efforts
10 on drivers under the influence, aggressive
11 drivers, and drivers who refuse to obey the
12 speed limits and other traffic and motor vehicle
13 related laws which you, the Legislature, have
14 crafted and enacted for the safety of the public.

15 These efforts along with general traffic
16 enforcement resulted in the issuance of 402,389
17 traffic citations in 1996 and 10,475 arrests for
18 driving while under the influence by State Police
19 troopers.

20 In addition, 347,523 police warning
21 notices were issued and 64,683 motorists were
22 assisted. Enforcement is often more successful
23 using unmarked vehicles.

24 We are all aware of the automatic
25 response of drivers upon seeing a marked police

1 vehicle. They first put on their brakes and then
2 check their speedometer. They become cognizant
3 of using their turn signals and following other
4 vehicles at safe distances. They start to drive
5 defensively and with courtesy.

6 All of these things are good things;
7 however, this often means their driving habits are
8 not usually so careful, courteous, or safe. This
9 is verified by the number of crashes occurring on
10 our highways every year.

11 In our attempt to combat unsafe and
12 aggressive drivers and decrease the number of
13 crashes, unmarked vehicle can prove invaluable.
14 By eliminating our ability to use unmarked police
15 vehicles for patrol, the Legislature will also
16 be taking away an important tool in criminal
17 detection.

18 This type of vehicle is an observation
19 platform for surveillance of areas where crime
20 has been occurring, of people suspected of
21 reported criminal activity, as well as of
22 traffic-related violations.

23 Covert activities are an important part
24 of our job and are not limited to criminal
25 investigators or vice and narcotics

1 investigators.

2 In addition, many commissioned officers
3 use unmarked cars in their day-to-day business.
4 These same officers stop to help disabled
5 motorists on their way to and from work and
6 between appointments.

7 When in uniform, they also stop
8 violators. This summer while in Western
9 Pennsylvania observing selective traffic
10 enforcement efforts for a day, I was returning to
11 my lodgings and made two traffic stops.

12 The first was of a young man driving 20
13 miles per hour over the speed limit without a
14 seat belt and with a registration violation.
15 The second was an older driver whose truck was
16 weaving back and forth on the interstate.

17 These stops were initiated because of
18 summary violations; yet if ignored or the stops
19 not permitted, all could have had serious
20 consequences for the motoring public.

21 Since then, I have stopped to help a
22 disabled motorist and stopped to assist at the
23 scene of a crash where the local police had
24 already departed but an unsafe situation had
25 occurred because of the location of the vehicle,

1 the increased volume of traffic, and the
2 resulting traffic patterns.

3 Multiply these personal experiences by
4 the number of commissioned officers and others
5 not always in uniform who drive unmarked vehicles
6 and not permit stops by these officers, and you
7 will see a major decrease in the effective
8 delivery of police services.

9 A fourth issue, that of emergency
10 lighting, should at least be raised in
11 discussions on the elimination of unmarked patrol
12 vehicles.

13 It is the belief of the police community
14 that the proliferation of organizations and
15 individuals permitted to have various
16 configurations of emergency lights creates
17 confusion.

18 Currently, there are fifteen types of
19 organizations permitted to equip their vehicles
20 with emergency lighting. Most these vehicles are
21 also permitted to be equipped with an audible
22 warning device.

23 There are also fourteen categories of
24 privately-owned vehicles which are designated as
25 emergency vehicles and may be equipped with

1 emergency lighting.

2 The picture becomes even more confusing
3 not only to the general public, but also to
4 police officers because scattered throughout our
5 laws are the provision for enforcement of
6 specific statutes.

7 Generally, these statutes provide code
8 enforcement officers with police powers while
9 acting within the scope of their employment. In
10 some instances, these laws permit pursuit to
11 apprehend violators of these codes.

12 Colonel Evanko, recognizing the increased
13 fear of the public in being stopped by someone
14 other than a police officer, issued strong new
15 guidelines in July of 1996 for both the public
16 and for our members.

17 Advice to the public was disseminated by
18 news interviews and through public speeches and
19 presentations. To our members Colonel Evanko
20 stated:

21 Except in extreme circumstances, only
22 uniformed members shall stop vehicles while
23 operating unmarked patrol vehicles. Members
24 shall wear the issued campaign hat at all traffic
25 stops and highway incidents. Members shall use

1 emergency lighting and equipment when making
2 traffic stops. With proper consideration for
3 officer safety, the interior light of the patrol
4 unit should be used to help the motorist identify
5 the member as a State Police officer. The public
6 address system should also be utilized.

7 In addition, in August of 1996, Colonel
8 Evanko strengthened our policy by prohibiting
9 unmarked cars on the midnight patrol
10 except for exigent circumstances; by limiting use
11 during periods of darkness except for special
12 traffic enforcement; and at other times where
13 covert or undercover methods are necessary.

14 And although drivers are required under
15 section 3325 of the Vehicle Code to stop for
16 police vehicles when emergency equipment is
17 activated, our members are aware it is a defense
18 if the driver cannot identify the operator of an
19 unmarked police vehicle as a police officer.

20 By requiring troopers to take steps to
21 help motorists identify police officers and by
22 providing the public with information on the
23 appropriate response to police stops, the
24 Pennsylvania State Police believes we will be
25 able to deal with many of the concerns which have

1 been raised.

2 Colonel Evanko and the Pennsylvania
3 State Police understand and share your concerns
4 about the crime of impersonating a public
5 servant, specifically, a police officer; about
6 the general use of unmarked cars; and about the
7 proliferation of emergency lighting which can
8 create confusion.

9 His suggested resolution is not,
10 however, to legislate the prohibition of unmarked
11 police vehicles. Instead, he and the
12 Pennsylvania State Police suggest curtailing the
13 number of organizations and people permitted to
14 use emergency lighting.

15 We also suggest amending section 4912 of
16 the Crimes Code, specifically addressing the
17 impersonation of a police officer separately from
18 the general offense of impersonating a public
19 servant and grading the offense appropriately in
20 accordance with the intent and/or actions of the
21 offender.

22 Colonel Evanko and our department
23 believe each police department should establish
24 their own policy for the use of unmarked police
25 patrol vehicles. Recognizing the concerns of the

1 public, we believe those policies should be
2 shared through a vigorous public information
3 campaign.

4 In conclusion, it is our concern that
5 legislation prohibiting or inhibiting the use of
6 unmarked patrol vehicles will not resolve the
7 real problem of people committing criminal acts
8 under the pretense of being a police officer but
9 will result in a less effective delivery system
10 of police services and traffic enforcement and a
11 more secure environment for criminals.

12 The State Police as well as all police
13 charged with the protection of life and property
14 need all of the available tools to accomplish our
15 mission. The unmarked patrol vehicle is one of
16 the most important tools we currently have.

17 Thank you for this opportunity to
18 receive our input on this important topic, and
19 I'll now try to answer any questions you might
20 have.

21 CHAIRPERSON BIRMELIN: Thank you,
22 Major Douth. I turn to our chief counsel,
23 Preski, who's joined me on my immediate right.
24 When you had mentioned to me that when you had
25 talked about the separating of police officers in

1 the Crimes Code from public servants for
2 identification purposes in the Criminal Code,
3 there are already two bills that are addressed or
4 introduced to address that.

5 MAJOR DOUTT: Good.

6 CHAIRPERSON BIRMELIN: You're way ahead
7 of your time. I will turn over the next few
8 minutes to our members here on the panel. And
9 I'll first turn to Representative Caltagirone,
10 who is also, as I forgot to introduce him, the
11 democratic chairman of this Committee.

12 REPRESENTATIVE CALTAGIRONE: Thank you,
13 Mr. Chairman. Major, in your testimony you had
14 mentioned that you had a number of cars. I was
15 just wondering what the specific number of the
16 marked and unmarked cars are approximately that
17 the Pennsylvania State Police would have?

18 MAJOR DOUTT: Do you want just patrol
19 vehicles, sir, or total fleet?

20 REPRESENTATIVE CALTAGIRONE: Let's start
21 with the total fleet, if you have it available.
22 It doesn't have to be specific, by the way.
23 Ballpark's good enough.

24 MAJOR DOUTT: If you'll just let me
25 check -- I'll tell you what, sir, I can look it

1 up and give it to you before I leave instead of
2 wasting the time right now.

3 REPRESENTATIVE CALTAGIRONE: Do you have
4 any idea how many cars totally the State Police
5 would have in the total fleet -- is it 2, 4,
6 5,000?

7 MAJOR DOUTT: No, nowhere near that. It
8 would be more towards 2,000 and just under that.

9 REPRESENTATIVE CALTAGIRONE: One of the
10 reasons why I'm asking, in addition to this
11 legislation, I've been talking with some of my
12 friends in the State Police -- and this, of
13 course, has been a concern of mine over the
14 years -- the rotation of the vehicles with high
15 mileage.

16 I know specifically what we're here for
17 today with this legislation; however, the other
18 concern that I had and since you were before us I
19 just couldn't let the opportunity slip by, we
20 have approximately according to the latest
21 figures \$576 million in the surplus from the
22 previous year's budget and we have approximately
23 112 million, I think it is, in the Transportation
24 Department budget.

25 And I'm given to understand that,

1 again -- and this happens from time to time since
2 we're talking about vehicles -- that we did not,
3 in fact, go on the rotation of replacing
4 high-mileage vehicles, especially the patrol
5 vehicles whether they're marked or unmarked with
6 newer fleets of cars.

7 Do you know if it's anticipated that the
8 Colonel or the administration will be, in fact,
9 replacing the high-mileage vehicles any time
10 soon?

11 MAJOR DOUTT: I think the best way I
12 could answer that, sir, is by saying that we
13 replenish the fleet as appropriations are made to
14 do so.

15 REPRESENTATIVE CALTAGIRONE: So we need
16 to talk to the Appropriations Committee then or
17 the budget secretary. I share that with you
18 because this has been a concern that has been
19 addressed by some of the troops around the state.

20 And I wanted to let the other members
21 become aware of that and, hopefully, we might be
22 able to take appropriate action, at least letting
23 the administration know that they, in fact,
24 should start really to consider replacing as many
25 of those high-mileage vehicles as possible.

1 Because as you well know in the
2 high-speed chases that they get involved in on
3 the interstate and the turnpike, it could, in
4 fact, and does become life threatening if you
5 have a vehicle with over a hundred thousand
6 miles --

7 MAJOR DOUTT: It is a concern.

8 REPRESENTATIVE CALTAGIRONE: -- in
9 pursuit. Now, specifically with the
10 legislation -- and if you could share that
11 information with the Committee about the total
12 number of marked and unmarked vehicles, I'd
13 appreciate it.

14 And better yet -- and I know you
15 wouldn't have this with you today -- if you could
16 give us an idea how many of the vehicles that you
17 have, have over a hundred thousand miles that are
18 in service on the force.

19 MAJOR DOUTT: You are correct; I don't
20 have that, but I will find that out. I can give
21 you how much it would cost to convert our
22 unmarked patrol vehicles to marked cars, which I
23 also think would be a consideration considering
24 you brought up a related topic.

25 REPRESENTATIVE CALTAGIRONE: Uh-huh.

1 MAJOR DOUTT: And that's well over a
2 million dollars just to convert the small number
3 of unmarked patrol vehicles we have to a marked
4 fleet.

5 REPRESENTATIVE CALTAGIRONE: Well, we
6 were talking about this yesterday at our hearing.
7 The patrol units that are on the interstate and
8 the turnpike, they are always in uniform.

9 I don't ever recall in my 21 years in
10 the Legislature that I've ever seen on patrol any
11 of the Pennsylvania State Police officers not in
12 uniform when they're on patrol duty. They do and
13 are, in fact, required to wear uniforms; and when
14 they get out, the hat goes on, right?

15 MAJOR DOUTT: Yes, sir.

16 REPRESENTATIVE CALTAGIRONE: So, I mean,
17 as far as the State Police are concerned, they're
18 pretty well identified even if they're in an
19 unmarked vehicle when they get out of the car.

20 Of course, I see they put the flashing
21 lights on and at night I've seen them put the
22 interior light on and, of course, they have the
23 identifying suit and everything else. So there's
24 never really been any question, at least in my
25 mind, that the State Police can be pretty readily

1 identified.

2 I think where the problem comes in is
3 the local police. And I guess there could be
4 some undercover units that from time to time will
5 stop in rare instances, as you had testified; but
6 normally, that is not the case with the State
7 Police?

8 MAJOR DOUTT: Normally, that is not.

9 REPRESENTATIVE CALTAGIRONE: Okay.

10 Thank you. Thank you very much.

11 CHAIRPERSON BIRMELIN: Representative
12 Chadwick.

13 REPRESENTATIVE CHADWICK: Thank you,
14 Mr. Chairman. Major, Representative Scot
15 Chadwick from Bradford County. You indicated on
16 the very first page of your testimony that there
17 really are very few incidents of people
18 impersonating a State trooper on a highway stop.

19 I wonder if you can tell me whether or
20 not you know how often there's an incident of
21 someone not stopping because they're not sure
22 whether the person behind them is a police
23 officer?

24 MAJOR DOUTT: To my knowledge, sir, there
25 would be no way for me to gather that

1 information.

2 REPRESENTATIVE CHADWICK: It seems to me
3 that during broad daylight on the turnpike
4 there's not much of an issue here. But I live in
5 a rural county with some very rural state roads.
6 And after dark, I can understand how people might
7 be concerned if an unmarked car was behind them
8 in a very rural area where there was nobody else
9 to help them, no other possible witnesses going
10 to be driving by on a regular basis.

11 So it seems to me that the Department's
12 policy to limit the use of these cars after dark
13 for routine highway stops is very helpful. And
14 the question I have is, If I or one of my
15 constituents is driving on one of these rural
16 back roads at night and a red light flashes behind
17 us and the car's not marked, should we then
18 assume it's not a trooper.

19 MAJOR DOUTT: No, you should not assume
20 it's not a trooper. It very well could be a
21 trooper who because of his assignments or her
22 assignments that evening would need an unmarked
23 car; however, if it's a patrol trooper, they will
24 usually turn the inside light on so you can see
25 the uniform and be able to identify them as a

1 State Police officer.

2 REPRESENTATIVE CHADWICK: Okay. Thank
3 you. That's all I have, Mr. Chairman.

4 CHAIRPERSON BIRMELIN: Chief Counsel,
5 Preski.

6 MR. PRESKI: Major, this is a question I
7 had from yesterday. I asked it of a local police
8 officer in Bensalem in Bucks County. In your
9 experience, what is the charge or what's the
10 offense for someone who doesn't stop?

11 MAJOR DOUTT: Um --

12 MR. PRESKI: I mean, what can you do to
13 them if they don't pull over?

14 MAJOR DOUTT: There is a section -- it
15 would depend upon the total circumstances; and
16 that's why it's a difficult response to make --

17 MR. PRESKI: I'll make a hypothetical.
18 Assuming it's someone who's afraid that there's a
19 potential attacker in a car and when they're
20 pulled over on one of Representative Chadwick's
21 rural roads, they proceed to a well-lighted area.

22 MAJOR DOUTT: We would not probably
23 charge them with anything.

24 MR. PRESKI: What could they be charged
25 with though?

1 MAJOR DOUTT: If it were perceived by
2 the officer that they were trying to elude or
3 flee, that is a part of the code that they could
4 be charged under.

5 MR. PRESKI: All right. Then that was
6 the same answer that I had gotten yesterday. My
7 question is this: Is that if eluding is the only
8 charge and the State Police have adopted a policy
9 basically that officers would be identified, the
10 concern that we have in the Legislature is that
11 we have to make a policy that's across-the-board
12 that the Philadelphia Police will follow as well
13 as the State Police and everyone else.

14 In your opinion, if we gave the citizens
15 basically a defense to eluding that said when the
16 lights and sirens went on they didn't pull over
17 but what they did is they went to the nearest
18 lighted area or they went to the nearest public
19 area, do you think that would work to curtail
20 this problem?

21 Because one of the things that we're
22 really here today for is the concern that you're
23 going to get pulled over, the guy has what
24 appears to be a uniform if he turns on a dome
25 light, he has the blue dome light that pulls you

1 over, I'm looking in a rearview mirror, you don't
2 know if that's a cop or not.

3 It was also -- Representative Wright has
4 a bill in that he'd like to have a mandatory
5 uniform identification system for police
6 officers. We don't know how well that will work
7 either.

8 But the one thing that we thought about
9 and we think that might work is that if we had a
10 defense available to the eluding charge that
11 basically said if you've broken no other rules,
12 if you've not gone through red lights, if you
13 proceeded in a safe manner to a well-lighted
14 area, that that would be a defense to an eluding
15 charge. Do you have any comments on that?

16 MAJOR DOUTT: I have a few, sir. You've
17 set you up a number of variables to your
18 circumstances. Number 1, you even mentioned blue
19 light, which is not a police officer. So we
20 obviously have to do some education and look at
21 that proliferation of emergency lighting.

22 And as you noted, that was the only
23 cases that we had was pulling over for blue
24 lights, except for one who pulled over for a
25 spotlight.

1 It could be a defense. But if you were
2 in Representative Preski's (sic) area in Bradford
3 County and you proceeded to a well-lit area, it
4 might be twenty miles from where the stop was
5 attempted to be, I would prefer it is a safe area
6 so that you don't feel like you're going to be in
7 a crash just because you're pulling over for the
8 police officer.

9 The emphasis should be on the police
10 officer should be able to identify themselves.
11 You need to understand that it isn't just traffic
12 stops or it isn't just the traffic arena that we
13 talk about when we start putting in defenses.

14 We already have people who under broad
15 daylight every other circumstance exists for them
16 to be able to identify the police officer as such
17 will say, I didn't know it was a police officer,
18 and leave and hope to get away with whatever it
19 is they have done.

20 MR. PRESKI: I guess that brings me to
21 my question though. You could still, though, write
22 the citation for the eluding? If we give them
23 a defense, basically it allows them to come
24 into court and say under the totality of the
25 circumstances, I didn't think this was an

1 officer.

2 If the officer comes in and testifies it
3 was 12:00 on a well-lit day with plenty of berm
4 on the road to pull over, I think a judge would
5 be hard-pressed to find someone not guilty of the
6 citation.

7 But, again, you raised the
8 concern, one that we have to deal with in
9 Philadelphia where I live -- and I'm only the
10 counsel to the Committee. I haven't been
11 elevated yet to member status.

12 MAJOR DOUTT: Oh, I'm sorry.

13 MR. PRESKI: That's okay. It's far
14 different where I come from, from Philadelphia
15 than from Representative Chadwick and
16 Representative Birmelin where the next light on a
17 telephone pole might be 25 miles away. Thank
18 you.

19 CHAIRPERSON BIRMELIN: Well, not quite
20 25 miles. Most of our lights are 5 miles.
21 Representative Chadwick's district, however, is
22 that rural; and he has asked for the ability to
23 ask you one more question.

24 REPRESENTATIVE CHADWICK: Thank you, and
25 I apologize for not asking this before. What

1 happens if one of your criminal investigators who
2 clearly would be in plainclothes -- I'm a former
3 district attorney and worked with them. I know a
4 lot of them very well -- he's in plainclothes and
5 he's in an unmarked car and late at night, he's
6 out on one of my rural roads on his way out to
7 interview somebody and he sees someone speeding
8 or driving recklessly.

9 What happens in that situation? Because
10 he's not wearing a uniform and he doesn't have a
11 marked car, what happens then?

12 MAJOR DOUTT: Well, the police officer
13 always has the discretion to arrest or not to
14 arrest anyway. I would believe that the trooper
15 would again look at the balance of it.

16 If it's a matter of, you know, six or
17 seven miles over a particular speed limit, they
18 may not want to effect a stop. If it's someone
19 who is weaving and they believe may be DUI, they
20 would probably call to see if there was a
21 uniformed police officer in the area and, if so,
22 would ask that uniformed police officer to
23 intervene and make the stop.

24 If there was not and the trooper thought
25 it was a very dangerous situation, I think they

1 would try to make a stop on their own by showing
2 an ID, showing their badge, using their emergency
3 lighting and their audible siren, all right,
4 their audible devices to make that stop.

5 They weigh the danger to the public on
6 what they're viewing and what they're dealing
7 with. And that is a concern as we talk about all
8 these things. The more you take away from a
9 police officer for their ability to affect public
10 safety or deliver police services, it's a huge
11 impact.

12 REPRESENTATIVE CHADWICK: Would you
13 concede that a citizen in those circumstances
14 would probably have a fairly formidable defense
15 to a charge that they didn't stop right away?

16 MAJOR DOUTT: Yes, I would think so.

17 REPRESENTATIVE CHADWICK: Thank you.

18 CHAIRPERSON BIRMELIN: Thank you,
19 Major Doutt. We appreciate your testimony.

20 MAJOR DOUTT: Thank you, sir.

21 CHAIRPERSON BIRMELIN: The next
22 gentleman who will be presenting testimony is
23 Paul McCommons. He's the president of the
24 Pennsylvania State Troopers Association.
25 Mr. McCommons.

1 Our Committee has been joined to my
2 immediate right by Representative Hennessey,
3 Chester County, I believe.

4 REPRESENTATIVE HENNESSEY: Thank you,
5 Mr. Chairman, yes.

6 CHAIRPERSON BIRMELIN: Mr. McCommons, if
7 you're ready, you may begin.

8 MR. McCOMMONS: Good morning. First of
9 all, I'd like to introduce Trooper Lou Lazzaro.
10 He's the heir apparent to my position after
11 January. He'll be president of the association
12 after that, and I asked Lou to come along with me
13 today on this important issue.

14 As mentioned, Mr. Chairman, Committee
15 members, my name's Paul T. McCommons. I'm
16 president of the Pennsylvania State Troopers
17 Association.

18 I represent over 4,000 active state
19 troopers and would like to request that the
20 Legislature reject any further restrictions on
21 the enforcement tools that are presently being
22 considered by the Legislature such as limiting
23 the use of unmarked cars by police officers
24 across the Commonwealth of Pennsylvania.

25 This proposed restriction -- I'd like to

1 use the metaphor as being a little farm boy from
2 Butler County, as you will see here -- is like
3 the farmer who shoots the horse pulling the wagon
4 because the horse could no longer pull it after
5 the farmer overloaded it beyond the capabilities
6 of the horse.

7 With this legislation, it would only
8 further restrict the capabilities of police
9 officers in the use of unmarked vehicles in the
10 enforcement of the Vehicle Code, such things as
11 drag racing, disobeying signs, et cetera, and the
12 Crimes Code of the Commonwealth of Pennsylvania.

13 And in review of this legislation of
14 House Bill 147, it would prohibit a police
15 officer in an unmarked car in criminal instances
16 suspect of criminal things. And it is not the
17 police officers who are misusing unmarked
18 vehicles but the criminals.

19 We urge the Legislature to turn their
20 focus not on the police agencies that are
21 enforcing the laws, but on the criminals who are
22 committing the acts by increasing penalties and
23 fines for impersonating police officers,
24 enforcement officers, or agents of companies.

25 Another area that has to be looked at is

1 a regulation of citizens being able to purchase
2 police uniforms, equipment, and especially the
3 red and blue lights.

4 There needs to be a concerted effort in
5 looking at standardizing police agency uniforms
6 that citizens have the immediate ability to
7 recognize a police officer from a security guard
8 or an impersonator.

9 In the majority of the impersonation
10 incidents, the perpetrator used a red or blue
11 light to stop his victim. There needs to be a
12 tighter control placed on the sale and use of the
13 red lights and blue lights.

14 The State Police has a policy on the use
15 of red lights in unmarked vehicles and the
16 Vehicle Code also addresses it, but there should
17 be a universal policy on the use of red and blue
18 lights in unmarked vehicles.

19 On behalf of the membership, I want to
20 thank you for the opportunity comment on this
21 important issue; and I'll answer any questions
22 you may have.

23 CHAIRPERSON BIRMELIN: Thank you, sir.
24 Your last page of your comments, may I ask you
25 just one question?

1 MR. McCOMMONS: Sure.

2 CHAIRPERSON BIRMELIN: The State Police
3 has a policy on the use of red lights in unmarked
4 vehicles. What is that?

5 MR. McCOMMONS: As the Major just
6 testified to is that after dark hours that the
7 troopers are to use extreme consideration in
8 stopping vehicles, turning on their interior
9 lights, making sure that they're in full uniform
10 by placing their hat on, and giving the people an
11 opportunity to pull off into a lighted area.

12 CHAIRPERSON BIRMELIN: Do they put a red
13 light on the roof of the car --

14 MR. McCOMMONS: Yes.

15 CHAIRPERSON BIRMELIN: Just a small
16 one? They reach around probably and magnetic
17 maybe and --

18 MR. McCOMMONS: They have a
19 little -- what we call a Kojak light that they
20 must put on the outside of the vehicle. Now, a
21 lot of local police departments use them. They
22 just stick 'em up on the dash. Our rules and
23 policies prohibit that. They must be placed on
24 the outside of the vehicle.

25 And that is another area that has to be

1 looked at because the Vehicle Code requires a red
2 light being viewed 180 degrees, and placing it on
3 the dashboard that prohibits that.

4 And that is something I do believe we
5 have a committee with State Police, the FOP, the
6 Police Chiefs, even with the firemen and our
7 association that is making recommendations on the
8 use of red and blue lights, who can use the
9 red -- who can use the red and blue combination
10 and who can just use the blue.

11 So we are moving forward in that manner;
12 but the problem is, is that everybody can go out
13 there to the Army-Navy stores and purchase this.
14 You can go out there and purchase a uniform, look
15 like the State Police.

16 We changed our patch here several years
17 ago in order to distinguish us from other
18 agencies and so forth, and that's so people knew
19 they were being stopped by a State trooper. The
20 Constables Association went out, and except for
21 the word "trooper" on the bottom of the patch,
22 made it identical.

23 And I know of several instances out on
24 the western end of the state where constables
25 have stopped people. We've gotten a call at the

1 barracks saying this state trooper did this, this
2 state trooper did that; and they weren't. They
3 were constables.

4 And these are the type of things that
5 need to be looked at and changed, mainly the use
6 of them and the availability of purchasing them
7 out there. And I think legislation along those
8 two areas will go a long way in making us the
9 true police officer out there.

10 And we've become complacent, there's no
11 question, because everywhere you look you see it.
12 So because of that, we don't question somebody
13 running down the road with a blue light on their
14 car any more.

15 We don't question somebody driving down
16 the road with a campaign hat on anymore because
17 everybody and his brother's allowed to have one
18 out there, regardless of what he's allowed to
19 enforce or isn't allowed to enforce.

20 These are the things along with setting
21 a policy. Prohibiting it, I think, is the wrong
22 thing to do. But making sure there's the fright
23 universal policies, and I agree with that, so we're
24 all on the same page; we're all enforcing the
25 laws of the Commonwealth.

1 Not the State Police Crimes Code. It's
2 the Crimes Code of the Commonwealth. So you're
3 right, we should be doing the same thing in
4 Philadelphia as the State Police is doing, as
5 we're doing in the city of Pittsburgh, in the
6 rural areas of Bedford County, and so forth on
7 that. And we've got to move that direction.

8 But it's a monumental task; there's no
9 question. And if we don't start moving in the
10 direction of controlling those two items -- and
11 that's the red and blue lights and the uniform
12 look-alikes -- you're wasting all your time
13 because all you're going to do is tell Corporal
14 McCommons you can't use an unmarked car after
15 nighttime; but yet every Tom, Dick, and Harry out
16 there that wants to impersonate me can.

17 So you haven't accomplished anything.

18 CHAIRPERSON BIRMELIN: Another question
19 on the lights -- it hasn't been discussed
20 yesterday or today yet; and that is, the
21 alternating headlights, how they -- I've only
22 ever seen that in police cars. I'm wondering, is
23 that also something that Joe Citizen can imitate
24 and put on his vehicle?

25 That to me is a -- when I see the

1 flashing red and blue bar lights but then I see
2 the headlights alternating, I've never seen that
3 on anything but a police car. Is that difficult
4 for nonpolice cars to install or is that
5 something they can do easily as well?

6 MR. McCOMMONS: It's not that hard to
7 install, but now is an opportune time for the
8 Legislature to take action to make sure only
9 authorized police vehicles have it.

10 As a matter of fact, in a lot of states,
11 it went to all four corner lights with strobe
12 lights in 'em now. So when a police vehicle
13 turns it on, it's not only just the flashing
14 headlights but all four -- the two rear lights
15 and the two parking lights come on in a strobing
16 fashion. They're very bright.

17 And it may be something that the State
18 of Pennsylvania -- as a matter of fact, I do
19 believe our department is looking at those right
20 now. And it may be something to take and for the
21 Legislature to look at to make that a
22 requirement.

23 CHAIRPERSON BIRMELIN: How are they
24 installed? Is it just a electrical connection
25 that is made somewhere under the hood or --

1 MR. McCOMMONS: Well, it would be a
2 switch on the inside of the vehicle. Like now,
3 our emergency lights are connected on a separate
4 switch from the headlights and so forth; the same
5 way with the alternating flashing lights.

6 Now, the problem is when you have -- the
7 reason we don't use them that much on all of our
8 vehicles is that they burn out the headlights
9 very rapidly; and that can be expensive after a
10 while.

11 But these new strobe lights they have
12 are just a strobe bulb that are specifically made
13 for that; and, again, they're made on a switch,
14 an emergency switch inside the vehicle.

15 CHAIRPERSON BIRMELIN: Thank you. I'll
16 turn over the rest of the questioning to the
17 panel. Representative Chadwick?

18 REPRESENTATIVE CHADWICK: No.

19 CHAIRPERSON BIRMELIN: Representative
20 Hennessey?

21 REPRESENTATIVE HENNESSEY: Yes. Thank
22 you. Corporal McCommons, let me just continue on
23 the strobe lights you talk about. This is not
24 the use of the headlight? This is actually an
25 additional light that's installed somewhere down

1 near the headlight?

2 MR. McCOMMONS: That is correct.
3 They're mostly installed inside the parking light
4 receptacles is where they're installed in both
5 the rear lights and both the front lights. So
6 you have 360-degree visibility of that vehicle,
7 the strobing of the lights.

8 REPRESENTATIVE HENNESSEY: Now, in
9 addition to that, do --

10 MR. McCOMMONS: These are unmarked cars
11 now.

12 REPRESENTATIVE HENNESSEY: Unmarked
13 cars. Do the police also use the alternating
14 headlights and taillights?

15 MR. McCOMMONS: They could, yeah.
16 In the other states where they have them, yes,
17 they also have that.

18 REPRESENTATIVE HENNESSEY: On page 3 of
19 your testimony, you talked about how there needs
20 to be a concerted effort to look at standardizing
21 police agency uniforms so citizens have the
22 ability to immediately recognize that they're
23 dealing with a legitimate police officer.

24 It seemed to me that's the purpose of
25 the bill to get away from situations where we

1 have a multiplicity of occasions when a trooper
2 may stop or a police officer may stop someone
3 legitimately but since the officer's in an
4 unmarked car, that the citizen can't feel very
5 secure that he's being stopped by a legitimate
6 officer.

7 And, you know, if you have an unmarked
8 car, you immediately have that question. If you
9 have cars with striping and a lot of
10 identification on the side of the car or the
11 front of the car, you take away most of those
12 fears that, you know, someone's being stopped on a
13 lonely, back country road with, you know, and have
14 something to fear.

15 MR. McCOMMONS: One immediate way to
16 correct the problem is, is if you pass the
17 legislation which is being prepared from what I
18 understand with the FOP -- and that is, if only
19 police officers are allowed to use the blue and
20 red combination -- that's going to give you the
21 first indication no matter what kind of car is
22 that that is a police officer.

23 The second most important thing is when
24 you look in the vehicle if he turns the lights on
25 if it's a requirement in your legislation, which

1 it should be, that the kind of uniform that they
2 may able to -- or when they exit their car -- a
3 lot of people, like I say, they dress like state
4 troopers. You don't know whether they're State
5 Trooper, local policeman, constables.

6 A lot of security agencies -- as a
7 matter of fact, out there near us, Westmoreland
8 Mall is one of the biggest malls in western
9 Pennsylvania. What do they look like? State
10 troopers.

11 Now, although they're not allowed to
12 come off the mall, they do. And once in a
13 while, our guys stop 'em and say, hey, you got
14 to get back on there. You can't be out here with
15 the way you're dressed.

16 The county police out there, they have
17 their park police. Now they're wanting to expand
18 their authority and so forth. What kind of
19 uniforms do they have? They look like State
20 troopers.

21 I used to be a city policeman out in
22 Butler; and I really always felt that, you know,
23 I enjoyed this distinction of being a city
24 policeman from a State Trooper and so forth.

25 And I really feel that there needs to be

1 some color combinations that are required for
2 city police, the county police, sheriffs, and
3 state troopers to where you know what agency
4 you're dealing with when you're stopped.

5 And it also restricts them people from
6 going outside their jurisdiction and doing things
7 out there what they shouldn't be doing or where
8 they shouldn't be doing.

9 REPRESENTATIVE HENNESSEY: The problem
10 that I would see with that is that you might
11 know what the color combinations mean and who is
12 stopping you but "John Q. Public" is not going to
13 know that.

14 I mean, if I see somebody with a
15 flashing light behind me, I generally slow down
16 and pull over because I know I'm going to get
17 stopped.

18 You know, to try to have different
19 arrays of lights and different colors of lights,
20 only a very select few people in the Commonwealth
21 are going to know who this is pulling up behind
22 them.

23 MR. McCOMMONS: Well, I think it's
24 incumbent upon the Legislature, the State police,
25 and police agencies to do what you're saying and

1 helping the new media to educate the public.

2 I think one of the things that we've
3 failed in the past is when we do things in the
4 legislature or we change policy of a department
5 and that, we don't get out into the public and do
6 the educational aspect of it.

7 When we -- seat belts, I mean, look how
8 much educational things we do on that. This
9 important issue here you hear very little about
10 it other than the controversial things that you
11 want to do to the police officer to get the
12 public support.

13 But whatever we do, if we change the
14 requirements to prevent look-alikes that you only
15 have to stop for a red and blue light, that's
16 going to take education. And I think we need to
17 all jointly together take a concerted effort and
18 educate the public to that.

19 REPRESENTATIVE HENNESSEY: Thank you.
20 Thank you, Mr. Chairman.

21 CHAIRPERSON BIRMELIN: Representative
22 Caltagirone.

23 REPRESENTATIVE CALTAGIRONE: Thank you,
24 Mr. Chairman. As a follow-up to what I had asked
25 the Major earlier, if you have the answers or

1 would know the answers about the number of
2 vehicles that are over a hundred thousand and
3 rotation of the replacement, because we're
4 talking about vehicles; and I was just curious if
5 either of you have had any information on that.

6 MR. McCOMMONS: I don't presently have
7 it, Representative. We are asking for that
8 information to talk to the legislators with it.
9 I know there's quite a few well over a hundred
10 thousand miles, many of our vehicles out there.

11 Needless to say, being a state agency,
12 we travel a lot more miles per day than what a
13 local agency would and our cars are much more and
14 plus the roads are in pretty bad shape yet.

15 I mean, we're working to get 'em fixed.
16 You guys are doing a good job, but we got a long
17 way to go yet; and our cars become deteriorated
18 much quicker.

19 And, unfortunately, in previous
20 administrations over the years we've sort of got
21 behind in getting the cars replaced; and there is
22 a big need to bring the cars up to a higher
23 status.

24 REPRESENTATIVE CALTAGIRONE: Thank you.
25 Thank you, Mr. Chairman.

1 CHAIRPERSON BIRMELIN: One other
2 question, Mr. McCommons. The Pennsylvania State
3 Troopers Association, is that only an association
4 of active State troopers?

5 MR. McCOMMONS: No, sir. We also
6 represent the almost 3,000 retirees also. But
7 all we represent is State troopers is correct.

8 CHAIRPERSON BIRMELIN: Is that in
9 addition to the 4,000 that you've indicated here?

10 MR. McCOMMONS: That's correct, sir.

11 CHAIRPERSON BIRMELIN: So it's roughly
12 7,000?

13 MR. McCOMMONS: That is correct.

14 CHAIRPERSON BIRMELIN: The Association,
15 what is the nature of it? Is it just so that
16 State troopers have a voice as a unified group?
17 It's not your bargaining agency, is it?

18 MR. McCOMMONS: Yes, sir, it is. It's
19 complete. We do -- we don't necessarily like to
20 call ourselves a union due to the fact we only
21 represent troopers. We don't represent any other
22 entities or agencies or anything like that.

23 But we also do public service stuff for
24 educating the public. We try to do things. We
25 try to support legislation that dealed (sic) with

1 victims rights, the laws protecting; and that's
2 why it's a very concern of ours that we do
3 something in this area to protect our female
4 members of the Commonwealth.

5 It is the very thing -- I know out west
6 we've had a few instances of females being
7 stopped. And I have a 31-year-old daughter, and
8 I know I don't look that old --

9 CHAIRPERSON BIRMELIN: Yes, you do.

10 MR. McCOMMONS: But it's always a
11 concern to me because she lives in Pittsburgh.
12 She travels back and forth from my place in
13 Latrobe, and I'm always worried about that. I'm
14 very interested and I have a very vested interest
15 in this that we see we make some changes to
16 protect the public out there.

17 But we've got to make the right moves.
18 Just restricting the police officers from using
19 that I think is the wrong direction to go. We're
20 sending the wrong message out there. I think we
21 need to stiffen the penalties and then control
22 buying some of them type of stuff and the use out
23 there by the general public.

24 From what I understand reading a little
25 bit of the Committee work and that that

1 we've had on it already, the funeral directors
2 want to be able to use a purple light now and
3 some others want to use a green light. And, you
4 know, where is it going to stop?

5 And I think time we put the brakes on,
6 take a strong look at it, and make the
7 corrections that we need to make to make it a
8 safer place out there for everybody.

9 CHAIRPERSON BIRMELIN: I do know in the
10 thirteen years that I've been in the Legislature
11 we have almost always constantly had requests for
12 more people to use more lights.

13 MR. McCOMMONS: Right.

14 CHAIRPERSON BIRMELIN: Police
15 enforcement are the only people that have said
16 less lights, and you are outnumbered.

17 MR. McCOMMONS: There's no question.

18 CHAIRPERSON BIRMELIN: Politically as
19 well. But we do thank you for your time here.
20 Thank you for sharing with us.

21 MR. McCOMMONS: I appreciate the
22 opportunity to be able to testify.

23 CHAIRPERSON BIRMELIN: Excuse me. I
24 wasn't aware that we did have one other
25 person that wanted to ask a question. Counsel

1 Ryan for the Democratic Committee would like to
2 ask you a question.

3 MR. RYAN: Trooper, are there any
4 sections in the Pennsylvania Drivers Manual that
5 addresses the issues concerning procedures that
6 the public is obligated to follow upon a police
7 stop or that identifies the type of lights that
8 police vehicles have?

9 MR. McCOMMONS: Yes, there are -- there
10 is a section in there saying you're being
11 approached by emergency vehicles you must pull
12 off to the right and so forth. But I do not
13 believe that there's any real detail dealing with
14 what a, especially a female operator, should do
15 when approached by a vehicle after dark.

16 MR. RYAN: Any operator as far as a
17 police stop as far as identifying for them the
18 type of lights that police vehicles exclusively
19 have, what their obligations are as a motorist
20 when a police officer is attempting to pull them
21 over what they should be looking for and what
22 other possibilities exist or procedures that they
23 can follow?

24 MR. McCOMMONS: No.

25 MR. RYAN: Do you believe that is

1 something that would be helpful in adding that?

2 MR. McCOMMONS: Not only there; but like
3 I say, I think there has to be a concerted effort
4 to educate the public in a lot of different ways
5 as far as what police officers are going to do or
6 not going to do if they're stopped and what
7 they're going to look like and what they're going
8 to use. I think we need to start a concerted
9 effort in that way.

10 MR. RYAN: Do you also think that it
11 would be possible to come up with a uniform
12 regulation similar to what's been described here
13 by you that could be imposed upon all police
14 departments statewide concerning the procedures
15 to be used upon nighttime stops?

16 MR. McCOMMONS: Seriously, I do. And
17 the Police Chief's Association is working in
18 concert with the FOP, the State Troopers
19 Association, and the State Police -- we have a
20 committee together -- to do that very thing, from
21 what I understand.

22 MR. RYAN: Do you think that could be
23 done through a regulation on the Vehicle Code on
24 the sections that deal with lights as far as
25 enacting a regulation in that particular area

1 by the Department of Transportation?

2 MR. McCOMMONS: If you had resistance to
3 it out there would be one way to force it to
4 occur. But the important thing is in looking at
5 147 here, as Lou just mentioned, one thing that
6 really bothers me in reading this and reading
7 some of the other proposed legislation is when
8 you have at nighttime when a lot of robberies
9 take place, especially convenience stores, you
10 couldn't stop a car.

11 MR. RYAN: I noticed that was one of the
12 things that concerned you. This is in the
13 Vehicle Code and it exempts out certain serious
14 highway offenses.

15 But having a background in law
16 enforcement myself and being in a prosecutorial
17 end, I realize that more often than not your
18 unmarked vehicles are going to be used in traffic
19 situations that involve more serious nontraffic
20 offenses.

21 And I immediately began to think, Will
22 this restrict the use of it -- you're
23 right -- after an armed robbery, after a flight
24 from a rape or other serious crime? Because the
25 evening's hours are the times that you run into a

1 lot of your more serious offenses and when your
2 unmarked vehicles can be used most productively
3 in patrol and enforcement.

4 MR. McCOMMONS: And I've been in police
5 work for 32 two years, like I say, on the local
6 level and with State Police; and I understand the
7 importance, especially on the local level, of
8 needing to be able to use unmarked cars at night
9 after dark and being able to stop vehicles for
10 learning who's around and who isn't around in
11 order to prevent crimes in neighborhoods and so
12 forth.

13 In doing this -- and I understand your
14 concern and I sympathize with it. But you're
15 taking that tool away, of which I really think
16 it's sort of going to open up the floodgates here
17 and give the criminal more opportunity to go into
18 the neighborhoods and do some of the dastardly
19 things that we're trying to prevent here.

20 And like I say, there's no one simple
21 answer here. And it's almost like a lot of the
22 legislation that's being introduced are trying to
23 take one approach and think that's going to solve
24 everything.

25 And it really has to have several

1 approaches here at one time in order to attack
2 the whole problem. And that's what I would hope
3 that the Legislature will do on this issue.

4 MR. RYAN: Trooper, the unmarked
5 vehicles that are used for regular traffic
6 patrol, don't they have -- unless I'm mistaken,
7 and I'm not speaking from personal
8 experience -- don't they also have flashing
9 lights in the grill, red and blue lights in the
10 grill --

11 MR. McCOMMONS: No, not our cars.

12 MR. RYAN: All right. Maybe it's
13 local --

14 MR. McCOMMONS: Some of the local police
15 departments do have them in theirs, yes, sir.

16 MR. RYAN: Do you believe that could be
17 an added addition that would be helpful in
18 identifying it as police vehicle?

19 MR. McCOMMONS: Well, I think first you
20 must do the requirement that police officers use
21 a red and blue and they're the only ones that are
22 going to do it, educate the public, and then
23 require that as part of your stopping mechanism.

24 MR. RYAN: Okay. Thank you.

25 REPRESENTATIVE HENNESSEY: Thank you

1 very much.

2 CHAIRPERSON BIRMELIN: I want to thank
3 you, Mr. McCommons, for your work. Are you
4 retiring now from --

5 MR. McCOMMONS: State police? No. No.
6 I'll still be around for a few more years.

7 CHAIRPERSON BIRMELIN: You're just not
8 going to be the president of the association
9 anymore?

10 MR. McCOMMONS: Time for somebody else
11 to take the lumps.

12 CHAIRPERSON BIRMELIN: Your right-hand
13 successor there needs to understand that you were
14 treated very well today and he may not be treated
15 as well on some other subsequent opportunities if
16 we have to question him.

17 MR. McCOMMONS: I hope so. I hope
18 that's the way that is.

19 CHAIRPERSON BIRMELIN: Not that I
20 wouldn't treat you that well, but I can't speak
21 for fellow members of the House. But thank you
22 for your testimony.

23 MR. McCOMMONS: Thank you.

24 CHAIRPERSON BIRMELIN: We're going to
25 be doing something a little bit different at

1 this time. If I could have your attention, Major
2 Doutt has parked a marked and an unmarked State
3 Police car in front of the fountain on
4 Commonwealth Avenue for us to go out and to see
5 how they actually operate.

6 What we're going to do is we're going to
7 take about ten minutes to go down and take a look
8 at the vehicles, see how their lights work, what
9 they do in an arrest, et cetera, et cetera.

10 So the Committee meeting is now going to
11 shift gears. And I want to thank Mr. Bierling
12 for agreeing to hold off on his testimony so that
13 we can take this brief hiatus.

14 And if you would join me down in the
15 front of the fountain on Commonwealth Avenue,
16 we're going to check out both the marked and
17 unmarked police cars.

18 (AT WHICH TIME, THERE WAS A PAUSE IN THE
19 PROCEEDINGS.)

20 CHAIRPERSON BIRMELIN: We are back and
21 ready to begin again. Our next testifier is John
22 Bierling. He is the fire chief of West
23 Manchester Township -- you'll have to excuse me,
24 my lips are still a little cold from being
25 outside -- in York County; and he has come to

1 help us this morning to testify on this piece of
2 legislation that we've been looking at, House
3 Bill 147, dealing with the restriction on police
4 officers' arrest powers in unmarked vehicles.

5 And Mr. Bierling, we appreciate
6 your patience in giving some of us on the
7 Committee an opportunity to go down and see an
8 unmarked vehicle and talk to the trooper about
9 the procedures that they follow when using
10 unmarked vehicles at night. I think that was
11 helpful to some of the Committee members.

12 But at this point in time, we'll turn
13 over the testimony that you have for us and
14 you may begin.

15 MR. BIERLING: Thank you. I think
16 that was an excellent opportunity for you to
17 actually see what it is they're talking about.
18 Good morning.

19 I would also like to introduce John
20 Brenner, the Executive Director of the
21 Pennsylvania Fire Services Institute, who is with
22 me here this morning.

23 I'm testifying as a member of the
24 statewide Fire Advisory Board and on behalf of
25 the Pennsylvania Fire Services Institute. As a

1 municipal fire chief, I'm also testifying from
2 the local operational perspective.

3 While this legislation does not directly
4 impact the fire service, I appreciate the
5 opportunity to testify on emergency vehicle
6 lighting and the public perception of emergency
7 responders.

8 The Pennsylvania Fire Services Institute
9 is a statewide, nonprofit fire and emergency
10 medical service organization. We work on behalf
11 of 107 volunteer and career fire and emergency
12 service groups at the local, regional, and state
13 level.

14 Every major emergency service
15 organization in Pennsylvania is represented on
16 our statewide fire advisory board. The
17 Institute's mission is to educate the public,
18 including our elected officials, about the
19 important role of emergency services in our
20 Commonwealth.

21 In recent months, the Institute has
22 worked closely with the Pennsylvania State
23 Police, the Pennsylvania State Troopers
24 Association, and the Pennsylvania State Lodge
25 Fraternal Order of Police regarding lighting and

1 audible warning signals on emergency vehicles.

2 The Fire Service and law enforcement
3 community agree that public education regarding
4 emergency vehicle lighting is needed and
5 essential.

6 The public must understand that red and
7 blue combination lights are for law enforcement
8 vehicles only. In the past, fire department
9 owned fire police and fire police captain and
10 lieutenant personal vehicles have run with red
11 and blue combination lights.

12 Approximately two years ago in my fire
13 department, we removed the red and blue lights
14 from all the fire police vehicles and replaced
15 them with all red emergency lights.

16 There's been absolutely no change in our
17 ability to respond to emergencies and move
18 through traffic in a safe manner when responding
19 to emergencies.

20 The Pennsylvania Fire Police Association
21 supports the use of red and blue combination
22 lights for law enforcement only. Fire department
23 owned fire police vehicles and fire police
24 captain and lieutenant personal vehicles should
25 be using red lights only.

1 their vehicle has no right or reason to violate
2 any traffic law or to place the public in danger
3 while using that light. There is adequate
4 legislation already in place on this issue. An
5 infraction should be handled at the local level
6 by the fire chief or the municipality.

7 Concerning green lights, the fire
8 service has been implementing the Incident
9 Command System as the proper means of organizing
10 and effectively managing our operations at
11 emergency scenes.

12 Incident command formulates an
13 organizational structure similar to the chain of
14 command in the military. Incident command is
15 most effective when multijurisdictional
16 departments or agencies have become involved in
17 an incident.

18 A flashing or revolving green light
19 located on a stationary emergency vehicle
20 indicating the incident command post is the most
21 appropriate use of the green lights. We do not
22 advocate placing green lights on personal
23 vehicles or on moving emergency service vehicles.

24 Thank you for the opportunity to provide
25 testimony on this important issue. The Institute

1 will certainly continue our efforts to work with
2 the law enforcement community, the Legislature,
3 and the administration regarding emergency
4 vehicle lights. I'll be happy to answer any
5 questions that you have.

6 CHAIRPERSON BIRMELIN: Thank you. The
7 one statement you made was -- that I was
8 concerned about was the red and blue combination
9 lights.

10 MR. BIERLING: Yes.

11 CHAIRPERSON BIRMELIN: You said, In the
12 past, fire department owned fire police vehicles
13 and fire police captain and lieutenant personals
14 have run with red and blue combination lights.
15 And then when you took them off, was that
16 voluntary or was that as a result of law?

17 MR. BIERLING: It was in response to a
18 change in the law that said the police should be
19 the only ones -- the law enforcement police
20 agencies should be the only ones to have those
21 lights.

22 CHAIRPERSON BIRMELIN: Currently, blue
23 lights I know are used by fire police; but I
24 think in your testimony that you're saying that
25 also any volunteer fire fighter can put a blue

1 light on?

2 MR. BIERLING: Yes, at the discretion of
3 the local fire chief. They have to have written
4 permission from the local fire chief in order to
5 have a blue light; but most of the time, that's
6 granted. So any volunteer fire fighter can have
7 a blue light.

8 CHAIRPERSON BIRMELIN: Did you have any
9 specific thoughts about the legislation that are
10 in today, House Bill 147?

11 MR. BIERLING: When I read that
12 legislation, I thought that that was really more
13 appropriate to, of course, the police response to
14 emergencies.

15 So I went to our local police chief,
16 Chief Tim Bolton, and I asked him what his
17 opinion of it was. And he had some concerns, if
18 you'd like me to share his thoughts with you,
19 because I think that's more appropriate than what
20 my thoughts would be.

21 CHAIRPERSON BIRMELIN: If you could do
22 so briefly.

23 MR. BIERLING: Sure. He was concerned
24 that this bill affects of the fleeing and eluding
25 section of Title 75. And he felt that that would

1 limit the ability of the police to effectively
2 uphold the laws.

3 And we discussed that at length, and he
4 said if the concern is about unmarked police cars
5 safely pulling over a motorist, then he felt it
6 should be addressed more appropriately under the
7 emergency lighting section of the law as opposed
8 to the fleeing and eluding section.

9 And he said if the issue is unmarked
10 cars in hot pursuit, then let's look at that as
11 an issue of hot pursuit. And he felt that the
12 bill as it's currently worded would create some
13 confusion in the mind of the public as to when
14 they should pull over.

15 If, let's say, I was responding to an
16 emergency call, should they pull over or should
17 they stay in front and wait till they get to a
18 lighted or a populated area; and he was concerned
19 about that confusion.

20 Which comes back to the public education
21 issue that we, the Fire Service Institute, can
22 certainly assist with, you know, providing some
23 education to the public.

24 CHAIRPERSON BIRMELIN: Thank you very
25 much. I'll ask members of our Committee if they

1 have any questions. Representative Hennessey.

2 REPRESENTATIVE HENNESSEY: Thank you,
3 Mr. Chairman. Chief Bierling, when you say on
4 page 2, the bottom paragraph, "The public must
5 understand that red and blue combination lights
6 are for law enforcement purposes only," is that a
7 position of the Pennsylvania Fire Services
8 Institute?

9 And if so, can you tell us whether or
10 not fire companies throughout the Commonwealth
11 are moving in the direction your company moved,
12 which is to eliminate the red and blue
13 combination lights?

14 MR. BIERLING: Yes. It is the position
15 of the Fire Services Institute, and we've
16 developed that position in cooperation with the
17 various police organizations.

18 I think -- and, of course, I don't have
19 personal knowledge of all the places around the
20 Commonwealth -- but I think most places are
21 moving to remove those; but I suspect there are
22 some municipalities, some fire police agencies
23 which have not done that yet. But I certainly
24 think that they should. Is that a fair
25 representation?

1 MR. BRENNER: Absolutely.

2 REPRESENTATIVE HENNESSEY: You can't
3 give us any idea in terms of percentage of
4 companies across the state that might have moved
5 or --

6 MR. BIERLING: No, I can't -- John --

7 MR. BRENNER: There was a large
8 percentage that were using -- the fire police
9 particularly -- using the combination that are
10 now moving just to the red, as they should. To
11 give you a number of exactly how many are doing
12 but they're not supposed to be, we don't really
13 have that at this time.

14 REPRESENTATIVE HENNESSEY: One of the
15 problems I guess is the expense. Once somebody's
16 bought the bars or those lights, having invested
17 it, they might not just want to give it up and
18 move to a different color combination. Can you
19 change that just by changing the reflectors --

20 MR. BIERLING: Either the reflectors in
21 the light if it has a clear lens or most of them
22 have either a red or blue lens on the outside and
23 the lens can just be removed and a new lens put
24 on. It really shouldn't be a cost issue.

25 I think that the issue really is, is

1 protecting the public and making sure that
2 everybody recognizes that law enforcement should
3 be the only ones using that red and blue
4 combination.

5 REPRESENTATIVE HENNESSEY: Thank you,
6 and thanks for the work you've done to get that
7 word out to the fire companies; and hopefully,
8 it'll be a standard practice across the state.

9 CHAIRPERSON BIRMELIN: Thank you,
10 Mr. Bierling --

11 MR. BIERLING: Thank you.

12 CHAIRPERSON BIRMELIN: -- for your
13 testimony. We appreciate it. Our next testifier
14 is Frederick Engle, who is the liaison for the
15 Fraternal Order of Police. Mr. Engle. Welcome
16 to Mr. Engle, and thank you for coming to
17 testify. It's all yours.

18 MR. ENGLE: Thank you for the
19 invitation. Again, my name is Fred Engle. I am
20 the liaison to the Pennsylvania Fraternal Order
21 of Police as well as a member of the Harrisburg
22 City Police Bureau.

23 On behalf of the 35,000 members of the
24 Fraternal Order of Police as well as State
25 President Francis Paul Bascelli, I thank the

1 House Judiciary Subcommittee for the opportunity
2 to testify on the issue of rogue police officers.

3 There is tremendous concern among law
4 enforcement professionals and members of our
5 communities regarding police officers making
6 traffic stops, particularly while patrolling in
7 an unmarked vehicle and most particularly at
8 night.

9 The idea of prohibiting law enforcement
10 from making such stops in unmarked cars seems
11 to have gained some support. While I understand
12 the concern, I must respectfully disagree with
13 the concept. Many good arrests arise from what
14 people view as a simple traffic stop.

15 Officers in unmarked cars have a greater
16 advantage over the officer in a marked unit in
17 that they have with them the element of surprise.
18 Several months ago, the Fraternal Order of Police
19 took the initiative to address this issue by
20 forming a task force consisting of
21 representatives from groups that might be
22 affected by this issue.

23 The committee consisted of the Fraternal
24 Order of Police, Pennsylvania Chiefs of Police
25 Association, the Pennsylvania State Troopers

1 Association, the Pennsylvania State Police, the
2 Pennsylvania Paid Fire Fighters Association, the
3 Volunteer Fight Fighters Association,
4 Pennsylvania Department of Transportation and
5 others.

6 The task force discussed the concern of
7 officers making the traffic stops in unmarked
8 cars and came up with two major issues
9 contributing to this problem.

10 The first problem identified was the
11 matter of the light bars. It seems anyone can
12 virtually obtain light bars or bubble lights
13 personally. While they were some restrictions
14 for their use, they are not enforced.

15 The second area of concern was the
16 uniforms. There are nonpolice agencies wearing
17 uniforms very similar to those worn by police
18 officers. We attempted to address these two
19 areas. The general consensus of the group was
20 there was too much confusion regarding what light
21 colors belonged on what group.

22 There were volunteer fire fighters and
23 fire police who were permitted to have red and
24 blue lights mounted on their personal vehicles,
25 other volunteer groups were permitted blue lights

1 only, and then there was the matter of the yellow
2 lights.

3 It was very confusing to us, so we can
4 well imagine how the public must feel. Our
5 general consensus was that police vehicles only
6 should be permitted and authorized to mount the
7 combination red and blue lights on their marked
8 and unmarked police cars.

9 The volunteer groups that were currently
10 allowed the red and blue combination would then
11 be allowed red lights only. The volunteer groups
12 currently allowed to exhibit blue lights would
13 remain the same.

14 The other area that we feel greatly
15 contributes to the concern of unmarked cars is
16 the matter of the uniform. There are far too
17 many look-alikes or people who want to be police
18 officers but for whatever reason cannot be a
19 police officer.

20 Most private security agencies outfit
21 their guards in uniforms very similar to that of
22 the local police agency. This is done, in my
23 opinion, purposely to give the guards the
24 appearance of being police officers and therefore
25 appearing to have more authority than they

1 actually possess.

2 The same is true with the Pennsylvania
3 State Constables. Their uniforms are virtually
4 identical to that of the Pennsylvania State
5 Troopers, even down to their patch.

6 Security guards and constables have a
7 very distinctive job to perform. That job is not
8 to be a police officer and therefore not give the
9 appearance of being a police officer.

10 There is no reason for either group to
11 have any lights mounted on their vehicles, and
12 they should not give the appearance of being
13 police officers. Their uniforms should be
14 distinctly different from law enforcement.

15 By mandating that security guards work
16 in slacks and blazers with constables either in
17 similar fashion or a distinctly different uniform
18 than a law enforcement officer, we feel would
19 help reduce the incidents that may be occurring
20 involving people who are not police officers
21 making traffic stops.

22 We respectfully request the Legislature
23 not take another tool from law enforcement. We
24 are committed to working with this body in an
25 attempt to address the concerns surrounding the

1 issue.

2 It would be our recommendations that for
3 an officer to make a traffic stop on an
4 unmarked car there would be four requirements:
5 First, activate the red and blue light
6 combination; second, activate the audible warning
7 device; third, that the officer be in full
8 uniform; and fourth, that the officer activate
9 the interior dome light.

10 And I thank you for this opportunity to
11 voice our concerns, and I'd be happy to answer
12 any questions you may have.

13 CHAIRPERSON BIRMELIN: This committee
14 that you addressed on the bottom of page 1 of
15 your testimony, how many times have you met?

16 MR. ENGLE: Approximately five or six
17 times.

18 CHAIRPERSON BIRMELIN: Over what period
19 of time?

20 MR. ENGLE: The past year.

21 CHAIRPERSON BIRMELIN: Have you put into
22 writing any of the recommendations that you as a
23 committee are interested in seeing occur in the
24 Legislature or to address the problems that you
25 see?

1 MR. ENGLE: Yes. Ron Plesko, who's with
2 the Pennsylvania State Police, is working, I
3 believe, with Representative Geist to draft
4 legislation that would include the matters that
5 I identified.

6 CHAIRPERSON BIRMELIN: You don't know
7 what state that legislation is in, do you?

8 MR. ENGLE: It's my understanding it's
9 ready to go to print, but I think he wants to
10 bring it back to the committee to have the
11 committee meet one more time to review it before
12 they seek sponsors.

13 CHAIRPERSON BIRMELIN: Does that address
14 also the uniform issue?

15 MR. ENGLE: Yes, it will.

16 CHAIRPERSON BIRMELIN: Do you have any
17 idea what the recommendations of the committee
18 would be?

19 MR. ENGLE: As I testified, possibly in
20 slacks and blazers or a very distinctive uniform.
21 I haven't seen the language that Ron has proposed
22 through Representative Geist.

23 CHAIRPERSON BIRMELIN: I don't know
24 whether or not we run afoul of any constitutional
25 issues dealing with telling people how they can

1 dress or how they can't dress. I just wonder how
2 we handle that.

3 MR. ENGLE: Well, again, the concern
4 that we have with the uniforms is that people are
5 out there and, again, the constables when you
6 take a first glance at a constable in their
7 uniform, you absolutely have to believe that they
8 are indeed State troopers.

9 Their patch, the only difference in
10 their patch where it says Pennsylvania State
11 Troopers, it says Pennsylvania State Constables;
12 but it emulates everything that the State
13 troopers wear.

14 CHAIRPERSON BIRMELIN: And I would also
15 add to that that most people think they have
16 police powers.

17 MR. ENGLE: Yes, they do.

18 CHAIRPERSON BIRMELIN: Even though they
19 don't.

20 MR. ENGLE: That's correct. And they
21 also in the Harrisburg area, they were riding
22 around with red and blue lights on their
23 vehicles; however, they --

24 CHAIRPERSON BIRMELIN: Should have told
25 the state policemen to go get them.

1 MR. ENGLE: They've been directed to
2 remove those.

3 CHAIRPERSON BIRMELIN: Representative
4 Caltagirone, do you have questions?

5 REPRESENTATIVE CALTAGIRONE: No
6 questions.

7 CHAIRPERSON BIRMELIN: Representative
8 Hennessey.

9 REPRESENTATIVE HENNESSEY: Yes, thank
10 you. Fred, on page 2, you indicate your general
11 consensus -- the middle of the second
12 paragraph -- Our general consensus was that
13 police vehicles should only be permitted and
14 authorized to mount red and blue lights. What do
15 we have to do, in your view, as a legislature to
16 accomplish that?

17 MR. ENGLE: Hopefully, that'll be
18 addressed in the proposed legislation; however,
19 the volunteer fire fighters have voluntarily
20 agreed with us and have taken steps to remove the
21 blue lighting from their light bars. So I don't
22 think that's going to turn into a problem with
23 the volunteers.

24 But I think that it is confusing to the
25 public. I think that we should move in

1 Pennsylvania to let the citizens know that police
2 officers alone will be the only ones having red
3 and blue combinations.

4 REPRESENTATIVE HENNESSEY: I guess the
5 only thing that gives me some concern is the fact
6 that the previous witness indicated that changing
7 the colors is not really too much of a problem
8 because of the availability of different colored
9 inserts.

10 MR. ENGLE: Um-hum. It would not be
11 very costly; and I'm sure part of our proposal is
12 going to be a much stiffer penalty for someone
13 that would go out and purchase the red and blue
14 lights and mount them and, in essence, pretend to
15 be a police officer, whether they're activated or
16 not.

17 REPRESENTATIVE HENNESSEY: Okay. Thank
18 you very much.

19 CHAIRPERSON BIRMELIN: Thank you,
20 Mr. Engle. We appreciate your testimony today.
21 Our next testifier is Edward Connor. Is he here?
22 Yes, he is. Thank you. Edward Connor is
23 testifying as the Chief of Police for the
24 Ferguson Township Police Department in Centre
25 County.

1 Mr. Connor, we have your written
2 testimony; and anytime you're prepared to give
3 that, you may proceed.

4 MR. CONNOR: Thank you, sir. My name is
5 Edward J. Connor. I am a 33-year veteran of law
6 enforcement. I spent my first 22 years with the
7 Philadelphia Police Department, and I'm
8 privileged enough to be the chief of police of
9 Ferguson Township in Centre County.

10 I am also privileged to serve as
11 chairman of the Law Committee of the Pennsylvania
12 Chiefs of Police Association and as a member of
13 their traffic committee.

14 I appreciate this opportunity to address
15 this Committee on the important issue of whether
16 or not this panel will recommend denying the
17 police officers of this state the ability to stop
18 a motor vehicle if the officer observes it
19 breaking the law and that officer happens to be
20 operating a fully-equipped vehicle which just
21 happens to be unmarked.

22 The Chiefs of Police Association
23 recognizes the seriousness of recent incidents
24 involving individuals using emergency lights and,
25 in some cases, police uniforms to pull people over

1 and then proceed to commit other crimes.

2 These criminal acts need to be
3 addressed, not the denial of an important law
4 enforcement tool which is utilized by the men and
5 women in police service.

6 In that vein, representatives of the
7 Pennsylvania Chiefs of Police Association have
8 been working with representatives of the
9 Fraternal Order of Police, the Pennsylvania State
10 Police, the State Troopers Association, the
11 Pennsylvania Department of Transportation, and
12 representatives of both professional and
13 volunteer fire fighters, emergency response
14 services, and fire police.

15 In a series of meetings earlier this
16 year, the aforementioned representatives
17 developed the following recommendations to more
18 adequately address this issue rather than
19 penalize law enforcement.

20 One would be to increase the penalty for
21 impersonating a police officer to a felony,
22 including the act of using an emergency light
23 to force a motorist over in the definition of
24 impersonating a police officer; identify the type
25 of lighting authorized for each respective type

1 of emergency vehicle; educate the public and the
2 users of such equipment and then strictly enforce
3 those regulations.

4 As Sergeant Engle previously testified,
5 members of the Pennsylvania State Police are in
6 the process of researching and developing such
7 protocol. That development is following the
8 suggestions and recommendations of the
9 representatives of the groups and agencies that I
10 already mentioned.

11 Number 3 in our suggestions were,
12 Prohibit and strictly enforce the use or
13 possession of emergency lights by unauthorized
14 persons. In order to effect a vehicle stop, an
15 emergency vehicle must have both visual and audio
16 signaling devices.

17 All representative groups have agreed to
18 work together to educate the public and their own
19 members in the proper use of emergency lighting
20 and what to do if an operator is unsure of the
21 identity of the person attempting to pull them
22 over.

23 The Pennsylvania State Police have
24 already developed a public service video
25 depicting appropriate measures a motorist can

1 take to ensure the person pulling them over is,
2 in fact, a police officer.

3 In conclusion, the professional and
4 volunteer emergency service providers in
5 Pennsylvania have recognized that unmarked police
6 vehicles are a necessary part of law enforcement
7 and play an important part in not only traffic
8 safety but in DUI enforcement, narcotics
9 investigations, and major felony arrests.

10 Many significant arrests have been made
11 using unmarked vehicles when the initial reason
12 for the stop was a minor traffic violation. We
13 request you listen to our recommendations and
14 direct your ire at the perpetrator where it
15 belongs and not on Pennsylvania's police
16 officers. Thank you.

17 CHAIRPERSON BIRMELIN: Mr. Connor, on
18 page 1 you indicated that you were working with
19 these other groups, just as our previous
20 testifiers have done. I know you were here for
21 at least the last testifier.

22 MR. CONNOR: Yes, sir.

23 CHAIRPERSON BIRMELIN: May I ask you,
24 since it seems that you are at odds with the
25 constables or security officers, why they were

1 not included in your discussions with these other
2 groups?

3 MR. CONNOR: They have never been
4 recognized as law enforcement officers, sir, and
5 nobody felt the need to include them.

6 CHAIRPERSON BIRMELIN: They may not be
7 law enforcement officers; but what you were
8 suggesting affects them, does it not? I mean,
9 the suggestions that you and the last testifier
10 have indicated quite clearly are that they should
11 wear something different and they should not be
12 allowed to use certain lights, et cetera.

13 So it would seem to me -- you know, I
14 deal with the political realm. And anytime we do
15 something that affects somebody, we try to
16 include them in the discussions on how they're
17 going to be affected.

18 It would appear that this organization
19 or those organizations, if you will, of different
20 police professional and volunteer fire, et
21 cetera, should have at least made some attempt to
22 include the constables and security officers in
23 your discussions if for no other reason than to
24 let them know what you were doing and see whether
25 or not they were amenable to what you're doing.

1 I think what I'm reading between the
2 lines here is we have an adversarial situation
3 that is going to hit the fan, so to speak, when it
4 gets in legislative form, as our previous
5 testifier indicated.

6 MR. CONNOR: I think in some parts of
7 the state it's more adversarial than others. I
8 do recognize the concern that many of my
9 colleagues have where nonpolice persons appear to
10 be police persons and attempt to act like police
11 officers. That is a concern we all share.

12 As far as the constables' concerned,
13 they were never -- again, I state that they were
14 never recognized as a law enforcement entity. To
15 so recognize them, I don't know if my -- if my
16 association would go along with that.

17 Personally, I don't care whether they
18 come or not. I don't care whether we invite them
19 or not. I do feel though that we would give them
20 recognition that they might not deserve or be
21 entitled to.

22 We were talking strictly with the
23 professional law enforcement entities at the
24 time. Again, they -- the constables and security
25 people were not considered professional law

1 enforcement.

2 If it would make more sense to include
3 the constables, I don't have a problem with that
4 and I would so recommend it to our group, which
5 is an informal committee.

6 CHAIRPERSON BIRMELIN: You're going to
7 have to deal with them sooner or later. I mean,
8 if you're going to make recommendations that find
9 its way into legislation that affect lights
10 and/or uniforms of either security officers or
11 constables, you're going to have to deal with
12 them sooner or later.

13 And if you've not included them in any
14 of the discussions you've had, that's why I
15 suggest that you may be setting up an adversarial
16 confrontation that becomes a political football
17 which becomes more difficult for those of us
18 in the Legislature to come down on one side or
19 the other.

20 MR. CONNOR: I will go back to the
21 Pennsylvania Chiefs of Police Association and so
22 recommend that we include the state constables
23 in any further discussions --

24 CHAIRPERSON BIRMELIN: They may not like
25 what you have to say; but at least you've said

1 to them, Here's what we're planning on doing and
2 here's what we're recommending. We'd like to
3 have you on board. Probably won't get that.

4 Then you can at least when you come to
5 the Legislature with a bill or two you can say,
6 Well, we did talk with them. We did tell them
7 what was needed and why we felt the way we did;
8 and they don't agree with us.

9 I know my personal perspective is that
10 when you tell me that you were writing
11 legislation that affects a group of citizens and
12 you have had no dealings with them and no
13 discussions and you have not included them in any
14 of your plans, I as a legislator say, Why not,
15 which is what I'm saying to you today.

16 And from a political perspective, then
17 you have a more difficult time achieving what you
18 would like to do. If you have shut the door on
19 those groups who then will find out about this
20 bill and they will have something to say about it
21 and they will speak loudly.

22 MR. CONNOR: I think I share your
23 concern. I don't like to be blindsided on
24 anything. And if I was a constable, I don't
25 think I would like surprises either. And, again,

1 I'll support your recommendation. I don't,
2 again, personally object to it; and it's not a
3 bad idea.

4 If we are going to have discussions
5 that affect them, I think it's only reasonable
6 that we include them in those discussions.
7 Again, whether or not they agree with us --

8 CHAIRPERSON BIRMELIN: And I'm not
9 assuming that they would. If you say to the
10 Constable Association, We're going to take away
11 your uniforms, I think you're going to find that
12 they're quite upset about that.

13 MR. CONNOR: We anticipated that, sir.

14 CHAIRPERSON BIRMELIN: We had one of the
15 spokesmen for the constables yesterday when we
16 met in Media, and I'll guarantee you he'll be
17 upset. If you were there yesterday, you'd know
18 what I was talking about.

19 But, you know, I'm looking at this from
20 the procedural aspect of how are you deriving at
21 this bill with Representative Geist that you're
22 going to lay down in the front of the
23 Transportation Committee and before all
24 legislators.

25 And some of the questions are going to

1 be, Well, who's proposing it and what is it doing
2 and how do the people that it's doing something
3 to feel about this?

4 MR. CONNOR: The issue started out
5 originally where the concern was unauthorized
6 persons acting as police officers pulling
7 somebody over and it just got a life of its own
8 and began to expand.

9 It went into what kind of emergency
10 lighting should be standardized and then whether
11 or not this group or that group should have what
12 kind of uniforms. I think the original issue was
13 still whether or not you could pull somebody over
14 with an unmarked car.

15 CHAIRPERSON BIRMELIN: Yeah, the issue
16 has expanded far beyond the horizons of House
17 Bill 147; and, quite frankly, we've been giving a
18 lot of leeway here to those who are testifying
19 who basically in some cases aren't even
20 testifying about the legislation. They're
21 talking more about lights and everything else.

22 But that's okay because I think it's
23 constructive to do that, but that's just my
24 thoughts on the subject. I don't know if any of
25 the other members have had that same thinking;

1 but for what it's worth, I would share it with
2 you. Representative Hennessey.

3 REPRESENTATIVE HENNESSEY: Thank you,
4 Mr. Chairman. Chief Connor, your recommendations
5 on the second page, I'm a little confused, I
6 think, about the first one.

7 Is it the suggestion of your group that
8 we increase the penalty for impersonating a
9 police officer in every case or is it more tagged
10 onto the latter part of recommendation, which is
11 to make it a felony for impersonating a police
12 officer if in the act of that impersonation
13 they're using the emergency lights?

14 MR. CONNOR: No. The recommendation
15 would in any case and any time a person
16 identifies himself as a police officer and they
17 are not, it should be considered a felony.

18 The addition to when a person uses their
19 emergency lights, we are requesting that that be
20 added to the definition of impersonating a police
21 officer, not just displaying the badge or a
22 uniform and saying I'm a police officer.

23 But when you start to pull somebody over
24 using unauthorized emergency lighting, then that
25 should be considered impersonating a police

1 officer and, again, included in with the whole
2 group going up to the degree of a felony.

3 REPRESENTATIVE HENNESSEY: Okay. So if
4 you're using -- if a person's using the lights to
5 create the impression, you would agree that
6 that's more serious than simply impersonating an
7 officer in other circumstances? Or is it simply
8 a case-by-case basis?

9 MR. CONNOR: I think they're all equally
10 serious. Anytime an individual attempts to
11 identify themselves as a police officer, whether
12 they do it within a vehicle or walking up to a
13 person or attempting to serve a bogus warrant,
14 for example, you have the propensity there for a
15 very serious crime to occur.

16 Normally, these people aren't just doing
17 it out of fun; they're doing it out of something
18 more serious. So if we're going to be serious
19 about curtailing this type of activity, then
20 let's make it a felony.

21 REPRESENTATIVE HENNESSEY: I don't know
22 that I would necessarily agree with you. I would
23 think that sometimes -- we've had a lot of
24 discussion here about whether or not the uniforms
25 of constables and other people who are not law

1 enforcement, some security officers, are
2 intentionally made to look like police officers
3 so they imbue themselves with some sort of
4 appearance of authority they may not have.

5 But the purpose is not, I think,
6 self-gratification. The purpose is so that
7 people will cooperate with them and listen to the
8 instructions, which I think most people would
9 agree a security officer has some power or some
10 right to give instruction and to try to do some
11 things for crowd control.

12 We obviously don't want to threaten
13 those people with charging them with a felony
14 because they're trying in a sense to ride the
15 coattails of the public perception that they have
16 some authority and therefore we better follow
17 what their suggestions are.

18 MR. CONNOR: I would look at the
19 totality of the circumstances and look at the
20 abuse of that authority. And not just a person
21 being in uniform not taking overt action, but a
22 person who overtly identifies himself as a police
23 officer in any manner, whether it be a display of
24 uniform or a badge or the red and blue lights.

25 REPRESENTATIVE HENNESSEY: Aside from

1 the issue of using lights, which is a relatively
2 recent phenomenon, it seems to me, has there
3 been a longstanding position of your association
4 that impersonating a police officer should have
5 been upgraded to a felony a long time ago?

6 MR. CONNOR: I've been a member of the
7 Pennsylvania Chiefs now almost twelve years, and
8 it has been a topic of conversation along with
9 other issues. But, yes, it was always considered
10 a serious crime that did not seem to be taken as
11 seriously as it should be.

12 REPRESENTATIVE HENNESSEY: Okay. Thank
13 you.

14 MR. CONNOR: Yes, sir.

15 CHAIRPERSON BIRMELIN: Counsel.

16 MR. RYAN: These recommendations that
17 you have here seem to be very similar to ones
18 we've heard, I guess, from the other witnesses. I
19 don't know if you were present for all their
20 testimony.

21 Do these recommendations apply to all
22 stops of vehicles or have you just delineated or
23 addressed situations where they're initially
24 brought about because of violations of traffic
25 offenses?

1 MR. CONNOR: All stops of vehicles, sir.

2 MR. RYAN: That would be whether this is
3 flight from a criminal homicide, a bank robbery,
4 or anything that you would characterize these
5 particular qualifications?

6 MR. CONNOR: A vehicle stop is a vehicle
7 stop no matter what you make it for. The
8 importance or seriousness of the vehicle stop can
9 change, but a vehicle stop is still a vehicle
10 stop.

11 And the biggest problem for law
12 enforcement and as a matter of officer safety is
13 the fact that when you approach that vehicle you
14 have no clue what you're going to find when you
15 get there.

16 What appears to be a mild, gentle person
17 behind the wheel can very easily have a handgun
18 on their lap; and, of course, it has occurred in
19 the past. So any vehicle stop should be
20 addressed with caution from, again, officer
21 safety position. But when we were making these
22 recommendations, they are for whatever level.

23 MR. RYAN: Even if an undercover
24 narcotics officer's vehicle who at the scene of
25 an undercover buy goes to make an arrest and you

1 have flight, if he didn't have an audio signal
2 device in that car, he wouldn't be able to do a
3 pursuit or stop the vehicle?

4 MR. CONNOR: That's absolutely correct,
5 sir. If it does not have audio signalling
6 devices, it should not be permitted to make a
7 traffic stop.

8 MR. RYAN: Even after the immediate view
9 of the officer of an offense where he's then
10 going to capture the perpetrator and it's an
11 undercover situation?

12 MR. CONNOR: There are other means to do
13 so. And I know somebody testified -- I think it
14 was Paul McCommons testified before me -- there's
15 no answer to everything.

16 What we in law enforcement are
17 attempting to do is resolve this issue without
18 losing a tool. And if we have to give up the
19 ability to make a certain type of stop, we're
20 willing to do so. We'd prefer not to, and we'd
21 be more than happy to work with this Committee to
22 address that particular issue.

23 I would like to see, having worked
24 narcotics in the city and have working knowledge
25 of how narcotics investigations are conducted up

1 country, it is not always practical to have audio
2 signalling devices in these unmarked cars.

3 But we always have a little bag hidden
4 somewhere with a little revolving light in it
5 that we'd throw up on the hood or on the
6 dashboard and take off. We -- again, when I
7 personally worked narcotics and I know some of
8 our narcotics investigators now have made vehicle
9 stops using just the lights.

10 But our concern there is we were going
11 to lose -- we in law enforcement were going to
12 lose the ability to make any traffic stop if we
13 set on that issue.

14 MR. RYAN: Don't you think it would be
15 better then just to address this issue to what
16 are initiated as vehicle stops because that seems
17 to be where the problem has been, that this is
18 better just addressed to where the initial
19 purpose of the stop is for a vehicle violation
20 under Title 75?

21 MR. CONNOR: Well, if it's going to be
22 for a vehicle stop, then let's stay with it, it
23 must have audio and visual and a specific type of
24 visual -- red and blue. Not just red, not just
25 blue; red and blue.

1 REPRESENTATIVE HENNESSEY: Thank you.

2 MR. CONNOR: Thank you, gentlemen.

3 CHAIRPERSON BIRMELIN: Thank you very
4 much. We appreciate your testimony. Our last
5 two testifiers are Gurn Weber, from the Central
6 Pennsylvania Constables Association and Vern
7 Smith, Sheriff of Clarion County.

8 I don't see either of them here;
9 although, we are approximately 25 minutes ahead
10 of schedule, which is unheard of in Harrisburg.
11 So what we're going to do is take a brief recess.
12 And when either of those gentlemen come, we will
13 resume the Committee meeting. So we are recessed
14 until the call of the Chair.

15 (At which time, there was a pause in the
16 proceedings.)

17 CHAIRPERSON BIRMELIN: We are ready to
18 resume. We have the gentleman, Mr. Vern Smith,
19 who's the Sheriff of Clarion County who was
20 scheduled for 12:30; but since our 12:00 is not
21 here, we will expeditiously move you to the head
22 of the line and ask you to present your
23 testimony.

24 MR. SMITH: Thank you, Mr. Chairman.

25 CHAIRPERSON BIRMELIN: Mr. Smith, we've

1 had several people -- as you've been notified
2 from the sheet that I gave you earlier, several
3 people have testified before the Committee
4 already this morning and we have before us some
5 members of the House Judiciary Committee as well
6 as some of our counsel here.

7 And after your testimony, we may ask you
8 some questions. If you'd sit for those, we'd
9 appreciate it. You may present your testimony
10 now.

11 MR. SMITH: Okay. First off, I'd like
12 to thank you for the invitation. It's certainly
13 a privilege and pleasure on my part. When I
14 first received the invitation accompanied by a
15 proposed legislation and I saw the term
16 "rogue police officers in unmarked police cars,"
17 you certainly got my attention.

18 Of course, I've heard of the stories of
19 unmarked cars pulling over motorists and some
20 person in plainclothes showing what was purported
21 to be police identification, later there was a
22 complaint filed about this policeman asking for a
23 date or whatever.

24 I know of one instance in my county
25 where this happened. Of course, he was not a

1 policeman but what we call a wanna-be. He was
2 arrested and received a sentence before the court
3 for impersonating a police officer.

4 I, like everyone, am concerned about the
5 policeman who has strayed from the normal, a
6 person who has crossed the line; and no agency,
7 of course, wants this to happen. But does the
8 fact that an unmarked police car was involved
9 make a difference?

10 My own personal opinion is that the
11 solution is somewhere in between. Certainly, the
12 system has failed. The police chief or the
13 sheriff did not recognize the rogue trait when
14 the officer was first interviewed, hired, during
15 his or her probation period, or when the very
16 first complaint came in.

17 Somewhere there should have been a sign
18 that this officer was a rogue. How do you
19 explain the fact that applicants for this job,
20 police job, must undergo a physical and
21 psychological exam and these instances still
22 occur? I can't.

23 We all know the courts and the state
24 statutes presently limit what an officer can and
25 cannot do when not in uniform. The term

1 "emergency vehicles" is clearly spelled out.

2 The proposed amendment to Title 75,
3 section 3733, limits when unmarked cars can be
4 used to stop or attempt to stop a moving vehicle.
5 The sections cited are very serious offenses, but
6 do they by themselves correct the situation?

7 A proposal with such wide, sweeping
8 repercussions should be given careful thought. I
9 can only surmise that this legislation is yet
10 another hasty reaction to those few but
11 widely-publicized incidents where police officers
12 become criminals. Bad cops are bad cops -- in a
13 uniform or out, in a marked car or not.

14 House Bill 147 does create a legal
15 nightmare for the honest cops. When such
16 legislation is proposed, one must first imagine
17 such ludicrous legal defenses and decisions that
18 will result.

19 In the case of this proposal, the
20 potential for adverse results are many. The Bill
21 does not address violations of Title 18, the
22 Crimes Code. Will this bill restrict officers to
23 making traffic stops only when specific
24 violations occur?

25 Does that mean that I will have to watch

1 someone kidnap a child and not be permitted to
2 stop the car when I'm driving a unmarked unit?
3 Lets examine what the proposals permit.

4 How will an honest and intelligent
5 officer testify that he suspects a violation of
6 Title 75, section 3731, when he hasn't stopped a
7 suspected vehicle to observe the driver?

8 Nearly every DUI offense starts with
9 some other violation and the stop, additional
10 information that develops from probable cause to
11 make that DUI arrest.

12 My officers never suspect any driver of
13 DUI solely on the basis of driving habit, and
14 neither should any other officer. There won't be
15 any DUI stops under this bill if the officer is
16 in an unmarked unit because the officer can't
17 stop for the initial violation observed.

18 Questions also arise over what is
19 considered not clearly identifiable by its
20 markings as a police vehicle. Even I have seen
21 marked police cars that don't look real. Anyone
22 can purchase magnetic markings that are easily
23 removed and replaced, and so can any other
24 citizen.

25 Are we going to enter a courtroom and

1 engage in a debate with the defense regarding
2 what does and does not constitute what looks like
3 a real police car? If the defense raises that
4 question, we'll have to defend the markings on
5 all our cars in most traffic proceedings.

6 Let's try something that takes into
7 account what the effect will be on thousands of
8 law enforcement officers who will have to work
9 with it.

10 An marked police car can play a very
11 important role in police work; and I believe this
12 bill, as it stands, will further tie the police
13 officers' hands.

14 Take for instance that two deputy
15 sheriffs who are serving a Protection from Abuse
16 Court Order, because the alleged abuser is a
17 known troublemaker and the fact that the court
18 order directs that all firearms be confiscated,
19 the deputies are using an unmarked police car for
20 the element of surprise.

21 Proceeding to the residence in uniform,
22 they observe a vehicle run a stop sign and nearly
23 cause an accident. Should they not pursue this
24 vehicle and stop it? Are they derelict in their
25 duty if they do not? The only solution would be

1 to follow and try to get a clearly-marked vehicle
2 to assist.

3 I'm sure you're well aware that some
4 departments are already doing just that, limiting
5 the use of unmarked vehicles for traffic stops;
6 but should it be the law?

7 The suggestion that possibly restricting
8 the use of flashing or revolving red lights to
9 police officers on duty and in marked EMS and
10 fire vehicles should be considered.

11 Let's make it a misdemeanor offense to
12 possess a flashing revolving red light by anyone
13 else and make it a felony for impersonating a law
14 enforcement officer. We the cops are the good
15 guys. The actions of a few criminals who manage
16 to get into uniform doesn't change that.

17 I happen to believe that most people are
18 good people, and I believe that most cops are
19 good people too. We need the unmarked vehicle to
20 deter criminal activity. Some departments only
21 have a couple cars. If one breaks down, they
22 have to use the other one.

23 The officers I know don't rape female
24 motorists, they haven't beat anyone up, and
25 seldom become involved in a pursuit. They're

1 decent, upstanding citizens just trying to do a
2 job that never ends.

3 I would add that I believe you're on the
4 right track in asking for input from the law
5 enforcement community. In these two days of
6 testimony, you have, I'm sure, heard many varied
7 and interesting stories on why and why not we
8 should be further restricted in the type of
9 vehicles we use for law enforcement.

10 Perhaps the time of day is more
11 important than anything else. Visibility does
12 play a factor in all vehicle stops, and the
13 officer should use common sense during hours of
14 darkness.

15 We want the motorists to be safe. We
16 tell our loved ones not to stop for anyone who
17 they are suspicious of, that they should be sure
18 it is a policeman. Should we ask the public to
19 be less cautious?

20 Seasoned officers wait to reach a
21 clearly-lighted area before attempting to stop
22 the vehicle. They turn on the dome light. They
23 light up the vehicle. I must also mention the
24 word "liability." Should we, can we, pass up a
25 violation of the law?

1 Thank you for the invitation. I know it
2 didn't take fifteen minutes, but that's pretty
3 much what I had on my mind.

4 CHAIRPERSON BIRMELIN: We thank you,
5 Sheriff Smith. On page 1, your third and fourth
6 paragraph, it says, I know of one instance in my
7 county where that happened. That is referring to
8 somebody purporting to be a policeman who wasn't.
9 Could you tell us a little bit how that happened?

10 MR. SMITH: Okay. This happened at
11 night. A lady pulled into her driveway and
12 followed in by a car, a very, very plain-looking
13 car.

14 The person got out and purported to show
15 some sort of identification -- he was not in
16 uniform -- showed identification that he was a
17 police officer, was upset that she had supposedly
18 committed some traffic violation back the road
19 and which angered him, apparently, and he
20 threatened all kinds of things.

21 The person -- the lady was sharp enough
22 to get some identification, which a follow-up was
23 made and we found out who the person was. And he
24 was a person who had actually failed to make the
25 requirements or be hired by a police agency.

1 He was what we call a wanna-be. You
2 know, he wants to; but he can't quite make the
3 grade. But that was the only one that I'm
4 currently aware of.

5 CHAIRPERSON BIRMELIN: Some other of
6 your folks who have testified before you have
7 suggested that one of the problems is the wide
8 number of people or organizations that use
9 uniforms.

10 When a person wears a uniform and the
11 closer that uniform appears to look like a police
12 officer's uniform, it lends credibility to them
13 even though they haven't earned it.

14 Do you find that to be a problem in your
15 area of the state that there's a proliferation of
16 uniforms and the people don't understand what
17 that uniform means from whether or not it's a
18 constable or a security officer or a sheriff or
19 if it's a State Police or local police?

20 MR. SMITH: A very good question, and,
21 yes, that's true. I believe that probably the
22 most imitated uniform there is the State Police
23 uniform. In my area, constables have a almost
24 identical uniform.

25 Sheriffs are -- I'm a former state

1 policeman. I'm a retired state policeman, but
2 now I'm a sheriff. And sheriffs generally wear a
3 brown uniform. They're a little bit different in
4 color and show the patch and so forth.

5 But I also feel that the purchase of
6 this equipment is too easily accessible. Anybody
7 can walk into a -- a catalog can order a uniform.
8 Of course, that doesn't make them a policeman,
9 but it makes them look like one. And the fact
10 that I covered about the magnetic decals and so
11 forth further enhance that I think.

12 CHAIRPERSON BIRMELIN: Thank you.
13 Representative Caltagirone, do you have any
14 questions?

15 REPRESENTATIVE CALTAGIRONE: No
16 questions.

17 CHAIRPERSON BIRMELIN: Representative
18 Hennessey.

19 REPRESENTATIVE HENNESSEY: You -- I was
20 just trying to scan your testimony briefly here.
21 And you had suggested that the impersonating a
22 police officer should be made a felony. We've
23 had some other indications from other witnesses
24 with that same suggestion.

25 I'll ask the same question. Do you

1 think that it should be a felony in every case or
2 do you think it should be a felony if in addition
3 to conveying some indication, telling someone
4 that you're an officer and then showing some
5 badge or some other phoney identification that in
6 conjunction with that you also use the emergency
7 lights, do you think it should be a felony
8 across-the-board or only when that additional
9 element of using emergency lights is present?

10 MR. SMITH: Okay. You brought up a good
11 point that I hadn't thought about, the other
12 elements that might enter into that. Of course,
13 we allowed the courts great jurisdiction -- not
14 jurisdiction, but latitude -- and I think that
15 should be the case.

16 You know, I believe the court is wise
17 in most of their decisions and they can weigh
18 that. I would think a Felony 3 probably would be
19 with circumstances that would add to that
20 credibility, you know. Maybe an M-1 if it wasn't
21 a vehicle or something like that, if they didn't
22 have the flashing light or something like that.

23 But I think we need to -- we send a
24 message that, you know, this isn't right. They
25 shouldn't be doing these things because I said --

1 REPRESENTATIVE HENNESSEY: It seems to
2 me that adding the element of the emergency
3 lights, you know, usually after dark on some
4 deserted or not well-traveled highway, obviously
5 the potential for danger is a whole lot more
6 than, you know, happened in the case that you
7 mentioned when somebody comes into somebody's
8 driveway and says I'm a police officer and I'm
9 mad because you cut me off in traffic.

10 MR. SMITH: Yes. We have the
11 different -- I would say that if a person is
12 going down the highway, they see the red light
13 come on and so forth, they indicate naturally
14 they think that this is a police car or a
15 emergency vehicle anyway behind them, and they
16 pull off or move over.

17 A difference between the person pulling
18 into their driveway and a car coming up and not
19 marked, there's been no red light and yet this
20 person passes himself off, is still doing the
21 same thing. He may have not done it with a red
22 light because he didn't happen to have one maybe
23 or, I don't know, was afraid to use it, I think
24 that --

25 REPRESENTATIVE HENNESSEY: You're not

1 likely to use it in somebody's neighborhood or
2 in somebody's driveway as likely as you would on
3 some deserted country road perhaps. Should it be
4 a felony in every case or should it be a felony
5 when those added elements are involved? Because
6 it seems to me the danger is heightened in those
7 circumstances.

8 MR. SMITH: Well, I think you have to
9 pretty much draw the line -- in your criminal
10 complaint when you type that up, you would add
11 these other things which would strengthen your
12 case, I think, in the eyes of the court.

13 REPRESENTATIVE HENNESSEY: Certainly the
14 use of the lights could be -- could be seized
15 upon by the judge to --

16 MR. SMITH: Yes.

17 REPRESENTATIVE HENNESSEY: -- increase
18 the range of -- increase the sentence that's
19 given within the permissible range under the
20 sentencing code now -- or sentencing guidelines.

21 MR. SMITH: Well, I think like the
22 badge, you know, showing some purported sign of
23 authority is a violation of the law. And I
24 think, you know, by maybe strengthening that law
25 we'll send a stronger message to the people who

1 are doing this type of thing, you know.

2 REPRESENTATIVE HENNESSEY: Sheriff, in
3 your capacity as sheriff now, do your
4 people -- what kind of lights do your people use
5 in your cars?

6 MR. SMITH: We have the red and blue
7 lights. We're allowed to have those.

8 REPRESENTATIVE HENNESSEY: Red and blue.

9 MR. SMITH: Yes.

10 REPRESENTATIVE HENNESSEY: Are
11 you -- aside from -- who is it that uses red and
12 blue -- State Police, any local police, and the
13 sheriff's office, not constables --

14 MR. SMITH: No, constables are not
15 allowed to use those.

16 REPRESENTATIVE HENNESSEY: Is there any
17 clear-cut definition that applies across the
18 state that you know of when as far as who can use
19 what combination of lights?

20 MR. SMITH: Yes. It's in the Vehicle
21 Code. It's under classification of emergency
22 vehicles, which spells out those vehicles that
23 can have both red or blue. There are some that
24 can have only one or the other. And I believe
25 under --

1 REPRESENTATIVE HENNESSEY: The emergency
2 people can use blue --

3 MR. SMITH: They can use both, red and
4 blue. That's your ambulance, your fire, your
5 State Police, borough police, sheriff --

6 REPRESENTATIVE HENNESSEY: So that would
7 be the section of the code we'd have to change if
8 we wanted to standardize red and blue for just
9 law enforcement?

10 MR. SMITH: I would think so, yes.
11 Constables are not considered emergency vehicles,
12 those people; so they are not allowed to have
13 that. Now, there are some that would like to
14 have it that way; but that's not the way it is
15 now.

16 REPRESENTATIVE HENNESSEY: Okay. Thank
17 you. I don't have any other questions.

18 MR. SMITH: Okay. Thank you very much.

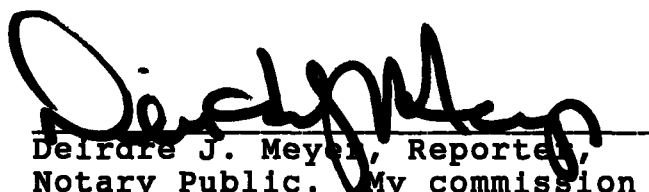
19 CHAIRPERSON BIRMELIN: Thank you,
20 Sheriff. We appreciate your coming. And because
21 our 12:00 testifier is not here and is apparently
22 quite late, I'm going to adjourn the meeting.
23 And if he does show up at a later time, we'll ask
24 his testimony in writing to be distributed to
25 Committee members. So the meeting is adjourned.

1 (At or about 12:14 p.m., the hearing was
2 adjourned.)

3 C E R T I F I C A T E
4

5 I, Deirdre J. Meyer, Reporter, Notary
6 Public, duly commissioned and qualified in and for
7 the County of Lancaster, Commonwealth of
8 Pennsylvania, hereby certify that the foregoing is a
9 true and accurate transcript of my stenotype notes
10 taken by me and subsequently reduced to computer
11 printout under my supervision, and that this copy is
12 a correct record of the same.

13 This certification does not apply to any
14 reproduction of the same by any means unless under
15 my direct control and/or supervision.
16
17

18 
19 Deirdre J. Meyer, Reporter,
20 Notary Public. My commission
21 expires August 10, 1998.
22
23
24
25