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HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bills 20, 22, 29, 784

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House Judiciary Committee

Irvis Office Building
Room G-50
Harrisburg, Pennsylvania

Thursday, April 26, 2007 - 10:00 a.m.

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BEFORE:

- Honorable Thomas Caltagirone, Majority Chairman
- Honorable Kathy Manderino
- Honorable John Pallone
- Honorable Chelsa Wagner
- Honorable Jewell Williams
- Honorable Ron Marsico, Minority Chairman
- Honorable Tom Creighton
- Honorable Will Gabig
- Honorable Glen Grell
- Honorable Carl Mantz
- Honorable Todd Rock

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1 ALSO PRESENT:

2

 John Ryan
 Majority Executive Director

4

 David McGlaughlin
 Majority Senior Research Analyst

6

 Jetta Hartman
 Majority Committee Secretary/Legislative
 Assistant

8

9 Chris Winters
 Majority Legislative Assistant

10

11 Dana J. Alwine, Esquire
 Minority Executive Director

12

13 Rod Corey, Esquire
 Laura Evans, Esquire
 Minority Counsel for Committee

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1 CHAIRMAN CALTAGIRONE: I'd like to
2 call the House Judiciary Committee meeting to
3 order for today.

4 We do have information that was
5 submitted by the Attorney General, Tom Corbett
6 for the record. I'd like to so submit that at
7 the opening of the proceedings. The Attorney
8 General couldn't be here, but he did want to
9 submit his remarks, so the members have that
10 and the court reporter, of course.

11 I'm state Representative Thomas
12 Caltagirone, Chairman of the House Judiciary
13 Committee. I'd like the members of the panel
14 starting from my right to introduce themselves
15 for the record.

16 REPRESENTATIVE WAGNER: Chelsa Wagner
17 of Allegheny County.

18 REPRESENTATIVE MANTZ: Representative
19 Carl Mantz, Lehigh and Berks County, 187th
20 legislative district.

21 MR. RYAN: John Ryan, Executive
22 Director for the Democratic Judiciary
23 Committee.

24 REPRESENTATIVE MARSICO:
25 Representative Ron Marsico, Dauphin County,

1 Republican Chair for the Judiciary Committee.

2 MR. COREY: Rod Corey, House
3 Republican legal staff.

4 REPRESENTATIVE GABIG: Will Gabig
5 from the 199th legislative district, which is
6 part of Cumberland County.

7 REPRESENTATIVE ROCK: I'm Todd Rock,
8 Franklin County, 90th district.

9 REPRESENTATIVE GRELL: Good morning.
10 Glen Grell, 87th district, also part of
11 Cumberland.

12 MS. ALWINE: Dana Alwine, Executive
13 Director, House Judiciary Committee for the
14 Republican Caucus.

15 CHAIRMAN CALTAGIRONE: And with that
16 I'd like to start the hearing with my mayor
17 from Reading, Tom McMahon, and he's being
18 joined by Mayor J. Richard Gray from the City
19 of Lancaster. Good morning, Tom.

20 MAYOR McMAHON: Yes, thank you. Good
21 morning, everyone. Thanks for inviting us and
22 giving us the opportunity to give two things;
23 first, the perspective of the Pennsylvania
24 League of Cities and Municipalities; and
25 second, Mayor Gray and I each would like to

1 give you our own personal perspective from
2 what's happening in our cities.

3 So, let me start it off by saying,
4 again, welcome and thank you, Chairman
5 Caltagirone, Chairman Marsico and members of
6 the Judiciary Committee. My name is Mayor Tom
7 McMahon, Reading. With me is Mayor Rick Gray
8 of Lancaster. It's our pleasure to be here
9 representing the Pennsylvania League of Cities
10 and Municipalities to discuss the very
11 important and very pressing issue of gun
12 violence in our Commonwealth and in our
13 communities.

14 By way of background, the leadership
15 of the league began to discuss the issues
16 surrounding gun violence last year when the
17 House held its three-day Committee of the Whole
18 to address gun violence. At that time a number
19 of our member municipalities were dealing with
20 gun violence crimes within their communities on
21 a daily basis.

22 As you're all aware, crime and gun
23 violence are not just, quote, big city
24 problems. Our small and mid-size cities, and
25 even for some of our suburban and rural

1 communities, have faced challenges brought
2 about by violent gun crime. The victims of
3 violent crime and their family members are not
4 the only ones affected by this troubling trend.
5 Violent crime affects the entire community.
6 People feel less safe in their own
7 neighborhoods; workers and visitors in a
8 community don't want to stay after dark; and
9 residents that can afford to leave, move away.

10 For these reasons, the issue of crime
11 and gun violence came to the forefront last
12 fall, and PLCM began looking for ways to be an
13 active participant in finding solutions.

14 Based on our initial discussions, our
15 president, Mayor Chris Doherty of Scranton,
16 named a special task force to review the
17 league's policy concerning gun violence in
18 order to be engaged in discussions with the
19 legislature. I'm pleased and proud to be chair
20 of that task force.

21 Our task force held its first meeting
22 in January and focused on finding common ground
23 among our varied members in terms of what we
24 believe would make a difference in our
25 communities. Our goal is not to infringe on

1 constitutional rights. Our goal is to make our
2 communities safer with measures that make sense
3 and can be accomplished. As such, the
4 following policies were adopted by our task
5 force.

6 PLCM supports mandatory sentences for
7 violent crime repeat offenders. House
8 Bill 785 provides mandatory sentencing for
9 repeat offenses committed with firearms. The
10 bill provides for five years of jail time for a
11 second or subsequent offense if a person
12 visibly displaces or poses a firearm during the
13 commission of a crime.

14 Additionally, the bill provides a
15 minimum sentence of seven years if a person
16 discharges a firearm during a crime or
17 possesses a gun that was stolen or illegally
18 obtained. We believe placing a mandatory
19 sentence on repeat offenses involving guns
20 raises the seriousness of such crimes and
21 begins to provide a punishment that matches the
22 offense.

23 PLCM does support limiting handgun
24 purchases to one in any 30-day period and
25 controlling straw purchases. House Bill 22

1 limits handgun purchases and sales to no more
2 than one in a 30-day period for any one person.
3 We do not believe that this concept infringes
4 on the rights of sportsmen to purchase firearms
5 because this is a limitation on handgun
6 purchases only. We believe such a law will
7 control or reduce the trafficking of guns in
8 Pennsylvania.

9 We're not convinced that it is
10 necessary for a person to purchase more than
11 one handgun a month. It's our belief that bulk
12 purchases are most likely straw purchases that
13 result in illegal resale and criminal activity.

14 The league also supports defining
15 criminal-gang activity. House Bill 326 creates
16 the offense of criminal-gang activity. By
17 defining criminal-gang activity, the
18 legislature will be elevating certain gang
19 activity to that of a crime and providing
20 penalties.

21 And lastly, the PLCM supports
22 requiring gun owners to report lost or stolen
23 handguns within 24 hours. House Bill 29
24 creates a registry for lost or stolen firearms
25 and provides penalties for gun owners who do

1 not file a report within 24 hours of
2 discovering that their guns are missing. This
3 type of legislation places responsibility on
4 gun owners to be responsible for their
5 firearms, but also allows the Pennsylvania
6 State Police the ability to track guns used in
7 crimes or sold illegally.

8 As a statewide association, PLCM
9 stands ready to assist in passage of any one of
10 the above-referenced bills. We're also
11 available to take part in discussions regarding
12 other pieces of proposed legislation that will
13 curb violent gun crime and make our communities
14 safer. So I thank you.

15 At this point I'd like Mayor Rick
16 Gray of Lancaster to give his perspective, and
17 then I'll give a personal perspective from
18 Reading.

19 MAYOR GRAY: Good morning. I
20 appreciate the opportunity to appear before the
21 committee. Just as a little bit of background,
22 I practiced criminal law for almost 35 years,
23 and I'm the past president of the Pennsylvania
24 Association of Criminal Defense Lawyers. So,
25 I'm well aware of how handguns are used in a

1 criminal setting, and I'm well aware of how our
2 courts deal with handguns. And I'm also well
3 aware of the explanations and excuses people
4 have when confronted with the fact that they
5 might have participated in illegal activity
6 involving handguns.

7 Before I go on, I'd like to relate to
8 you just two incidents that we've had involving
9 the use of illegal handguns in the City of
10 Lancaster this year, in 2007. In January, a
11 seven-year-old girl was walking to a corner
12 store with her mother hand in hand when two
13 gang members began to shoot at each other from
14 different ends of the block.

15 The seven-year-old girl was shot in
16 the back with a seven-millimeter pistol, rushed
17 to Hershey Medical Center. They opened her up
18 and hand massaged her heart, and thank God was
19 successful in keeping her alive. I'm happy to
20 tell you that she's--I was with her the other
21 day--playing and doing well at this point, but
22 it was really by the grace of God and good
23 medical care that this occurred.

24 Another incident, a 19-year-old boy
25 worked late at Willow Valley Resort and was

1 brought home by his father who also worked
2 there, wanted to stop at a party in the
3 neighborhood, where, in all probability, kids
4 were drinking. An argument broke out, he tried
5 to break it up. An individual who was at the
6 party from Philadelphia pulled out a handgun
7 that he legally would not have been able to
8 possess and shot, killing the 19 year old.

9 I say that only from the perspective
10 that we as mayors don't necessarily think of
11 these issues in terms of rights and who has
12 this right, constitutional right. We're the
13 ones that go to the hospital and talk to the
14 parents while a seven year old is in critical
15 condition. We're the ones that go to the
16 funerals of the 19 year olds when a community
17 is in mourning for the kid that had no criminal
18 record, had a bright future, was a high school
19 graduate and tried to break up a fight. We're
20 the ones that see the end result of it. We're
21 where the rubber meets the road, frankly.

22 As Mayor McMahon said, some talk of
23 rights. With rights come responsibilities.
24 And certainly, if you bring a deadly weapon
25 into our community, you have responsibilities.

1 You don't just have a right to possess it. You
2 have the responsibility to make sure that, one,
3 it's used properly; and two, that it's
4 safeguarded properly.

5 We want to emphasize the fact, some
6 would say these proposals are extreme. Quite
7 to the contrary. The two extremes in this
8 issue is, there should be no controls on guns
9 at all. And if you take a Second Amendment
10 argument to its logical extreme, I should be
11 able to have a handgun here right now if I have
12 a constitutional right. How do you tell me I
13 don't have a constitutional right here? I
14 should be able to buy a bazooka. That's one
15 extreme. The other extreme is, handguns should
16 be illegal.

17 We're not taking either of those.
18 These are very moderate measures, and the
19 reaction to them, quite frankly, is shocking to
20 some of us that deal with these issues on a
21 regular basis.

22 These guns degrade the quality of
23 life in our cities, they terrorize people, even
24 just firing them in the air. I used to have a
25 cabin down along the Susquehanna River. Gun

1 fire was regular down there. People would
2 practice target shooting, nobody would bat an
3 eye.

4 I live dead center in Lancaster. The
5 only time in the 35 years that I've lived there
6 that we have ever called the police was when
7 shots were fired in our neighborhood. No one
8 knows if the gun is being shot in the air or if
9 it's being shot at an innocent victim or if
10 it's being shot at our house.

11 If I could just quickly give you my
12 perspective on these proposals. The mandatory
13 sentencing for violent crime repeat offenders,
14 generally, I'm not in favor of mandatory
15 sentences. I don't like them. I think you
16 catch minnows when you're trying to catch tuna
17 sometimes.

18 Here if you have somebody convicted
19 of two violent felonies, why do they have a
20 handgun? Why do they have a gun? If they're
21 convicted of three violent felonies previously,
22 why do they have a gun? In that situation I
23 don't have any problem at all with mandatory
24 sentences. Notices have to be given to violent
25 felons. You want to possess a gun and you're

1 caught, you go to jail.

2 I regularly go to court in Lancaster
3 for people who are found in possession of
4 illegal handguns and advocate that they be
5 sentenced to long prison sentences and
6 substantial supervision thereafter. The courts
7 are beginning to listen to me, although the
8 sentencing guidelines are pathetic in this
9 area.

10 Additionally, limiting handgun
11 purchases to one in a 30-day period and
12 controlling straw purchases. There's one --
13 Now this is the extreme, I will admit. There's
14 one situation in Ohio where an individual
15 bought 80, nine-millimeter pistols, all the
16 same, one purchase. Eighty -- I think it was
17 87 maybe pistols, all one purchase. Why does
18 anybody need 87, nine-millimeter pistols?

19 Well, they showed up, they were
20 purchased in Toledo, they showed up in Buffalo,
21 they showed up in Albany, they showed up in New
22 York City, all in the hands of criminals. We
23 want to limit that.

24 I have a friend who's a gun collector
25 told me, well, he bought two matched pistols

1 that were antiques. Exceptions could be made
2 in those situations.

3 We want to define gang activity. At
4 this point we have gang activity in Lancaster,
5 I know in Reading. The mayors have all been
6 working together with the U.S. Attorney to try
7 to control it, to try to control it between our
8 cities.

9 We can't arrest gang members right
10 now. They recruit kids, they get them in, and
11 gun violence is the result. We'd like a
12 definition and we'd like it to be a criminal
13 offense.

14 I agree you have to be careful when
15 you do that, again, so that you don't infringe
16 on the rights of people who might just be
17 engaged in otherwise maybe activity that you
18 don't really like or displaying a lifestyle
19 that you might not find very acceptable. We're
20 talking about criminal gang activity.

21 Finally, requiring gun owners to
22 report lost or stolen handguns within 24 hours.
23 What other item would you have to -- would you
24 have to legislate that you have to report to
25 the police that it's stolen? You know, someone

1 stole one of my motorcycles or a pen or a TV
2 set, would you have to legislate that you have
3 to report that? Why is that even necessary?

4 Well, it's necessary not because
5 legitimate people have guns stolen. And I know
6 from practicing criminal law, number 1 is cash
7 when a burglar is in your house; number 2 is
8 guns. That's what they're looking for. They
9 can get rid of them fast.

10 Why would you require that people
11 report that? You would require, one, because
12 of the damage that can be done; but two, you
13 would require it because, when we arrest
14 somebody with an illegal handgun and track it
15 back to the person who sold it to that
16 criminal, they say, oh, gee, that must have
17 been stolen. I don't know what happened. Gee,
18 I thought I had that there. I'll look if
19 there's a couple other guns that are stolen.
20 It's regularly used as an excuse by people who
21 engage in straw sales, and it's a bogus excuse.

22 Now, are we going to catch the
23 innocent guy that has 20 guns and his nephew
24 takes one of them and he doesn't realize it's
25 gone and then his nephew sells it to somebody

1 else? That's what you have good D.A.s for, and
2 that's what you have good prosecutors for.
3 We're not talking about people who innocently
4 have them taken, but how about if you had six
5 or eight guns stolen and you don't notice
6 they're gone?

7 Believe me, I used to tell clients on
8 a regular basis, you know, you might be able to
9 talk me into it, but I'd have a heck of a time
10 selling that to a jury. Yet, that's what they
11 do; they use that as an excuse so that you can
12 sell the gun, you can get rid of the gun. And
13 when the police come to you they can say, oh,
14 it must have been stolen. Gee, I lost track.
15 We want to stop that.

16 So, on those bases, I would ask you
17 for your support of all these legislative
18 matters. Tom.

19 MAYOR McMAHON: Thank you, Rick. Let
20 me give you the Reading perspective. As I told
21 you, state and local statistics are really cold
22 and hard. They don't tell the complete story
23 of what's happening in our cities.

24 Over the past three years I've
25 attended viewings and funerals of teenagers

1 murdered with handguns. In Reading there's an
2 eight-year-old girl going to school every day
3 with a bullet lodged in her lungs that the
4 surgeons are enabled to remove without risking
5 the child's life. Bullets have come through
6 the windows of a head start center and a branch
7 library in Reading over the last couple of
8 years that I've been mayor. Fortunately, no
9 one was injured in these shootings.

10 Guns fights on our streets between
11 groups of thugs happens regularly. They only
12 know how to settle disputes with violence, and
13 they have no concern for innocent children or
14 other innocent bystanders.

15 Last year we lost a police officer
16 who was murdered by a known criminal who, as it
17 was later reported, allegedly obtained a
18 handgun from a straw purchaser.

19 Throughout the Commonwealth and the
20 entire U.S., the number of gun crimes is
21 increasing. The FBI reported that in 2005
22 there were two violent gun crimes for every
23 1,000 individuals, compared with 1.4 in 2004.
24 This is from the FBI Bureau of Justice
25 Statistics. That's a 42 percent increase in

1 only one year.

2 The proliferation of illegal guns,
3 the use of straw purchasers which leads to gun
4 trafficking, the lack of information about the
5 purchasers which allows sales to mentally
6 unstabled individuals, like we saw in the
7 recent tragedy in Virginia, all of this is
8 dividing and destroying our society.

9 It would be naive for any mayor to
10 say that handguns are the only problem we face.
11 Every day each of us is called upon to make
12 hundreds of decisions and to deal with hundreds
13 of day-to-day, quality-of-life issues.

14 We're trying to hold our cities
15 together and to restore the confidence of
16 visitors that they will be safe in our cities,
17 but it's an uphill battle, made more different
18 by the proliferation of illegal handguns.

19 Do we also have problems with drugs,
20 gangs and violence? Absolutely? Will the
21 removal of illegal guns from our cities remove
22 the crime? Absolutely not. But when taken
23 together with the other challenges our citizens
24 face, the easy availability of handguns makes
25 the crime problem much more difficult.

1 In January of this year, the
2 Greenburg Quinlan Rosner Research group did a
3 survey of 803 Americans and produced results
4 with a 95 percent confidence factor. It said,
5 58 percent of those surveyed agreed that we
6 need to get illegal guns off the street.
7 Eighty-two percent agreed that all guns sold
8 should have a ballistic fingerprint to allow
9 police to determine the gun a bullet was fired
10 from, and 74 percent agreed that gun retailers
11 should videotape all gun sales.

12 Americans, in general, are not happy
13 with the proliferation of illegal handguns and
14 they want action to stem this tide of violence
15 related to the guns.

16 The old argument is that if people
17 want to obtain a gun, they will do so at any
18 cost. While that may be the case, I have no
19 doubt that stricter enforcement of gun laws,
20 both on the behalf of purchasers as well as the
21 sellers, will have a dampening effect on the
22 gun violence. Perhaps some disputes might even
23 be solved by constructive dialogue versus the
24 use of a handgun.

25 Allow me to quote a paragraph from

1 the current issue of the New Yorker Magazine
2 for April 30th, 2007. Reducing the number of
3 guns available to crazy people will neither
4 relieve them of their insanity nor stop them
5 from killing. Making it more difficult to buy
6 guns that kill people is, however, a rational
7 way to reduce the number of people killed by
8 guns. Nations with tight gun laws have, on the
9 whole, less gun violence; countries with
10 somewhat restrictive gun laws have some gun
11 violence; countries with essentially no gun
12 laws have a lot of gun violence.

13 In Dunblane, Scotland, in 1996, a
14 gunman killed 16 children and a teacher at
15 their school. Afterward, British gun laws,
16 already restrictive, were tighten. It's now
17 against the law for any private citizen in the
18 United States (sic) to own the kinds of guns
19 that the young man used at Virginia Tech, and
20 nothing like Dunblane has occurred there since.

21 Organizations like the NRA do not
22 want to have dialogue on how to solve the
23 problem. On the other hand, organizations like
24 the American Hunters and Shooters Association,
25 who value their Second Amendment Rights as much

1 as the NRA and the rest of us, have come
2 forward to discuss with mayors how to stem the
3 violence in our cities, while still preserving
4 the Second Amendment Rights.

5 Unless we talk about the issue, we'll
6 never find a solution. I urge the legislative
7 branch of our government to take action now to
8 have discussions, to talk with their
9 constituents and listen to the concerns of the
10 people.

11 As Mayor Gray said, I fully support
12 the legislation before you now, and it's
13 supported by the Pennsylvania League of Cities,
14 the limitation of one handgun a month, the
15 mandatory reporting of lost or stolen guns, the
16 use of trigger locks and other safety devices
17 that can restrict access by minors.

18 You've heard testimony from people
19 all over the state, and I applaud all of you
20 for taking the time to hear the people.

21 The fate of our cities lies as much
22 in your hands as it does in ours as mayors.
23 You provide the legislative tools that we need
24 to maintain law and order in our cities,
25 boroughs and townships.

1 wouldn't sell it to a jury in Lancaster I
2 suppose you're speaking of. Well, it seems
3 like our laws would be working if they're
4 getting convicted already, these guys that are
5 having these straw purchases. I don't know if
6 we need to --

7 MAYOR GRAY: They aren't.

8 REPRESENTATIVE GABIG: Well, in the
9 case that you suggested there --

10 MAYOR GRAY: No, no.

11 REPRESENTATIVE GABIG: -- you seemed
12 to suggest the jury wouldn't buy that --

13 MAYOR GRAY: No, that was based on
14 the assumption, Representative, that they were
15 even charged with anything. They aren't
16 charged with anything, because, if the gun is
17 stolen, there's nothing to charge them with,
18 you know.

19 What I meant by that was, you can
20 tell me that, but if you were charged with
21 something along those lines, a jury wouldn't
22 buy it. They're not charged with anything. If
23 you say the gun was stolen, what are you going
24 to charge him with, unless you can prove that's
25 a lie? How are you going to do that?

1 REPRESENTATIVE GABIG: Maybe I
2 misunderstood what you -- I thought you were
3 speaking in your capacity as defense lawyer
4 when they were charged and you're giving the
5 argument --

6 MAYOR GRAY: They aren't charged. If
7 you can show me a case where someone said the
8 gun was stolen and they were then prosecuted
9 for a straw purchase or for a straw sale, it
10 would be a unique case. There might be some
11 around, but in my 35 years I've never
12 represented anybody in one of them.

13 REPRESENTATIVE GABIG: I'm glad you
14 clarified that, because I thought you were
15 speaking of a case that went to the jury, that
16 you were advising your client that they
17 wouldn't buy that bogus story.

18 Here's my sort of general comment,
19 and I'm not going to be able stay for a long,
20 long time today. I guess now is as good a time
21 as any.

22 I was an assistant district attorney
23 here in Dauphin County, right where we are in
24 this city, and in Cumberland County for many,
25 many years and handled a lot of different cases

1 including homicide cases. I can see in my mind
2 right as I sit here today the four-month-old
3 child that was strangled to death by the, quote
4 unquote, paramour of the mother because the
5 child was crying.

6 I can see in my mind today at the
7 autopsy, a seven-year-old child that had been
8 sick and the, quote unquote, paramour, a
9 live-in paramour beat to death this seven-year-
10 old child. I can see in my mind at the crime
11 scene a 21-year-old man that had been stabbed
12 to death, multiple stab wounds with a knife on
13 his 21st birthday. I see his father routinely
14 in my town.

15 I had handled multiple homicide
16 cases, and believe it or not, not one was
17 committed with a firearm. These were murders
18 that were committed in this town, in this
19 county and the county right adjacent to here.
20 So, I think there is a problem that we face in
21 this society where there's a lack of respect
22 for human life.

23 I don't think it's driven by the
24 knife, by a car--somebody was run over by a car
25 in an attempted homicide case--by the gun.

1 There's something much deeper that's wrong with
2 our society when it comes to this lack of
3 respect for human life. And I don't think the
4 gun causes it, I don't think the knife causes
5 it. I think there's something else that we
6 need to look at.

7 For example, somebody brought up the
8 Virginia Tech case. It's my understanding that
9 they have this one-gun-a-month law down there.
10 Clearly, that did nothing to prevent that
11 tragic incident down there.

12 So, I appreciate your comments in the
13 one bill about mandatory sentencing. I'll
14 certainly take a look at that bill, but as we
15 sat there and talked about gun violence,
16 there's a person behind that gun, or that
17 knife, or that car, or whatever they're using
18 to commit this violence. I think that's what
19 we need to take a look at, what is causing that
20 lack of respect for human life in our society?

21 Thank you very much, Mr. Chairman.

22 MAYOR GRAY: Could I respond to just
23 one or two things, Representative? All the
24 murder cases I handled, every one of them
25 involved a gun except one. I can only think of

1 one that didn't involve a gun.

2 But in addition I'd point to you,
3 we're not saying that guns cause people to be
4 homicidal. I mean, people can be homicidal
5 without guns. I'd point out to you 129 murders
6 in Philadelphia this year so far, 108 of them
7 are guns. It certainly is the murderer's
8 weapon of choice.

9 Also with Virginia Tech I'd point
10 out, what was it, 11 minutes, or whatever the
11 statistic is, 170 rounds or whatever, it was in
12 the paper yesterday as to the number of rounds?
13 Could that have been accomplished had he not
14 had guns?

15 We're not saying this is a panacea.
16 We're just saying this is a beginning to take
17 the weapons of destruction away from people who
18 do have these problems and are going to act
19 out.

20 But you're right, there's other
21 societal problems that cause it in the
22 beginning. This just provides the tools for
23 them to act out on a broader scale.

24 CHAIRMAN CALTAGIRONE: Thank you. I
25 thank both of you.

1 MAYOR GRAY: Thanks very much.

2 CHAIRMAN CALTAGIRON: I appreciate
3 your time.

4 MAYOR GRAY: We appreciate your time.

5 REPRESENTATIVE PALLONE: I have one
6 question.

7 CHAIRMAN CALTAGIRONE: Representative
8 Pallone.

9 REPRESENTATIVE PALLONE: Thank you,
10 Mr. Chairman. I apologize for being late. I
11 was in another committee meeting.

12 You made an interesting remark that
13 of the 129 homicides in Philadelphia, I think
14 you said 108 were done with guns. Well, if
15 those guns had been laying on a table in a
16 locked or secured gun vault in someone's home
17 or at someone's camp, how many of those murders
18 or homicides occurred because of the gun,
19 number 1? Obviously none, because some actor
20 had to manage the gun.

21 MAYOR GRAY: That's not necessarily
22 true, Representative. It depends if the person
23 was attempting to kill the person that was
24 killed.

25 As I pointed out, you weren't here,

1 we had a 19 year old killed this year in
2 Lancaster. He wasn't the intended victim. He
3 was just trying to break up a fight and got in
4 the middle. Nobody intended to kill him. Had
5 the person had a bat or a knife, in all
6 probability he wouldn't have been injured.

7 Similarly with the seven year old
8 that was shot in Lancaster who got between the
9 crossfire of two gang members, she wouldn't
10 have been injured had they been resorting to
11 fists or cuffs or bats or knives, because they
12 would have been far more specific with the
13 injury they intended to inflict.

14 When you leave a bullet go in an
15 urban area, God only knows who it's going to
16 hit. We've have three or four incidents in
17 Lancaster over the last five years where a
18 mother was walking down the street with her
19 children, was shot, not intended, was shot by a
20 guy, a drug dealer trying to shoot another one;
21 a woman sitting at a playground table, shot.
22 If that guy had a knife instead of a gun,
23 neither of those women would be dead right now.

24 REPRESENTATIVE PALLONE: My point,
25 though, is, the gun itself doesn't normally

1 discharge on its own. Someone has to either
2 accidentally or purposely discharge it.

3 The second piece of that, though,
4 which is an interesting statistic that I would
5 like to know, if it's even available, of the
6 108 homicides that you're reporting in whatever
7 area, how many of those 108 were from the
8 result of -- And I'm going to use these words
9 very liberally, not as a lawyer by strict
10 definition.

11 But how many of them were legal
12 firearms versus commonly-known illegal
13 firearms; meaning, that they were either stolen
14 or purchased on an illegal secondary markets?

15 Because what we keep doing is, we
16 focus on gun control and we want to pile more
17 laws on top of the laws that we have. Those of
18 us who are law-abiding, legal gun owners will
19 most certainly comply with any new laws that
20 come out there. But the illegal gun activity
21 is not going to change because there's another
22 layer of law.

23 That's my question. How many of the
24 108 weapons would be classified illegal or
25 somehow --

1 MAYOR McMAHON: I submit to you that
2 we probably can't find that out because of the
3 restriction in Congress of the Tiahrt
4 Amendment. When our officer was shot, the next
5 morning the Governor called me and he said, can
6 you find out where that gun came from? And I
7 called ATF and I said, can you tell me where
8 that gun came from? And they said, even if we
9 knew we couldn't tell you or we couldn't tell
10 the Governor because of the restrictions put on
11 the NRA and legislation in Washington year
12 after year so that you can't share this data,
13 gun-trace data.

14 That is a problem. And I know it's
15 not your problem in Pennsylvania, it's not our
16 problem here, but it is in a wider case a
17 problem of our society. So, to ask a
18 rhetorical question of how many of the 108 guns
19 were illegally obtained, we can come up with
20 some statistics. But, overall, if you look at
21 what is happening in this country and the
22 restrictions put on sharing of gun crime trace
23 data is absolutely ludicrous. It's restricted.

24 MAYOR GRAY: The other response would
25 be, Representative, if one guy goes onto an

1 airplane in Paris, or wherever, with a bomb in
2 his shoes and tries to light the bomb off -- I
3 now fly through the Harrisburg Airport and I've
4 got to take my shoes off and run them through
5 so they can make sure I don't have a bomb in
6 them. Stupid, maybe. Precaution, that's the
7 precaution that they've taken.

8 Somebody has some liquid that they
9 can mix together, I now can't take a bottle of
10 water that I want on the airplane. Why?
11 Because they want to make sure that people who
12 would have other things other than water don't
13 do it.

14 We're not saying that you pass these
15 laws, all of a sudden gun crime goes away.
16 It's not going to go away. You know, it's a
17 going to be a problem. All we're saying is,
18 take some reasonable steps to limit these and
19 keep them out of the hands of those who want to
20 use them illegally. That's all. Not
21 law-abiding people.

22 My friends that have guns, that are
23 into guns I don't think would have any problem
24 with any of these other than the one gun a
25 month. They are collectors where they might

1 want a match set of guns or something like
2 that. Exceptions could be written into that to
3 take care of that too.

4 So, you're right. I mean, it's not
5 going to solve everything. On the other hand,
6 to say, well, you know, people don't kill
7 people. People with bombs in their shoes kill
8 people and somebody might get in an airplane
9 and blow it up so we shouldn't check it at all,
10 in my opinion just is rhetoric and not really
11 facing the problems that we have and that we
12 confront on a daily basis.

13 REPRESENTATIVE PALLONE: I agree. I
14 think that's a very poignant point that we're
15 really not facing the problem. It's to deal
16 with crime, not gun control, because we already
17 have an inordinate amount of gun-control
18 mechanisms in place and we're dealing with a
19 criminal element. I don't know that additional
20 law or regulation is going to change that.
21 But, I openly consider your thoughts and thank
22 you very much and have a good day.

23 MAYOR GRAY: Well, thank you.

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

1 CHAIRMAN CALTAGIRONE: Thank you. We
2 appreciate your testimony.

3 MAYOR GRAY: Thank you.

4 MAYOR McMAHON: Thank you.

5 CHAIRMAN CALTAGIRONE: We'll next
6 hear from Colonel Jeffrey B. Miller,
7 Commissioner of the Pennsylvania State Police,
8 a very good friend.

9 And I'd like the members that came in
10 if they would just introduce themselves for the
11 record.

12 REPRESENTATIVE WILLIAMS:
13 Representative Jewell Williams, Philadelphia.

14 REPRESENTATIVE PALLONE: I'm
15 Representative John Pallone, northern
16 Westmoreland County and southern Armstrong
17 County. Thank you.

18 REPRESENTATIVE CREIGHTON:
19 Representative Tom Creighton from Lancaster
20 County.

21 CHAIRMAN CALTAGIRONE: Thank you.
22 Colonel.

23 COLONEL MILLER: Good morning, Mr.
24 Chairman, and members of the committee. I'm
25 Colonel Jeffrey B. Miller, Commissioner of the

1 Pennsylvania State Police. And I want to thank
2 you for this opportunity to talk about the
3 violence that is spreading throughout
4 communities across the Commonwealth and the
5 proactive approach we are taking to address the
6 major issues of street violence, gangs, guns
7 and drugs.

8 One of the basic or the key to
9 successfully combatting the problem of street
10 violence is an adequate police presence.
11 Governor Rendell and the General Assembly have
12 made an unprecedented commitment to increasing
13 the enlisted ranks of the Pennsylvania State
14 Police, which are at the highest levels in the
15 history of the Department. At Governor
16 Rendell's request, the General Assembly
17 appropriated \$23.5 million for fiscal year
18 '06-07 to train new cadets.

19 Two cadet classes consisting of
20 approximately 320 cadets will train at the
21 academy in 2007, and by September 2008 the
22 state police will have a full number of
23 troopers allowed by law. The increase in state
24 troopers is complemented by the Governor's
25 Police on Patrol grant program, which provides

1 10 million in competitive grants to help large
2 cities hire more police to combat illegal drugs
3 and gun violence.

4 In addition, under Governor Rendell's
5 leadership I have made gang suppression a top
6 priority for the state police. We've
7 established regional gang task forces
8 throughout the state comprised of federal,
9 state and local law enforcement officers.
10 These task forces enhance our longstanding
11 relationships with corrections officers, state
12 and county probation and parole officers, and
13 local district attorneys' offices.

14 For example, the Pennsylvania State
15 Police has enjoyed a close working relationship
16 with the Reading City Police Department and our
17 other law enforcement partners along the
18 Route 222 corridor. The United States Attorney
19 for the Eastern District, Patrick Meehan,
20 recognized this well-established partnership in
21 his application to the Department of Justice
22 when he secured a 2.5-million-dollar grant for
23 the 222 Corridor Anti-Gang Initiative.

24 State police gang task force
25 investigators, troop personnel, supervisors and

1 command have been involved in the coordination
2 of gang intelligence and enforcement strategies
3 along with police chiefs and elected officials
4 from York to Easton. Governor Rendell and I
5 have committed significant Pennsylvania State
6 Police resources to this historic anti-gang
7 mission. In the fall of 2006, we added
8 11 state troopers to our area intelligence task
9 forces to specifically investigate and target
10 criminal activity by street gangs throughout
11 the Commonwealth.

12 Area gang task force investigators
13 also joined forces with members of the state
14 police from Troop B, Washington in southwestern
15 Pennsylvania for a long-term initiative aimed
16 at curbing violent crime and gathering valuable
17 gang intelligence. To date, at least
18 14 federal, state and municipal law enforcement
19 agencies participated in eight saturation
20 patrols in Allegheny County in an exceptional
21 spirit of cooperation, leading to multiple
22 arrests and gun seizures.

23 Just this past Friday, April 20th,
24 2007, one saturation patrol resulted in the
25 arrest of 35 individuals. Four were gang

1 members; the rest ranged from violations of gun
2 and controlled substances laws to assault. Six
3 weapons were seized along with small quantities
4 of cash and illegal drugs

5 Finally, area gang task force
6 investigators are conducting or assisting in
7 several significant investigations of street
8 gangs, ranging from small city crews involved
9 in distributing illegal drugs and weapons
10 violations to large-scale organized enterprises
11 involved in interstate criminal behavior. In
12 the future we anticipate undertaking
13 investigations utilizing the resources of city
14 housing authorities, local grassroots
15 organizations and community service providers.

16 To complement our investigative
17 efforts, gang training will be provided to all
18 of Pennsylvania's police officers during 2007.
19 The Pennsylvania State Police has mandated a
20 four-hour course of instruction for state
21 troopers, and the Municipal Police Officers
22 Education and Training Commission will require
23 local police officers to receive identical
24 training as part of their mandatory in-service
25 education.

1 Next month the state police and the
2 Federal Bureau of Investigation will co-host
3 the Second Annual Regional Gang Conference in
4 the Pittsburgh area. This conference will give
5 law enforcement and service providers street
6 gang intelligence from around the state, along
7 with strategies to combat the problem from a
8 multi-disciplinary approach.

9 We recognize, however, that educating
10 law enforcement professionals is not enough.
11 Consequently, the state police and the
12 Pennsylvania Commission on Crime and
13 Delinquency formed the Gang Prevention
14 Committee, which is comprised of state and
15 local law enforcement officials, educators,
16 victim advocates, and community outreach
17 representatives.

18 In October 2006, one of our partners,
19 the Center for Safe Schools, began regional
20 training sessions to discuss how communities
21 can build a collaborative effort to address
22 gang violence. In February, the state police
23 and PCCD presented regional comprehensive
24 anti-gang planning forums in Berks and
25 Allegheny counties. During these forums,

1 nationally-recognized experts addressed local
2 government and community leaders regarding gang
3 awareness and prevention, and introduced them
4 to successful community intervention projects.

5 Governor Rendell and the Pennsylvania
6 State Police also recognize the devastating
7 impact gun violence has on our communities and
8 the critical need to keep guns out of the hands
9 of criminals. Uniform Crime Statistics reflect
10 that in 2005, 78 percent of all statewide
11 homicides involved firearms. The combined
12 firearms involvement rate in homicides in
13 Harrisburg, Pittsburgh, Reading and York was
14 83 percent.

15 According to the Philadelphia Police
16 Department, the rate in Philadelphia last year
17 was 85 percent. The Washington-based Violence
18 Policy Center reported that Pennsylvania leads
19 the nation in per capita rate of black homicide
20 victims. Although the majority of violence
21 occurs in our urban areas, the recent events in
22 West Nickel Mines, Lancaster County, and the
23 Virginia Tech University demonstrate that gun
24 violation has no boundaries.

25 On the front lines the state police

1 operates the Pennsylvania Instant Check System,
2 or PICS. Every day of the year, including
3 holidays, firearms dealers and county sheriffs
4 can all PICS' toll-free number to determine
5 whether a potential purchaser can legally
6 obtain a firearm. Through PICS, the state
7 police has prevented literally thousands of
8 convicts from illegally obtaining a firearm and
9 effected the arrests of hundreds of fugitives.

10 Operation Triggerlock is another
11 successful state police program designed to
12 remove violent felons, illegal firearms, and
13 narcotics trafficking from crime-ridden
14 communities. Triggerlock includes undercover
15 officers, as well as uniformed officers,
16 working high-intensity, saturation patrols in
17 neighborhoods designated by the Commonwealth's
18 Weed and Seed Program.

19 Through Operation Triggerlock, the
20 state police works closely with local officers
21 to target and arrest criminals, especially
22 those involved in street violence and drug
23 trafficking. During 2006, Triggerlock
24 enforcement details across the Commonwealth
25 resulted in 1,297 felony and misdemeanor

1 arrests, and the seizure of 87 firearms.

2 The state police is also
3 collaborating with the Federal Bureau of
4 Alcohol, Tobacco and Firearms and Explosives,
5 ATF. Nine state police troopers are assigned
6 to ATF offices across the state; two troopers
7 in Philadelphia, Reading, Harrisburg and
8 Pittsburgh, and one trooper in Erie.

9 These investigators concentrate
10 solely on investigations related to gun
11 violence and firearms violations. Many of
12 their cases come from referrals by state police
13 field members who forward leads regarding straw
14 purchases to our task force members for
15 follow-up investigation. During 2006, troopers
16 assigned to the ATF Task Force made 70 arrests
17 and recovered 242 guns.

18 In addition to the Firearms
19 Investigation task forces, 15 other troopers
20 are designated participants in ATF's eTrace
21 program, an Internet-based system that allows
22 police to trace crime guns, and analysts to
23 develop statistics concerning their illegal
24 movement within our communities. Through our
25 continued use of the eTrace system, the state

1 police will build a data base that will show
2 where the crime guns are being recovered, and
3 the location of the original retail purchase of
4 these guns.

5 The state police will also be
6 assisting the Office of Attorney General, the
7 Philadelphia District Attorney's Office, and
8 the Philadelphia Police Department in
9 specifically targeting gun violence in
10 Philadelphia. In July 2006, the Office of
11 Attorney General, as the lead agency, received
12 a five-million-dollar appropriation for this
13 initiative. Investigators will concentrate on
14 cases posing the greatest threat based on the
15 potential violence and the number of weapons
16 involved.

17 Getting these weapons off the street
18 is critical, because illegal firearms pose an
19 undeniable threat to law enforcement and the
20 public. Conversely, this need not and should
21 not infringe upon the rights of hunters and
22 collectors, who are not a part of the problem
23 and need not worry about legislation designed
24 to go after illegal guns.

25 It is imperative that the General

1 Assembly help law enforcement prosecute straw
2 purchasers; that is, those that buy a gun
3 legally, but then sell them on the black market
4 to those who are not allowed to possess a
5 firearm because they have a criminal record, by
6 enacting legislation to mandate:

7 Making the theft of a gun a felony in
8 all cases. The punishment is often less for
9 stealing a gun than it is for stealing a
10 television set.

11 Requiring lost and stolen guns to be
12 reported to law enforcement. This is a
13 pro-prosecution initiative that will give our
14 police and prosecutors an important tool in the
15 battle against illegal handguns. So often when
16 someone illegally sells a handgun or gives a
17 handgun to a criminal, the person claims it was
18 lost or stolen and police have no way to prove
19 otherwise.

20 Limiting handgun purchases to one per
21 month. This will put a stop to gun runners who
22 sell so many of our crime guns; yet, will put
23 no burden on lawful handgun owners who can
24 still purchase 12 handguns per year, 24 if they
25 are married.

1 Give local communities the ability to
2 pass their own firearms legislation.

3 Law enforcement cannot afford to
4 ignore the obvious connection the illegal drug
5 trade has to gangs and gun violence. In fact,
6 illegal gun trafficking has evolved into a
7 currency that flows during the course of
8 illicit drug transactions. Every day there are
9 new drug-related tragedies with innocent
10 children gunned down by violent drug dealers,
11 witnesses murdered or intimidated, and drug
12 gangs terrorizing our neighborhoods. The state
13 police combat drugs utilizing:

14 Undercover investigators assigned to
15 troop vice units;

16 Troopers assigned to drug
17 interdiction units;

18 SHIELD-trained members;

19 and Clandestine Lab Response Teams.

20 In 2006 statewide troopers were
21 involved with seizures totaling 890 kilograms
22 of cocaine, 11.4 kilograms of heroin,
23 118 kilograms of methamphetamine, and
24 3,178 kilograms of marijuana.

25 I currently chair the Philadelphia/

1 Camden Executive Board of the High Intensity
2 Drug Trafficking area, or HIDTA. HIDTA is a
3 coalition of 21 local, state and federal
4 agencies, who are combining their assets to
5 tackle violent drug gangs, one of
6 Philadelphia's most persistent problems.

7 Finally, the state police operates
8 the Pennsylvania Criminal Intelligence Center,
9 known as PaCIC, which is the first center of
10 its kind in the nation. Through PaCIC, the
11 state police provides local, state, and federal
12 law enforcement agencies with access to
13 information contained in a wide variety of
14 state and national data bases, helping
15 investigators and patrol officers in the fight
16 against gangs, drugs, and guns.

17 Once again, I thank you for the
18 opportunity to address your committee. I will
19 be happy to answer any questions that you may
20 have.

21 CHAIRMAN CALTAGIRONE: Thank you.

22 Chairman Marsico.

23 REPRESENTATIVE MARSICO: Thank you,
24 Mr. Chairman. Good morning, Colonel Miller.

25 COLONEL MILLER: Good morning.

1 REPRESENTATIVE MARSICO: How are you?

2 COLONEL MILLER: Good,
3 Representative.

4 REPRESENTATIVE MARSICO: Thank you
5 very much for being here. We certainly
6 appreciate your expert testimony and what you
7 do for our Commonwealth as well as the state
8 police.

9 I wanted to ask, there's a number of
10 questions that I actually have. One is, you've
11 taken a very proactive position, proactive
12 programs with the state police with some of the
13 things that you pointed out. Was it PaCIC, the
14 intelligence center, the H-I-D-T-A coalition,
15 HIDTA. There are a number of things that
16 you've been very proactive with with other law
17 enforcement agencies, municipalities, et
18 cetera.

19 The Governor has proposed reducing
20 your budget for this year. How is that going
21 to affect your effectiveness as a proactive law
22 enforcement agency? I know he wants to reduce
23 the Weed and Seed program, and other programs.
24 I can't remember all of them now. But that
25 definitely concerns me, with the good job you

1 guys have been doing, that now all of a sudden
2 this year he wants to reduce your
3 appropriations. Can you respond to that?

4 COLONEL MILLER: Sure. Yes,
5 Representative. Actually, I had similar
6 concerns when I saw the initial budget that was
7 proposed, but subsequent to that we received a
8 waiver, I think it was \$7.8 million, if that
9 serves correct, somewhere around that, seven,
10 eight-million-dollar range on monies that we
11 were not able to utilize in the current fiscal
12 year to train cadets because we can only put so
13 many through the academy at one time.

14 So, we had a waiver that we received
15 from the budget office for that, so we will
16 have ample dollars to be able to put through as
17 many cadets as we can train in the '07-08
18 fiscal year. So I'm pleased that we're going
19 to have the funds we need to do that.

20 REPRESENTATIVE MARSICO: What about
21 some of the other programs that the Governor
22 wants to cut?

23 COLONEL MILLER: Well, most of the
24 initiatives that we have in our budget are
25 still going to be funded. Some of the things

1 that we've been able to utilize are some
2 forfeiture funding options to be able to
3 purchase equipment to equip our troopers
4 properly.

5 For instance, this year we're
6 purchasing new firearms for the troopers, Glock
7 ACP 45 firearms. We're purchasing tasers for
8 our troopers and corporals assigned patrol.
9 We're purchasing new firearms simulators that
10 are state of the art to train our troopers in
11 scenario-based training.

12 And we've purchased additional patrol
13 rifles, Colt AR 15 patrol rifles, so that every
14 trooper and corporal assigned to the road on a
15 given shift will have an AR 15 patrol rifle at
16 their disposal.

17 Those are some of the things we've
18 been able to do with the forfeiture monies that
19 come across my desk. We've used all of them
20 for equipment for our troopers.

21 REPRESENTATIVE MARSICO: Thank you.
22 Earlier a testifier said that there would be no
23 way to determine how many crime guns were
24 legally possessed by the criminal. Can the
25 Pennsylvania State Police determine using the

1 handgun record of sale data base whether a gun
2 used in a crime had been legally purchased by
3 the criminal?

4 COLONEL MILLER: Not in all cases. I
5 mean, the record of sale data base does give us
6 a starting point. If we find a gun at the
7 scene of a crime or if we find a gun period, we
8 recover a firearm, we can use that
9 record-of-sale data base. If that gun was
10 transferred or sold in Pennsylvania, we'll have
11 a record of that and we can go back to the
12 person that was last listed as the person that
13 was the transferee, let's say.

14 So that will help us in some cases,
15 but not in all cases, because again, we are
16 restricted somewhat by federal regulations
17 regarding what the Bureau of Alcohol, Tobacco
18 and Firearms can share.

19 I think one of the biggest challenges
20 we have, and the thing that I see over and over
21 again and when you look at legislation and
22 proposals, the ability for us to restrict straw
23 purchasers is something that I think we really,
24 really need to look at, and that is included in
25 one of the bills here that's represented before

1 you, this committee today.

2 I say that because, I see this as a
3 trend that is increasing. That is, we'll have
4 gang members who come into Pennsylvania, either
5 they're transient and they come here for a few
6 months while they're being wanted in another
7 jurisdiction and they're trying to cool their
8 heels here.

9 But while they're here they'll
10 co-op, let's say if it's a male gang member
11 they may co-op with a local female in the
12 community that doesn't have a criminal record,
13 or at least doesn't have a record that will
14 exempt them from purchasing firearms. That
15 individual will be co-oped to be able to go to
16 a firearms licensee, purchase a number of
17 handguns, and then those handguns are given to
18 a gang member, and those guns end up either
19 being used in crimes in Pennsylvania or being
20 used in crimes in Detroit, Michigan--I've seen
21 that--or other parts of the country.

22 So I think that's one of the things
23 that we can do in the public policy forum to
24 realistically restrict access to firearms,
25 because that is being utilized as a way to take

1 firearms and ostensibly purchase them legally,
2 but put them out in the community to be used
3 for illegal ends.

4 REPRESENTATIVE MARSICO: Okay. One
5 other question, if I can. Have you had a
6 chance to look at House Bill 326, create the
7 offense of criminal-gang activity? Have you
8 had a chance to look at that at all?

9 COLONEL MILLER: I have not looked at
10 that myself.

11 REPRESENTATIVE MARSICO: I haven't
12 either really much. Previous testifiers had
13 pointed out that they would support this bill.
14 Anyway, I'm just trying to figure out how you
15 define criminal-gang activity and how you would
16 go ahead and prosecute or investigate criminal
17 gangs.

18 COLONEL MILLER: Right. I think you
19 have to -- Obviously, I'm not a lawyer, but
20 just with my experience with the law, I think
21 you'd have to be very strict and specific in
22 how you define certain activities.

23 I know that in California, for
24 instance, in Los Angeles there are laws on the
25 books that prohibit known gang members from

1 collecting in public areas. There are certain
2 things that they have specifically identified
3 as to wearing of colors or other activities,
4 and that gives the police an additional tool to
5 be able to maybe interdict gang members before
6 something happens.

7 And I know it's been successful in
8 some urban environments. So that's probably
9 some of the kind of foresight that's being used
10 there in that type of legislation.

11 REPRESENTATIVE MARSICO: Just one
12 more, Mr. Chairman.

13 You say in your testimony that you
14 would support giving local communities the
15 ability to pass their own firearms legislation.

16 COLONEL MILLER: Well, in the
17 testimony I do have that in there. I think,
18 again, it may be something that would be worth
19 looking at because of the uniqueness of the
20 communities in Pennsylvania.

21 REPRESENTATIVE MARSICO: So Lower
22 Paxton Township in my district would have the
23 ability to pass their own firearms law that
24 would prohibit, for example, handguns being
25 possessed within that municipality. In other

1 words, you would not to be able to -- would not
2 be allowed to possess a firearm within that
3 municipality. Is that what you're --

4 COLONEL MILLER: Well, I think --

5 REPRESENTATIVE MARSICO: Susquehanna
6 Township, for example, you'd be allowed to, and
7 in the City of Harrisburg it would be
8 prohibited.

9 COLONEL MILLER: I think the goal of
10 discussing that issue is probably restricting
11 it to maybe a city of first class that's
12 experiencing handgun violence at a rate much,
13 much higher than, perhaps, a township such as
14 Lower Paxton.

15 So, it would all be in the way that
16 it's written. And, obviously, if it was
17 written so broadly that it could be done in
18 every community, there could be some issues
19 brought forth, and uniformity and all that.

20 REPRESENTATIVE MARSICO: That's all I
21 have for now. You would certainly support, I
22 would think, removing the cap on the state
23 trooper complement?

24 COLONEL MILLER: Well, I've said
25 before that I think that, in reality, the

1 was worth the time and effort to include it in
2 this particular package and discuss it.

3 REPRESENTATIVE GABIG: I just
4 wondered if the Administration supports or
5 opposes that. Does anyone know that without
6 going to the Colonel? Does the staff -- John,
7 do you know the answer to that?

8 MR. RYAN: I have not heard of a
9 great deal of support for that and what
10 little -- members that have supported it on
11 it's --

12 REPRESENTATIVE GABIG: No, the
13 Administration I'm talking about.

14 MR. RYAN: No, I haven't heard
15 anything from them. Nobody is coming into my
16 office and saying, yeah, we're in favor of
17 this.

18 REPRESENTATIVE GABIG: I didn't know
19 if that was part of the reasonable gun control
20 that's going to stop all these murders in
21 Philadelphia or not.

22 You mentioned the possession of a
23 stolen firearm or stealing a firearm or being
24 in receipt of a stolen firearm is not a felony.
25 When I was -- I know you've been a state

1 trooper a long, long time. I can tell by your
2 gray hair and those eagles on your shoulders.

3 COLONEL MILLER: And my hair was
4 brown before I met --

5 REPRESENTATIVE GABIG: I remember
6 that, actually. But when I was first elected
7 up here in 2000, it was a felony. It was a
8 felony 3 just like if you stole a car or a
9 certain amount of money or a gun.

10 We passed a law, I guess I heard
11 this week, I think during this Administration,
12 that was supposed to enhance that penalty for
13 basically what you would consider to be fences.
14 If somebody was in the business of dealing in
15 stolen guns, we made it a felony 2 from a
16 felony 3.

17 And apparently, there's been a court
18 ruling, which I haven't had a chance to look
19 at, which has interpreted our amendment to the
20 stolen gun which now says if you just merely
21 possess it, which was before a felony 3, it's
22 no longer a felony 3 because you're not in the
23 business of doing it.

24 So I guess there's been a change in
25 the law, unintended consequence of the change

1 in the law which, you know, a few years ago it
2 was a felony to possess a stolen gun or to
3 steal a gun, and now, apparently, under the
4 court's interpretation of what we thought we
5 were doing which was enhancing that law.

6 Is that what you're seeing in the
7 field? Is that what you're hearing from your
8 troopers across the state, that the courts are
9 no longer considering the possession of a
10 stolen gun to be a felony?

11 COLONEL MILLER: That's my
12 understanding in certain circumstances based on
13 interpretations or case law. There could be
14 times where it would not be considered a
15 felony. The thrust of what I'm saying is,
16 let's take out the ambiguity so that it would
17 be in all cases a --

18 REPRESENTATIVE GABIG: I remember
19 when it was --

20 COLONEL MILLER: Yes, yes.

21 REPRESENTATIVE GABIG: -- clearly a
22 felony and all your troopers charged it as
23 such. Are they charging it as such now or
24 leaving it up to the courts? How is that being
25 handled?

1 COLONEL MILLER: Well, I think it
2 depends on the circumstances and the guidance
3 of each individual district attorney's office
4 in what it's labeled.

5 REPRESENTATIVE GABIG: Colonel,
6 here's what I would appreciate on that because
7 this has just come to light in our committee in
8 the last week or so. If you could have your
9 counsel look at that.

10 There was no intent by Democrats or
11 Republicans in this committee or in this
12 legislature when we passed that to lower the
13 bar on stolen guns. We wanted to enhance it.
14 And if the courts are out there now tying the
15 hands of law enforcement in what I would
16 consider to be a misinterpretation of what we
17 did, we need to know that.

18 So if you could talk to your lawyers,
19 because I know this is more of a legal
20 question, and we will also talk to the D.A.'s
21 association about this. I think they're
22 testifying. We want to make sure --

23 If anything, we want that -- You
24 know, I think many of us would support
25 increasing that from a felony 3 to a higher

1 standard or increasing a penalty at least on
2 that. Many of us would support that.

3 But if I'm hearing out in the field
4 today that it's actually being interpreted to
5 be a misdemeanor, or the value of the weapon--I
6 guess it's just going back to that--that's not
7 what we intended and we need to fix that and
8 fix that quick.

9 MR. RYAN: If I could, Representative
10 Gabig, because I dealt with that specifically
11 with your counsel. You're right, it used to be
12 included in the category of automobiles and
13 other items and guns specifically were at 3's.
14 When we decided to tinker with that, what we
15 did was, we made statutory change in language
16 when we specifically said the theft of a gun;
17 if you steal it is a felony of the second
18 degree. But when it came to receiving stolen
19 property is, you had to be in the business of
20 receiving stolen property, and then it was an
21 F2.

22 We took the previous provision, which
23 included the gun in the category of a felony 3,
24 we removed the gun, the word gun from that.
25 So, therefore, the receiving stolen property,

1 unless you're in the business of it, was left
2 in the category of the general determination of
3 how we determined the grade of an offense which
4 is by value.

5 So, the grade of offense for somebody
6 who's only charged with receiving the gun, not
7 with stealing it, is going to be based upon the
8 value of the weapon. So if the value of the
9 weapon is \$200, you're in a misdemeanor. And I
10 believe it was unintentional, but a very
11 definite mistake in drafting it when we did it.

12 REPRESENTATIVE GABIG: Well, I'm not
13 sure if it was a drafting error or not. I
14 mean, this has just come to light to me based
15 on case interpretation.

16 Also, just to follow that up, because
17 I do think this is a serious thing we need to
18 take a look at and take a look at quickly, and
19 I think we can have a lot of -- you know, put a
20 move on this.

21 You know, there's a separate
22 section. I think many of us know, and I know
23 you know, Colonel, there's the 6100 area that
24 uses the term firearm, which is really a
25 handgun or a sawed-off shotgun as defined under

1 the federal law.

2 But under the old theft statute,
3 which included automobiles and specifically
4 firearms, if you stole somebody's rifle or
5 you're in possession of a stolen rifle, it
6 wasn't restricted to that firearm language. I
7 mean, it included that also, and I think when
8 we go back to take a look at this we need to
9 make sure -- Because I remember Trooper Collier
10 was shot with a rifle; was he not?

11 COLONEL MILLER: He was.

12 REPRESENTATIVE GABIG: Not that it
13 was a stolen rifle. It's not only handguns
14 that are used in these attempts here. Those
15 are my two questions. We're going to really
16 work -- I'm going to really work on that and
17 move quickly. So any input we could get from
18 your lawyers on that, Commissioner, I'd
19 appreciate it. Thank you.

20 COLONEL MILLER: We'll get a letter
21 back to you and we'll copy the chairman.

22 CHAIRMAN CALTAGIRONE: Yes, I might
23 say, we were trying to resolve that just this
24 past week with counsel and Doug Reichley,
25 Representative Reichley. But we will address

1 that. There are a couple other members,
2 Representative Creighton I think had one.

3 REPRESENTATIVE CREIGHTON: Thank you,
4 Colonel, for your testimony.

5 You mention in there a close working
6 relationship with the local police. I see that
7 as very important. In my district I have two
8 that the state police cover and eight that are
9 local police. Is there any efforts, and maybe
10 it's already being done, to create a universal
11 data base of incidents, arrests, fires,
12 robberies so we can see the whole picture of a
13 region?

14 COLONEL MILLER: We have something we
15 call problem specific policing where we use a
16 tool called Prophecy. We chart all of our
17 offenses. You can layer things on top of each
18 other, we can look at burglaries, we can look
19 at criminal trespasses, we can throw in false
20 alarms; you know, maybe people are testing a
21 system, things like that. We can look at that
22 for all the areas within state police
23 jurisdiction.

24 We don't have the ability to look at
25 all of that for local municipalities. What

1 we're trying to explore is maybe taking a city
2 that we work with, like a Reading or something
3 like that, and perhaps, using grants or some
4 funding through PCCD be able to assist a given
5 city and do a pilot where they could have the
6 same software that we have, and be able to
7 input that data in a way that we can share with
8 them and we can see the patterns around the
9 city and through the city as well. I mean,
10 that's the next step that we would like to see
11 because it gives a truer picture across the
12 Commonwealth.

13 REPRESENTATIVE CREIGHTON: Well, I
14 see it to be effective you need to integrate
15 both the local and your experience all in the
16 same data base. Where's the next step? Are
17 you the next step, or do you need money to make
18 that happen?

19 COLONEL MILLER: Well, I think either
20 the municipalities or the cities would need
21 money to be able to purchase the software to
22 tie into our system.

23 REPRESENTATIVE CREIGHTON: They need
24 to provide the data to the data base where --

25 COLONEL MILLER: Right, that as well.

1 Through PaCIC, with our intelligence, we are
2 getting a lot more data from the local
3 municipalities and cities. This is actionable
4 intelligence data that we can share with other
5 PDs across the state, things that normally
6 wouldn't have come to their attention, and then
7 allows other people to help and assistance in
8 solving a burglary, you know, seven counties
9 away. That type of information, as well as
10 intelligence information on gang activity that
11 comes right in and we're able to turn that
12 information around.

13 When we see that individual that's
14 been associated with known gang activity show
15 up in Allegheny County associated with another
16 individual out there that we know to be
17 involved in criminal activity, then we can put
18 those pieces together and it helps strengthen
19 our ability to make the kind of prosecution
20 that we need to make, whether that's a state
21 case or a federal case, to be able to take that
22 threat out of the community.

23 So, in that way, what we've done
24 with PaCIC over the last several years has been
25 extremely valuable within the state.

1 The other thing we're doing, just to
2 mention it here, is, I actually have troopers
3 assigned to the NYPD's intelligence unit in
4 Manhattan. So I have troopers working that
5 have access to the NYPD's intelligence systems.
6 They have access to what we're doing. We share
7 informants, we share information. And it's
8 been a really great partnership, not just on
9 the homeland security front, but also with
10 gangs, with drugs, with gun activity, and other
11 types of criminal offenses.

12 Because, we find we have a number
13 cities in the Commonwealth, and I know many of
14 you are aware, that we have people coming back
15 and forth from the City of New York, and these
16 are bad individuals that are involved in all
17 sorts of criminal activity.

18 So, having someone right there, you
19 know -- I wish I could talk about some of the
20 successes that we've been able to do. But I
21 can assure you, there have been a number of
22 successes where we worked hand in hand with the
23 New York Police Department. And they also have
24 individual officers assigned to, I believe
25 it's 14 countries around the world right now.

1 So the information that comes from
2 those officers that are on the ground in the
3 Middle East, in England, in other places,
4 directly comes through and we get that threat
5 picture so that we can make adjustments in how
6 we deplore resources or the information that we
7 share with our counterparts in Pennsylvania.

8 So there's a number of things that
9 are going on that kind of overlap. When you're
10 talking about domestic security or
11 terrorism-related incidents, that doesn't
12 exclude criminal behavior. Because terrorists
13 commit crimes in the course of trying to reach
14 their ends, whether it's money laundering,
15 whether it's moving contraband, whether it's
16 moving human smuggling, whatever. We need to
17 know when they cross through Pennsylvania, and
18 at what points, who they're with, where they're
19 going.

20 I'll give you an example. We had a
21 case recently with the D.A. where we seized an
22 inordinate amount of cocaine. I mean, a huge
23 amount of cocaine. I believe it was in
24 Lancaster County; had nothing to do with
25 Lancaster County. It was destined for New York

1 City.

2 We didn't know about this group, but
3 by working together we became aware of some
4 information that we acted upon, and sure
5 enough, it was accurate information. And here
6 was a group that had been below the radar in
7 Lancaster County. Not distributing there and
8 that's probably one of the main reasons why,
9 but it was a stop-off, staging point for a huge
10 cocaine operation that was going into the City
11 of New York.

12 So, again, the more we can work
13 together regionally. And again, we have --
14 In our Intel system we have a system called
15 Memex that drives our intelligence. That
16 system now has been purchased by New Jersey
17 State Police, by the Delaware State Police, and
18 some other states. I believe Ohio has it now
19 too. Our goal is to tie all the systems
20 together so that we can effortlessly search,
21 free tech search for information that will help
22 make the entire region safer.

23 REPRESENTATIVE CREIGHTON: But you
24 seem to think that the locals need more funding
25 to be able to enhance this system to make it

1 universal?

2 COLONEL MILLER: Well, when it comes
3 to plotting crime information, crash
4 information, things like that, I would say yes,
5 because in speaking to the mayor of Reading and
6 the police chief down there, and looking at
7 what they have set up, in discussing this very
8 issue their main stumbling block was funding,
9 to be able to get the software application on
10 board so they can input their data.

11 Our data is updated automatically
12 through our system at two o'clock every
13 morning. It sucks all the information out from
14 our AIM System which collects all the types of
15 things that came in and what we did with them.
16 That comes up, populates the system, so if
17 you're a trooper in Waynesburg, Pennsylvania,
18 or a corporal sergeant, you can pull that
19 information up. You can look at your county,
20 you can look at the whole the state, you can
21 look at just a troop.

22 So it's given us a tool that really
23 makes a difference. Because you can read all
24 the reports that come across your desk that you
25 want. You might be the best corporal in the

1 world and have the best memory retention
2 ability ever, but you're not there all the
3 time. And there's something different about
4 something in black and white and something you
5 see on a map. That just makes a different
6 impact.

7 We've seen that's really helped us
8 put troopers in the right place to anticipate
9 the type of problems we're going to have or the
10 time of day that we're going to have them.
11 It's the principles of Comp-Stat, which New
12 York was the first to pilot.

13 REPRESENTATIVE CREIGHTON: Thank you
14 very much.

15 CHAIRMAN CALTAGIRONE: Representative
16 Pallone.

17 REPRESENTATIVE PALLONE: Thank you,
18 Mr. Chairman. And again, good morning, Colonel
19 Miller. It's always a pleasure to be in your
20 company.

21 As you know, I'm a very strong
22 advocate for law enforcement generally and
23 specifically Pennsylvania State Police, and I
24 certainly appreciate the efforts and the
25 cooperation that you've lent in my legislative

1 district between Weed and Seed program,
2 Triggerlock, and some of the other criminal
3 activity assistance you've given our local
4 police departments. I think all that's been
5 effective.

6 I share the same concerns that
7 Chairman Marsico has; that when we look at
8 funding in this budget cycle, that we continue
9 to focus on law enforcement and we maintain
10 adequate funding levels. I'm in part relieved,
11 but not completely yet, that you have this
12 budget waiver that you feel that you're going
13 to be adequately funded. I know the
14 Pennsylvania State Police are a highly-trained
15 force and do a terrific job for us under your
16 astute leadership.

17 I am concerned, however, that, in
18 part, we're dealing sometimes with smoke and
19 mirrors. You suggested in your testimony that,
20 you know, gun violence, innocent victims,
21 victim intimidation, et cetera.

22 My question, quite frankly, is, in
23 your opinion, your professional opinion as a
24 career law enforcement official, is it safe to
25 say or can you elaborate on, if most of that

1 gun-related activity is -- Is it, in essence,
2 surrounded by the gun or is the gun collateral
3 to some other crime, and particularly
4 drug-related activity and the victims that are
5 being innocently harmed or killed or even the
6 inner-gang activity between the shootings, and
7 so forth? Are they related because they're
8 setting up, let's see if we can have a duel
9 today, or is it because it's related to other
10 criminal activity, primarily drugs?

11 COLONEL MILLER: I think that there's
12 no way you can separate drug activity and
13 firearms in United States. I mean, they go
14 hand in hand. In fact, we've seen gang members
15 from the Detroit area that come into
16 northwestern Pennsylvania, and they'll bring --
17 They may bring drugs in. They take guns out,
18 take them back to Detroit, use them in the area
19 while they're here, but they take them back.

20 I think that the kind of criminal
21 activity that is associated with gangs and drug
22 delivery, the firearm is so much a part of
23 that, particularly with gangs. Now, you know,
24 many of those guns are illegally obtained.
25 Some were obtained, quote unquote, legally, but

1 through the straw purchase with the illegal
2 intent. So, my focus is on how can we take
3 steps that are reasonable steps?

4 I don't advocate for -- I'm not a big
5 person on an overreaction either way. I think
6 there are people on the very ends of this
7 argument and I think they're both wrong. I
8 think the truth is somewhere in the middle and
9 it relates to, how do we reasonably take steps
10 to limit the access to a tool that in the hands
11 of a young individual in a gang, impressing
12 friends, not as mature, et cetera, would use
13 that in a (snap of fingers) flash? And like
14 the previous testifiers stated, may not have
15 even intended to strike.

16 I was just watching the news last
17 night, there was a shooting in Harrisburg, I
18 guess three in three days, and they showed a
19 picture on the news. It just caught
20 attention--I was working out--but I saw it, of
21 someone taking a child safety seat and walking
22 it down the street with a bullet hole in it.
23 Now, the shooter probably didn't intend for
24 that bullet to strike that child safety seat,
25 and it could have killed a small child. But it

1 didn't, fortunately, but you don't know where
2 that round is going to go.

3 My fear, and what I see is the
4 bravado in some of these gang members, what 20,
5 30 years ago was somebody going to the hospital
6 with a broken nose or maybe the eye socket, or
7 whatever. Now it's over (snap of fingers) in a
8 second.

9 Yesterday, tragically, we had another
10 state trooper shot and killed in the State of
11 New York. It was under a scenario where a
12 trooper stopped to help somebody, or check on
13 somebody, and next thing you know he gets shot.
14 Fortunately his vest saved his life. But in
15 the search for the suspect, another trooper got
16 shot in the face and he died at the scene, and
17 a second trooper was shot at the scene. Again,
18 this was a young man, I don't know; seems to me
19 he was somewhere in the neighborhood of 23
20 years of age. I don't know what his whole
21 background was. I don't know how that firearm
22 came to be in his possession.

23 But it just seems like the access to
24 firearms is so great in the country that it
25 provides a ready means to end any dispute, and

1 then innocent people, particularly in an urban
2 environment, get hurt, and law enforcement is
3 at risk.

4 I mean, we've seen a great deal more
5 shooting incidents over the last, I'd say five
6 to 10 years than we've seen in the past. It
7 causes me to have concern because I don't want
8 to go any more funerals. I don't want to see
9 any more troopers get killed. We had one
10 killed December 12, 2005, Joe Pokorny, and it
11 was senseless.

12 REPRESENTATIVE PALLONE: I don't
13 disagree with you. I think that that's every
14 family that has a family member that's somehow
15 involved in law enforcement biggest fear that
16 it's going to be a routine traffic stop and you
17 end up attending a funeral. I think that's
18 very serious and very grave.

19 But my issue is, we know that
20 automobiles kill, and we know that people drive
21 them too fast. It causes automobiles to have
22 accidents and they kill, and they die. But
23 we're not introducing legislation to say that
24 we should ban the sale of automobiles, or that
25 we should limit the number of automobiles a

1 person can own or the number of automobiles
2 that we can purchase in one year, or even any
3 kind of a restriction that says how fast an
4 automobile can go. We're not ordering
5 governors on engines so that they can only go
6 so fast.

7 And that's why I go back to my
8 original question that you had a lot to say
9 about. I don't know that you really answered
10 my question. I'll ask it in a different way.

11 Let's assume for the sake of argument
12 we eliminate guns completely in this country.
13 Does that stop the criminal activity of drugs
14 and gang violence among and between those
15 gangs, or is the gun, hand-and-glove scenario
16 that you very eloquently represented to us, is
17 that part of that?

18 I guess my essence is this. I look
19 at legal gun owners, period. They're not out
20 killing people other than accidentally when
21 they're cleaning them or hunting accidents,
22 things to that effect. That's happens, and
23 that's tragedy, nonetheless. But it's not the
24 legal gun owners that I believe are committing
25 the crime. It's the, by definition I guess,

1 the illegal activity, even if I'm the straw
2 purchaser that I introduced those weapons into
3 the illegal market. That's equally as bad as
4 far as I'm concerned.

5 But my concern is that we're not
6 curing the virus. We're just treating it.
7 We're going to attack one piece of the problem,
8 the guns. Well, guns really aren't the
9 problem. The problem is, in my opinion, drugs
10 and other criminal and gang activity. And
11 should we somehow be redirecting our resources
12 and our attention to law enforcement for
13 particularly drugs, illegal drugs and other
14 gang activities that somehow support the use of
15 illegal gun use?

16 COLONEL MILLER: That's a good
17 question, but I think I would answer it by
18 saying this. If you look at some of the other
19 countries around the world where ready access
20 to firearms is not nearly as prevalent as in
21 the United States of America, you see where
22 they do have drug problems and they do have in
23 many cases gang problems, but they don't have
24 the number of people being shot that we do.
25 That, you know, presupposes that a lot of those

1 people that get shot, intentionally or not, are
2 not going to live. That's all I'm saying.

3 It just scares me that the criminals
4 that we deal with now are much younger than
5 they were 20 years ago and have a firearm
6 within arm's reach probably 80, 90 percent of
7 the time when we're talking about gang
8 activity, and drug and gang activity sometimes
9 go hand in hand.

10 REPRESENTATIVE PALLONE: And I agree.
11 I just think that we're not really looking at
12 the virus. We're looking at a Band-Aid on a
13 deeper wound. And I don't think it's the gun
14 activity that -- I think it's collateral to
15 other criminal activity.

16 I even rely on my history when I
17 think about the Wild West, and the gun activity
18 surrounding the Wild West wasn't because
19 cowboys wanted to shoot each other. It was
20 because it involved bank robbing and gold
21 robbing, and the shooting was kind of
22 collateral to that.

23 It always seems like it's something
24 else and we're directing our attention on what
25 isn't really the virus. I know that you guys

1 throughout the legislature.

2 I just wanted to ask -- I wanted to
3 combine your last two recommendations, the
4 limiting handgun purchases and also giving
5 local communities the ability to enact their
6 own firearms legislation.

7 As you know in Pennsylvania, often
8 before we roll things out statewide, we try
9 things regionally and you've seen that with the
10 vehicle impoundment program, which we actually
11 put into place statutorily in Philly, and then
12 allowed other communities the option to adopt
13 their own ordinances.

14 The same thing with red light
15 cameras, we focused on Philadelphia. Currently
16 we have a GPS tracking program that does not
17 have any statutory authorization now, although
18 we have legislation to do just that. The
19 Governor says -- have the ability to roll out
20 pilot programs for GPS tracking in different
21 parts of the state to see how they work, to see
22 if they work before we invest time and money.

23 I'm wondering, given your last two
24 recommendations, whether you could maybe think
25 about and get back to us and let us know what

1 the Administration's feeling, what PSP's
2 feeling would be on rolling out something on a
3 trial basis in Philadelphia and Philadelphia
4 Greater Area as far as something like a pilot
5 program, only because we've heard this
6 anecdotal evidence and some very real evidence
7 from other states that some other jurisdictions
8 are telling us one gun a month doesn't work.
9 And they've actually even have a state that's
10 gone so far as to repeal it.

11 So before we spend the manpower and
12 the money, you know, if we could maybe get some
13 input from you down the line on how the
14 Administration would feel about rolling out
15 something, a very limited pilot program, an end
16 and beginning parameters.

17 COLONEL MILLER: Okay, I'll
18 communicate with the policy folks and get back
19 to you on that. Absolutely.

20 MS. ALWINE: Thank you,

21 CHAIRMAN CALTAGIRONE: Thank you,
22 Colonel. We appreciate your testimony.

23 COLONEL MILLER: Thank you very much.

24 CHAIRMAN CALTAGIRONE: We'll next
25 hear from Diane Edbril, Executive Director,

1 CeaseFire PA.

2 MS. EDBRIL: Chairman Caltagirone,
3 Chairman Marsico, and other esteemed members of
4 this committee: My name is Diane Edbril, and
5 as Executive Director of CeaseFire PA I have
6 the honor of representing our position here
7 before you today.

8 Before I begin I want to state for
9 the record that CeaseFire President Phil
10 Goldsmith, as well as all of our board members
11 and supporters, believe strongly that the issue
12 of reducing handgun violence should be
13 discussed with civility and respect. CeaseFire
14 PA will not resort to the type of tactics that
15 took place in the Capitol rotunda the other
16 day. We are confident that we can make our
17 case compellingly and effectively based upon
18 the facts and upon thoughtful reasoning.

19 When we think about how best to
20 reduce handgun violence, the evidence leads us
21 to the thriving illegal market that exists in
22 Pennsylvania and serves to arm those who would
23 use their handguns for murder and mayhem.

24 While we cannot ignore the
25 systematic challenges that Representative

1 Pallone referred to, such as violence, poverty,
2 drug abuse, weak schools and disrupted
3 community and family networks, we cannot ignore
4 the fact that without easy access to handguns
5 the death tolls would be lower, the emergency
6 rooms would be quieter, and innocent bystanders
7 would be safer.

8 Handguns in the wrong hands are
9 creating burdens borne by all Pennsylvanians,
10 and so we must act together to reduce those
11 burdens for all our sakes, as well.

12 This committee has heard testimony
13 over the last two months from people all over
14 the Commonwealth, an abundance of horrific
15 facts, quite a few excellent suggestions, and
16 several specious claims. It is this last
17 category to which I will address most of my
18 remarks today.

19 In the course of these hearings, you
20 lawmakers have heard every excuse in the book
21 about why we should not better regulate access
22 to handguns, a veritable top ten of excuses for
23 you fans of late-night television. However,
24 none of them hold water as I will explain, and
25 therefore, none of them should persuade you as

1 you consider the merits of the bills before you
2 now.

3 Myth number 10. Just enforce the
4 laws. Straw purchasing is already illegal.

5 Neither CeaseFire PA nor any other
6 proponents of better handgun regulation suggest
7 that our police and courts should do anything
8 but that. We want enough police on the
9 streets, and we want offenders prosecuted and
10 punished.

11 However, it's not an either/or
12 proposition. What we support, namely lost and
13 stolen reporting and moderate handgun purchase
14 limits, does not prevent us from enforcing
15 other laws, and, in fact, will facilitate the
16 current efforts of law enforcement to identify
17 and prosecute straw purchasers and their
18 confederates.

19 Moreover, under current law, while we
20 can prosecute the straw purchasers we are able
21 to identify, we are simply not able to identify
22 most of them. Most handgun homicide victims
23 are not found with the murder weapon by their
24 side, and close to half of all recovered crime
25 guns are not even able to be successfully

1 traced to identify the original buyer. The old
2 chestnut goes, an ounce of prevention is worth
3 a pound of cure. We want to stop the criminal
4 from obtaining the handgun in the first place,
5 before any lives have been lost or ruined.

6 Myth number 9. Guns don't kill
7 people. People kill people. If we just take
8 away their handguns, criminals will just use
9 something else.

10 Well, the fact is, in Pennsylvania,
11 people with handguns kill the overwhelming
12 number of victims, 65.7 percent last year. All
13 firearm deaths is closer to 80 percent, as
14 Colonel Miller pointed out in his testimony.

15 The next largest class of homicide
16 victims, those who were stabbed, accounted for
17 only 7.5 percent of all killings in the State
18 of Pennsylvania last year, a small fraction of
19 the total handgun victims. I did a little math
20 last night and it's somewhere between
21 one-eighth and one-ninth of the handgun
22 victims.

23 If we reduce access to handguns by
24 felons and violent youth, their conflicts and
25 crimes will be less deadly. It is much harder

1 to bludgeon or stab a man to death than to
2 shoot him dead, and the danger to passersby is
3 nonexistent.

4 There are no drive-by stabbings nor
5 innocent victims killed in a beat-down. A man
6 was recently killed by a bullet that entered
7 his home as he was getting dressed to go to
8 work. Surely, had it not been for that gun,
9 his life would not have been lost.

10 Washington, D.C. has recently seen a
11 decrease in youth homicide, particularly
12 handgun killings, for which experts credit
13 Maryland and Virginia's one-handgun-per-month
14 laws. Since youth rely primarily on the
15 illegal secondary market to obtain their
16 firearms, these measures have made it more
17 difficult for them to arm themselves, with
18 related decreases in the homicide rate.

19 If we reduce the number of handguns
20 purchased for the illegal market in the first
21 place, we will make them less accessible to the
22 prohibited persons we want to disarm.

23 Myth number 8. One handgun per month
24 will only hurt law-abiding citizens and not the
25 criminals.

1 We urge you all to read the language
2 of House Bill 22, because once you do, you will
3 see that it is carefully-crafted legislation
4 meant to tackle a specific problem, while
5 respecting the ability of law-abiding citizens
6 to go about their business.

7 This bill will not affect the number
8 of guns, either handguns or long guns, that are
9 already owned by Pennsylvanians. It does not
10 limit the number of rifles and shotguns a
11 person can buy at all. If you already own
12 20 firearms, or 50, or more, this law will not
13 affect you. Law-abiding citizens will still be
14 able to pursue hunting and sport shooting, as
15 well as protect their families.

16 This bill will, however, impinge on
17 the illegal traffickers who rely on straw
18 purchasing to accumulate large handgun
19 inventories from Pennsylvania gun dealers in
20 short time spans for unlawful street sales.

21 One handgun per month has an
22 exception for licensed collectors of firearms.
23 It has an exception for those who have
24 experienced a handgun loss or theft in the
25 preceding 30 days, and it has exceptions for

1 those engaged in law enforcement and private
2 security pursuits.

3 We have tried to anticipate every
4 legitimate situation in which a law-abiding
5 person would need to buy more than one handgun
6 per month, and we believe we have succeeded
7 with House Bill 22.

8 Some critics have suggested that
9 House Bill 22 would impede a lawful gun owner's
10 ability to acquire the handguns they wanted to
11 give as gifts to loved ones at the holidays.
12 To this we say, get them a gift certificate to
13 your favorite gun shop.

14 Some critics say that someone who
15 wants to start competing in sharp-shooting
16 contests would have to wait too long to acquire
17 all the handguns they'd need. To this we say,
18 chances are, anyone who wants to undertake this
19 hobby is already likely to own a handgun or
20 two, and if they can't get a spouse to help
21 with the purchases right away, then they'll
22 just have to wait a couple of months before
23 they start competing in this sporting activity.

24 Some say there might be a situation
25 whereby a particular model handgun is on sale,

1 and they just might want to purchase a few at a
2 time. To this we ask, is this vague,
3 hypothetical desire really more important than
4 limiting the vast number of handguns we can
5 demonstrate are flowing onto the illegal market
6 for criminal purposes?

7 We have yet to encounter an actual,
8 live Pennsylvanian who will be harmed by House
9 Bill 22, other than an illegal trafficker and
10 other than somebody who objects on
11 philosophical grounds. Compare that to the
12 thousands of people being hurt each year by
13 real bullets coming out of real illegal
14 handguns and the hundreds being killed.

15 Myth number 7. This is just a
16 Philadelphia problem. Wrong. Murders are
17 committed with illegal handguns in every town,
18 in every county, across the state and are on
19 the rise. We've heard from mayors from cities
20 that are very far from Philadelphia, both in
21 tenor and geographic.

22 Straw purchasers shop in many of the
23 more than 2,800 federally-licensed gun shops
24 that are not located in Philadelphia, but are
25 within the Keystone State. One of the most

1 citizens? We have no doubt that Philadelphia
2 lawmakers would support the cleanup of a toxic
3 waste dump in Westmoreland or Butler or Dauphin
4 County, even if it didn't affect their
5 communities' well-being. For lawmakers to turn
6 their backs on innocent children being cut down
7 on the way to school in our inner cities is
8 unacceptable, and most Pennsylvanians want to
9 see something more done.

10 Myth number 6. Traffickers will just
11 get their guns somewhere else. Where?

12 Pennsylvania is the primary source of
13 illegal handguns for our entire region. Crime
14 guns recovered in Philly and Pittsburgh come
15 back overwhelmingly to PA gun shops as the site
16 of the first sale. We are the largest source
17 state for crime guns recovered in Trenton and
18 Camden, New Jersey, and Pennsylvania ranks
19 higher than the State of New York as the source
20 for crime guns recovered in New York City.

21 I was a prosecutor in New York City
22 for many years before coming to live in the
23 Keystone State. And I can tell you, when I
24 spoke to suspects in custody about where they
25 got their guns, more often than not when they

1 identified the state where they got them, it
2 was this one.

3 If the supply dries up here,
4 criminals will have nowhere easy to go. Under
5 federal law, a handgun must be purchased in the
6 buyer's own state of residence in most cases.
7 So if we make it harder for our local straw
8 purchasers here, they will find that their cost
9 of doing business has gone up dramatically.

10 Most straw buyers, while perfectly
11 content to drive to Bucks or Montgomery County,
12 will likely find it unappealing to have to
13 travel to Florida, Indiana, or Ohio to acquire
14 their needed inventory on the street markets in
15 those states.

16 But even if some traffickers try to
17 get around one handgun a month, the challenges
18 will push up their costs of doing business,
19 drive up the street price of their criminal
20 wares, and put illegal handguns out of the
21 reach of many of the would-be purchasers,
22 particularly youth. Having to rely on a larger
23 number of straw purchasers to maintain their
24 unlawful volume would also put the illegal
25 traffickers at greater risk of detection. Even

1 if we can't stop all illegal handgun
2 trafficking, we can and must put a big dent in
3 it.

4 Myth number 5. Pennsylvanians don't
5 support better gun regulation.

6 Several polls over the last years,
7 including one just a few weeks old, demonstrate
8 consistent, widespread support for one handgun
9 per month as a way to combat the violence that
10 is fueled by the illegal handgun market, across
11 party lines, across communities, and even among
12 gun-owning households, Pennsylvanians support
13 one handgun per month by wide margins.

14 The several dozen noisy opponents who
15 threatened the life of one of your colleagues
16 here this week should not be confused with the
17 majority of Pennsylvanians who want you to act
18 to reduce this crisis.

19 Myth number 4. This bill will never
20 pass. Why move out of the Judiciary Committee
21 some legislation that is likely to be voted
22 down on the floor of the House?

23 First of all, if this bill is so
24 doomed, what's the harm? What is the pro-gun
25 violence lobby so afraid of? We relish the

1 chance to see what lawmakers will do on the
2 record. If this legislation fails on the floor
3 on the first go-around, so be it. Most
4 worthwhile efforts take a while to catch on.

5 CeaseFire PA and our allies urge the
6 Judiciary Committee to vote this bill out of
7 committee, so a record can be created for which
8 the entire House membership will have to be
9 accountable. Once your colleagues begin to see
10 that their constituents want this law passed,
11 through an election cycle or two, we believe
12 the tipping point will be reached

13 Myth number 3. We can't ration the
14 Bill of Rights. This is a bogus proposition.

15 First and foremost, the Second
16 Amendment to the U.S. Constitution, as
17 interpreted by the Supreme Court 70 years ago
18 in U.S. versus Miller, does not create an
19 individual right to gun ownership.

20 Despite what it says over the door at
21 the NRA's headquarters, despite the
22 protestations of the pro-gun violence mob we
23 saw here Tuesday, there is no federal
24 Constitutional right to unfettered gun access.
25 And for elected official to ignore the

1 longstanding decision of our nation's highest
2 court is irresponsible and pandering. Under
3 current federal law the Second Amendment
4 addresses the ability of the several states to
5 maintain armed militias, and does not create an
6 individual right to gun ownership.

7 Moreover, even if the Supreme Court
8 were to reverse Miller and uphold the recent
9 appellate court ruling in Parker versus
10 District of Columbia, it is folly to think that
11 an individual federal right to gun ownership
12 would be absolute. No individual right enjoyed
13 by Americans is absolute. We have a right to
14 free speech, but we can't yell fire in a
15 crowded theater. There are time, place and
16 manner of restrictions on many of our words.

17 We have a right to be free from
18 unreasonable searches and seizures, but there
19 are still public safety and warrant exceptions
20 to the Fourth and Fifth amendments. All
21 individuals rights Americans enjoy must be
22 weighed against the public well-being and
23 safety, and the ability of Pennsylvanians to
24 own and use firearms should be no different.

25 Myth number 2. Gun regulation

1 violates the Pennsylvania Constitution. Also
2 not true.

3 While it is true that our state
4 constitution gives us the right to bear arms in
5 defense of ourselves and the Commonwealth, the
6 Pennsylvania Supreme Court more than a century
7 ago made clear that that right must be balanced
8 against the concerns of public safety. That's
9 Wright versus Commonwealth. That doctrine was
10 most recently affirmed in Lehman versus
11 Pennsylvania State Police, which was decided in
12 2003.

13 To suggest that the General Assembly
14 is precluded from regulating handgun purchases
15 ignores the fact that we currently do regulate
16 handgun purchases.

17 In Pennsylvania, felons are
18 prohibited from legally purchasing and
19 possessing firearms. In Pennsylvania, people
20 under 21 may not purchase handguns. In
21 Pennsylvania, anyone who buys a gun must
22 undergo a background check. We do regulate
23 handguns in Pennsylvania, even if the current
24 regulations are ineffective in preventing death
25 and disaster.

1 Myth number 1. Our guns keep us
2 free.

3 As a student of history, I understand
4 that the United States was begun with an armed
5 rebellion. As an attorney, I understand
6 individual rights to gun ownership bear an
7 important role in society. As a parent, I
8 understand the importance of being able to
9 defend one's family against all manners of
10 harm.

11 But here in Pennsylvania where we've
12 not had a legislative vote on a gun law in a
13 decade; where the pro-gun violence lobby has
14 held sway to the point that this week one of
15 its members felt empowered enough to suggest
16 inside this building that a lawmaker be killed
17 for advocating more gun regulation, we are far
18 from free.

19 We are all being held hostage by a
20 small gang of thugs who have hoodwinked the
21 General Assembly into thinking that we cannot
22 and should not do more to prevent handgun
23 violence from ruining our lives and our
24 Commonwealth.

25 CeaseFire PA sees a brighter future

1 than that, one in which all children are able
2 to reach their schools in safety; where youth
3 do not arm themselves in fear of being killed
4 for looking at a peer the wrong way; where jobs
5 in the lawful marketplace pay more than the
6 illegal handgun traffickers do.

7 On behalf of CeaseFire PA and our
8 colleagues, I thank the House Judiciary
9 Committee for its time and attention today. We
10 look forward to working with you all to
11 increase understanding of and support for one
12 handgun per month, and will be happy to answer
13 any additional questions you may have.

14 CHAIRMAN CALTAGIRONE: Counsel, Rod.

15 MR. COREY: Thank you for coming to
16 testify today, Executive Director. Something
17 in your myth number 1 struck me and I'm
18 actually going to take issue with it.

19 Perhaps you're unaware of House Bill
20 1717 of last session which was co-sponsored by
21 many members of the House Judiciary Committee,
22 had wide bipartisan support.

23 The House worked on this legislation
24 for over several years and we sat at the table
25 with the Pennsylvania Coalition Against

1 Domestic Violence, the NRA, The Pennsylvania
2 Federation of Sportsmen's Club, the Allegheny
3 Sportsmen League, the Pennsylvania Sportsmen
4 Association, Firearms Owners Against Crime, and
5 various other interest groups to craft
6 groundbreaking legislation to protect victims
7 of domestic violence, while respecting the
8 rights of law-abiding gun owners.

9 This bill created new penalties for
10 violations of a protection from abuse order.
11 It gave our judges discretion to order
12 relinquishment of firearms. It created certain
13 new rules on storage of those relinquished
14 firearms with serious criminal penalties for
15 violations.

16 The bill passed the House
17 unanimously and signed into law, so to
18 characterize the actions of the Pennsylvania
19 legislature as not having a vote on gun laws
20 over 10 years is just emphatically incorrect.

21 MS. EDBRIL: Well, I would just like
22 to clarify. I think that what I have should
23 have said was a stand-alone gun bill.

24 I believe that the protection from
25 abuse amendments that did pass with wide

1 support, as I am aware, really was a piece of a
2 much broader package of legislation that
3 addressed far more than firearms in the context
4 of domestic violence.

5 So, I mean, if we want to parse
6 words, certainly that was an incorrect
7 statement. But I think as far as a stand-alone
8 gun bill goes, I stand by my testimony.

9 MR. COREY: Well, I think it's
10 incorrect to devalue the changes made to our
11 gun laws as part of that package. Somehow that
12 they don't have the same value as a stand-alone
13 piece of legislation, the end result is still
14 the same, significant new restrictions on gun
15 laws in the context of domestic violence.

16 And I just wanted to clarify for the
17 record the valued work of the Pennsylvania
18 Coalition Against Domestic Violence, all the
19 other groups involved and the valued work of
20 bipartisan legislators who signed on as
21 co-sponsors and have voted for this
22 legislation.

23 MS. EDBRIL: Well, CeaseFire PA
24 certainly believes that that was important
25 legislation and we embraced it as well as the

1 effort that went into ensuring its passage. I
2 will note, however, that even the best
3 protection from abuse order and even the best
4 and most carefully crafted legislation that was
5 passed by this body a couple years ago that
6 you've discussed will not keep a determined
7 domestic abuser from being able to obtain a
8 handgun through the illegal channels that we
9 know to exist currently across the state.

10 CHAIRMAN CALTAGIRONE: Thank you for
11 your testimony. Go ahead.

12 REPRESENTATIVE GABIG: Thank you,
13 ma'am, for your testimony. And you obviously
14 have a lot of heartfelt, strong feelings about
15 this. I think you did handle yourself in a
16 relatively professional way.

17 But I thought some of the terms you
18 used were a little strong. When you talk about
19 pro-gun violence lobby and a gang of thugs and
20 a pro-gun violence mob here, I'm not sure who
21 the --

22 You know, the NRA is a group that is
23 on the other side of this issue, as you
24 probably well know. I saw the majority leader
25 of the House on Tuesday with an NRA hat in the

1 mean, saying the Second Amendment is
2 meaningless and let's just get rid of it, and
3 it has no meaning and no purpose -- The Fourth
4 Amendment, are we in favor of going into
5 Philadelphia and searching without search
6 warrants kids between 14 and 23, or whatever,
7 without any cause just to see if they have any,
8 quote unquote, illegal guns? Or are we going
9 to throw the Fourth Amendment out there because
10 we have this terrible problem in Philadelphia?

11 I mean, I know there are people from
12 Philadelphia that represent that city and
13 they're doing a great job. But we're not going
14 to just throw the Fourth Amendment out because
15 we're going to have to deal with this.

16 You know, there are people on both
17 sides of the abortion issue, for example. Are
18 we going to have one abortion a year, or one
19 abortion a life for a person, restrict that?
20 That's not even in the Bill of Rights. That's
21 something that a court came up with.

22 So I think when you're talking about
23 restricting law-abiding citizens that want to
24 fight criminals and you want to put criminal
25 obligations on them, and if they would cross

1 over this regulation that you have, that did
2 nothing wrong or nothing illegal, wasn't
3 involved with any of these things and make them
4 criminals all of a sudden, people have concern
5 about that. In my district they have a lot of
6 concern about where we're going, trying to
7 fight supposedly crime by taking away rights of
8 law-abiding citizens.

9 So, I appreciate you presenting the
10 other side of it, and I appreciate your, what I
11 consider to be professional approach with a
12 couple of maybe rhetorical flares. You can
13 respond if you will.

14 MS. EDBRIL: Well, I certainly was
15 not dismissive of the Second Amendment. I
16 recognize what it has been interpreted to
17 afford to Americans. And as an attorney and a
18 person sworn to uphold the Constitution, I
19 embrace what the Second Amendment says.

20 But, the Second Amendment says we
21 have the right to a well-regulated militia.
22 And what is increasingly happening across the
23 streets of our Commonwealth is an
24 unregulated --

25 REPRESENTATIVE GABIG: I will take

1 all that back. Look at the Pennsylvania
2 Constitution, the right to bear arms. Take a
3 look at that. I know you're from New York, but
4 it is clear that Pennsylvanians under our
5 Constitution have the right to bear arms for
6 not just hunting or militias, but to defend
7 themselves.

8 MS. EDBRIL: But the Supreme Court of
9 Pennsylvania has also clearly both a hundred
10 years ago and four years ago said that that
11 right is not absolute; that that right is
12 balanced against the public interest. And the
13 fact is, that we do regulate possession of
14 firearms for public-safety purposes. We do
15 make it unlawful for criminals to buy handguns.
16 We do make it unlawful for people under 21.

17 REPRESENTATIVE GABIG: Nobody is
18 arguing with that. You want to make more
19 crimes on top of what we already have. And
20 I'll take myth number 11, one gun a month is
21 not going to save one person's life in
22 Pennsylvania. You pass that, all that's going
23 to do is put more burden on law-abiding
24 citizens. It will not affect the homicide rate
25 in Pennsylvania.

1 MS. EDBRIL: Well, with all due
2 respect, Representative Gabig, we do beg to
3 differ. We believe that we have carefully
4 crafted a piece of legislation that's --

5 REPRESENTATIVE GABIG: Give me some
6 evidence. Where is the evidence for this?
7 There's no evidence that one gun a month
8 reduces crime rate.

9 MS. EDBRIL: One handgun per month
10 was shown to be effective in reducing the
11 number of crime guns used that originated from
12 the State of Virginia throughout the northeast.
13 So, they looked at crime rates, they looked at
14 source states of crime guns prior to the
15 passage of Virginia's one-handgun-per-month
16 law, and then subsequent to it. And what they
17 saw was an over 60-percent drop in the number
18 of crime guns that originated from the State of
19 Virginia that were used in other states which
20 have tougher gun laws in the crimes that
21 occurred in those states.

22 So gun traffickers prior to the
23 passage of this legislation would go to
24 Virginia, acquire many, many handguns, take
25 them back to New York, take them back to

1 Massachusetts, all up and down the East Coast
2 and throughout the country. And prior to the
3 passage of Virginia's one-handgun-per-month
4 law, the rates at which guns got traced back to
5 Virginia was very high. Looking at the
6 statistics three years after --

7 REPRESENTATIVE GABIG: I said the
8 homicide rate. That's what we're ultimately
9 concerned about, how many people are going to
10 be killed? You're talking about trafficking,
11 et cetera. It hasn't reduced the homicide
12 rate, which is my understanding what we're all
13 interested in trying to do.

14 MS. EDBRIL: Well, in New York the
15 homicide rate per capita is far lower than it
16 is in Pennsylvania, and New York does have
17 tougher handgun laws. Pennsylvania is the
18 number 1 state -- Philadelphia is the
19 number 1 big city in the U.S. in terms of
20 handgun homicide rates, number 1. We also have
21 the weakest gun laws here in Pennsylvania.

22 When you compare internationally, as
23 I believe Colonel Miller touched on, other
24 nations that have tougher gun laws have far
25 lower handgun homicide rates, far lower

1 firearm homicide rates. There is no debating
2 that access to firearms, that widespread access
3 through a relatively unregulated market puts
4 more handguns into the wrong hands.

5 REPRESENTATIVE GABIG: All right.
6 Here's a piece of evidence that was in the
7 Philadelphia Inquirer, September 27th of 2006
8 I'm told. Last year all three one-gun
9 states -- one-gun-a-month states had homicide
10 rates above the national average. Now, that's
11 a piece of empirical evidence. And what I'm
12 saying is, I have seen no evidence that one gun
13 a month does anything to reduce the homicide
14 rate.

15 Philadelphia might have some issues,
16 I don't know. It's called the City of
17 Brotherly Love. You know, maybe they're going
18 through some issues, I don't know. But one gun
19 a month in Pennsylvania is not going to do
20 anything to reduce the homicide rate in
21 Philadelphia. Nothing.

22 Maybe more police, maybe stronger
23 enforcement, maybe tougher judges, I don't
24 know. But one gun a month is not the solution.
25 But we can go back and forth, and I know we're

1 running behind.

2 Thank you very much, Mr. Chairman.

3 CHAIRMAN CALTAGIRONE: Thank you. I
4 appreciate your testimony.

5 MS. EDBRIL: Thank you very much,
6 gentlemen.

7 CHAIRMAN CALTAGIRONE: We'll next
8 hear from John Hohenwarter, NRA state liaison.

9 MR. HOHENWARTER: Good afternoon. My
10 name is John Hohenwarter. I'm the lobbyist for
11 NRA in the State of Pennsylvania. I'm here
12 representing more than 250,000 NRA members in
13 the state. I want to thank Chairman
14 Caltagirone, Chairman Marsico, and the rest of
15 the members for giving me the opportunity to
16 testify today.

17 Well, I'm probably going to totally
18 confuse you after that last testimony, but I
19 can tell you this, there's no organization that
20 is more concerned about the criminal misuse of
21 firearms than the National Rifle Association of
22 America. And nobody is more committed than we
23 are to keeping guns out of the hands of
24 criminals. That's, obviously, in our best
25 interest.

1 However, the issue is whether you
2 believe you're more likely to keep guns and
3 criminals apart with new laws or existing laws
4 you enforce.

5 We as gun owners believe that freedom
6 should never be diminished by those who abide
7 by the law. On the contrary, freedom should be
8 diminished only for those who break the law.
9 And that's the principle by which we stand
10 opposed to many of laws which have been
11 suggested and proposed during the hearings that
12 recently took place across the state.

13 For example, we oppose
14 one-gun-a-month schemes that would restrict
15 law-abiding citizens from exercising their
16 Second Amendment rights more than once a month.
17 This type of legislation is feel good, not good
18 legislation, and it will not help get illegal
19 guns off our streets. It will only serve as a
20 roadblock to the legal purchase of a firearm by
21 a law-abiding citizen of Pennsylvania.

22 And if there is authority to say one
23 gun a month, there will eventually be authority
24 to say none. However, I will say this, we do
25 believe that felons should get zero guns a

1 month.

2 House Bill 22 would forge little new
3 ground in the Commonwealth. Regulations
4 instituted by the Bureau of Alcohol, Tobacco
5 and Firearms require licensed firearm dealers
6 to file multiple purchase reporting forms with
7 the agency that document the sale to an
8 individual of more than one handgun in a 30-day
9 period.

10 These regulations became lawful with
11 the Firearm Owner's Protection Act of 1986.
12 And in 1994, the Clinton crime bill later
13 mandated that the multiple purchase form also
14 be sent to the local chief of police or
15 sheriff.

16 It shouldn't be surprising, though,
17 that there's so little evidence for the
18 effectiveness of these gun-rationing laws,
19 since there are several better programs in
20 place that help prevent the purchase of guns
21 for illegal interstate trafficking.

22 Again, the BATF multiple purchase
23 reporting forms already alert BATF about every
24 multiple handgun sale, and BATF and local law
25 enforcement can use these forms to focus on

1 genuinely suspicious transactions, meaning,
2 such as repeated large quantity purchases of
3 firearms by an individual, which we've been
4 hearing all morning.

5 In addition, the National Shooting
6 Sports Foundation federally funded "Don't Lie
7 For The Other Guy" firearms dealer education
8 program help dealers detect straw purchasers
9 who may be acting as a surrogate for someone
10 who is legally barred from gun ownership. And,
11 of course, every single retail purchase of any
12 kind of firearm in Pennsylvania requires you to
13 go through the PIC System, which is one of the
14 best instant check systems in the country.

15 You know, oddly enough, the
16 Philadelphia Inquirer's senior writer, Larry
17 Eichel, echoed the ineffectiveness of these
18 gun-rationing proposals last September, and I
19 believe you referred to this article earlier.

20 The article, he entitled it was,
21 Evidence Scant On the Effectiveness of One-Gun
22 Laws. Now, you're talking about the
23 Philadelphia Inquirer, who, for the last two
24 years has practically had an article in every
25 week touting one gun a month. Last September

1 they printed this article.

2 This article cites -- Eichel cites a
3 study published last year in the journal,
4 Injury Prevention, which found that laws
5 restricting purchases had no measurable impact.
6 The study was done by a team of doctors from
7 the University of Washington using data from
8 1979 to 1998.

9 I'd like to go on to say that, South
10 Carolina has repealed their one gun a month.
11 Virginia is looking at getting rid of their one
12 gun a month. It's not supported by many of the
13 politicians, as well as the attorneys in the
14 State of Virginia because of its
15 ineffectiveness.

16 NRA also opposes any lawmaking that
17 would make criminals out of victims. Under
18 House Bill 29, law-abiding citizens would face
19 criminal penalties simply because they were the
20 victim of a crime and did not report stolen
21 property. We believe this is fundamentally
22 wrong, and there is very little evidence to
23 suggest that this proposal would have any
24 positive effect in reducing crime because
25 stolen firearms would not be identified until

1 after the crime had taken place and the weapon
2 had been recovered.

3 We stand opposed to mandatory storage
4 requirements for firearms that impose an
5 intrusive, one-size-fits-all mandate on
6 law-abiding citizens. In fact, House
7 Bill 20 should be labeled, the Burglar
8 Protection Act of 2007 because it virtually
9 renders firearms useless in the home for
10 personal protection of self and family.

11 This legislation also raises
12 important constitutional questions. In fact,
13 many legal minds contend that the penalty
14 provisions of this bill are indeed
15 unconstitutional, because the severity of the
16 penalty depends upon the actions of the minor
17 who obtains the firearm and not upon the
18 actions of the offender.

19 Contrary to the impression that one
20 easily gets from reading their newspaper or
21 watching their television, firearm accidents in
22 the United States are not an increasing problem
23 but a decreasing problem. Much of the steady
24 decrease in the rate of accidental firearm
25 deaths over the past 50 years is due to firearm

1 safety training. This legislation is not aimed
2 at preventing accidents among children. Its
3 provision only becomes forceable after someone
4 is injured or killed.

5 It has been proven that the best way
6 to prevent accidents among children is through
7 education programs such as the NRA Eddie Eagle
8 Gun Safety Program, which has been taught to
9 over 10 million children nationwide and has
10 been adopted by the FBI for its home firearms
11 safety program.

12 However, to my dismay, this program
13 is only being utilized by a small percentage of
14 the school districts in the State of
15 Pennsylvania. In fact, in Ohio two years ago,
16 Ohio felt that it was so important, the Eddie
17 Eagle Program, that they funded the program for
18 the school districts to the amount of
19 \$50,000 in which school districts could apply
20 to the state to receive monies to buy some of
21 the materials needed for this program.

22 I know what you're thinking, after
23 listening to all this, what can we do as
24 legislators to stop urban violence and make
25 Pennsylvania a safer place? Well, the answer

1 is simple. You as elected officials must
2 insist on zero tolerance for the criminal
3 misuse of firearms. That means:

4 Zero tolerance for criminals who
5 bring guns illegally onto school property. We
6 must insist that our schools be as safe as our
7 airports;

8 Zero tolerance for criminals who sell
9 guns illegally;

10 Zero tolerance for drug dealers who
11 possess guns illegally;

12 Zero tolerance for criminals who use
13 a gun in the commission of a crime;

14 And zero tolerance for those juvenile
15 gang members caught carrying guns.

16 That's right, zero tolerance
17 prosecution for criminals who use guns in a
18 commission of a crime has proven to save lives.
19 Project Exile, a zero tolerance prosecution
20 project that began in Richmond, Virginia,
21 proved that murder and gun crime can be cut by
22 almost a third overnight. District attorneys
23 say they have never seen a program have such a
24 dramatic and immediate effect on criminal
25 violence.

1 And here's why it works: Relentless,
2 no discussion, no excuses prosecution. Any
3 violent felon caught with a gun, whether he's
4 raping or resting goes to jail, period, end of
5 story. This sends a clear message to criminals
6 that we've all heard before, if you can't do
7 the time, don't do the crime.

8 In 2004, the City of Pittsburgh took
9 up a similar program in cooperation with the
10 U.S. Attorney's Office. In 2003, only
11 38 defendants were tried on federal firearm
12 charges in the city. However, in 2004, with
13 the help of funding from the Justice
14 Department's Project Safe Neighborhoods
15 program, the U.S. Attorney's Office prosecuted
16 four times as many defendants on federal
17 charges. This increase in gun prosecution
18 coincided with a 38 percent drop in homicides
19 in Pittsburgh.

20 Pittsburgh Police Deputy Chief
21 William Mullen was quoted in the Pittsburgh
22 Tribune Review saying, that drug dealers aren't
23 carrying guns as much as they used to because
24 they don't want to get caught with it. Mullen
25 also recognized in this article that the effort

1 to increase prosecution contributed to the
2 decline in homicides in Pittsburgh.

3 In a recent letter to the editor
4 published in the Philadelphia Inquirer--This
5 was just, oh, about a month ago--by Joseph Fox,
6 who is Chief of Detectives in the Philadelphia
7 Police Department, he wrote a letter to the
8 editor, which surprisingly it was published.
9 Let me quote what Detective Fox said in that
10 article.

11 And I quote: We have to stop
12 pointing the finger everywhere but at the very
13 people who prey on us each day. Over time we
14 have allowed our value system to erode. We
15 refuse to hold people accountable for their
16 actions and constantly make excuses for their
17 inexcusable behavior. This incessant cry for
18 tougher gun laws is a good example. Until
19 we're ready to strictly enforce the current
20 laws, there is no reason for tougher ones.

21 Last year the Pennsylvania General
22 Assembly funded \$5 million to the Pennsylvania
23 Attorney General's Office for 2006-2007 to
24 create this special task force, and it was
25 mentioned briefly earlier about this program.

1 You know, they're working with the Philadelphia
2 D.A., they're working with the state police,
3 they're working with the Philadelphia Police
4 Department and the program is going quite well.

5 In fact, there is a recent press
6 release by Lynn Abramham that actually talks
7 about some recent prosecutions. She goes on to
8 talk about how the program was set up. She
9 says, still only partially staffed, the task
10 force has opened more than 70 investigations
11 already, made many arrests, blah, blah, blah.
12 To get down to the meat of this, they had just
13 arrested 14 individuals down in Philadelphia,
14 have got warrants for their arrests.

15 This individual--I won't say the
16 name--he was arrested for false statements in
17 connection with firearm purchases, felony of
18 the third degree, 10 counts; another
19 individual, transfer of a firearm violation, a
20 misdemeanor of the second degree, five counts;
21 transfer of a firearm to an ineligible person,
22 felony of the third degree, five counts;
23 another individual, statements in connection
24 with the firearm purchases, felony of the third
25 degree, four counts. This list goes on and on.

1 This program just started in
2 Philadelphia, and I was glad to see the General
3 Assembly put up the money for the program.
4 It's working. I mean, Pennsylvania needs this,
5 and the country needs more of it. This is the
6 type of law, type of program that reduces
7 crime.

8 Now, in conclusion, I would ask the
9 Pennsylvania legislature not to follow in the
10 footsteps of a few states that have reduced
11 lawmaking to a pure political theater. You as
12 legislators need to speak out against this type
13 of ineffective lawmaking and demand the money,
14 the manpower to enforce laws already on the
15 books before making more for the courts and
16 prosecutors to ignore.

17 This made-for-TV lawmaking has the
18 same effect on the population as made-for-TV
19 violence. It may entertain us, but ultimately
20 harms us and it's dangerous because criminals
21 are emboldened by a government that
22 manufactures laws that are never enforced.

23 We must ask the press that is here
24 today to do their job. Demand probing,
25 investigative journalism that shines the cold

1 light of day upon this fraudulent process.
2 Please demand accountability about who's
3 enforcing the law and who's not, why not, and
4 who is paying the price. Remember that fraud
5 diminishes freedom. If a law is important
6 enough to pass, it's important enough to
7 enforce.

8 I would like to leave you today with
9 one final thought, and this goes back to
10 Benjamin Franklin who said this many years ago.
11 And I quote: A nation cannot gain safety by
12 giving up freedom. This truth is older than
13 our country. Those who would give up essential
14 liberty to purchase a little temporary safety,
15 deserve neither liberty nor safety.

16 I thank you for your time and the
17 invitation to testify today. I would be happy
18 to answer any questions.

19 CHAIRMAN CALTAGIRONE: Thank you,
20 John. Representative Gabig.

21 REPRESENTATIVE GABIG: Thank you, Mr.
22 Chairman.

23 I appreciate your testimony in
24 bringing those law enforcement and
25 prosecutorial strategies that going on in other

1 states and in different parts of our state that
2 are effective. I think that's a very positive
3 way to address this violence issue.

4 I would like to ask two things. We
5 heard from the prior speaker about an incident
6 that occurred here. There was a very positive
7 rally, pro-Second Amendment rally here at the
8 Capitol. And as I understand from the e-mails
9 that I received from one of the organizers of
10 that rally, there were two people who have been
11 identified that had a sign that's been
12 condemned on the floor of this House. And I
13 just wanted to give -- Have you heard about
14 that? That was the lynch, one of our members,
15 on the tree of liberty poster or sign that was
16 there. I just wanted to give you an
17 opportunity to make any remarks about that.

18 MR. HOHENWARTER: I am familiar with
19 that and it is a shame. It was a very nice
20 event that was put on, four or 500 people
21 showed up. And, of course, you cannot control
22 everybody who comes to those events. And
23 that's some of the problems with rallies.

24 I mean, you've seen many rallies
25 here, you know, in Pennsylvania with many

1 derogatory signs, and that being one of them.
2 More or less it's just a part of rallies.
3 They're tough to control, and it doesn't matter
4 what special interest group you are, or what
5 association, any time you bring that many
6 people into Harrisburg you can't control. It's
7 just a shame it had to happen that day because
8 it was such a nice event.

9 CHAIRMAN CALTAGIRONE: Chairman
10 Marsico.

11 REPRESENTATIVE MARSICO: Thank you,
12 Mr. Chairman. Good morning, John. Thanks for
13 being here.

14 Several years ago I was involved with
15 the Eddie Eagle program through one of my
16 constituents who, unfortunately, has now passed
17 away several years ago. You're saying in your
18 statement here that many of the school
19 districts have not funded or even brought up
20 the Eddie Eagle program, which is a terrific
21 program to teach children about the safety of
22 firearms, et cetera.

23 What do you suggest that we do here?
24 What can your organization do to help promote
25 the Eddie Eagle program throughout

1 Pennsylvania?

2 MR. HOHENWARTER: Obviously, Chairman
3 Marsico, we would love to see that program
4 promoted. Obviously, it does take money. I
5 mean, NRA does offer materials to a certain
6 extent. But with the program that they were
7 putting together in Ohio, obviously, there's
8 going to be quite a large budget. The State of
9 Ohio thought it was important enough to help
10 throw some funding into that program in which
11 these schools could apply for grants.

12 So, I think it's something I would
13 love to see the legislature sit down with the
14 Governor's office and let's put some money up
15 and let's get these programs going in
16 Pennsylvania. I mean, accidental --

17 Despite what you're hearing today
18 and despite what you may have heard across the
19 state over the last several months, accidental
20 firearm deaths are almost at an all-time low.
21 It's a quarter of what it was back in the
22 '40's, one-fourth. Violent crime is at an
23 all-time low in this country, despite what
24 you're hearing here today.

25 And I know you've heard reference to

1 these countries that have passed some of the
2 laws that we're talking about, that they have
3 decreased crime. Absolutely not true. In
4 fact, in a lot of those countries crime rate
5 has gone up. In some of, you know, these
6 countries it has gone up immediately.

7 So again, don't -- You need to gather
8 the evidence, take a look at the evidence. Is
9 Philadelphia problematic at this point? You
10 know, absolutely. Over the last couple years
11 the crime rate in Philadelphia has rose, but
12 keep in mind, 20 years ago murder in
13 Philadelphia was a lot higher than what it was
14 last year. I think a number of the people
15 forget these facts.

16 You know, Philadelphia I think needs
17 to step up and address some of these problems
18 through -- The NRA Eddie Eagle program is a
19 great program to start in Philadelphia to avoid
20 prevent accidental accidents. They need to
21 take a look at some of the social problems
22 within that city.

23 I mean, what you're seeing here
24 today in these proposals are proposals
25 basically to address a few city blocks in this

1 state, and I think it's just wrong.

2 REPRESENTATIVE MARSICO: Is Eddie
3 Eagle still available for parents?

4 MR. HOHENWARTER: Oh, sure. We can
5 get him in here. He still goes around. In
6 fact, I know there was -- I'm trying to think,
7 this goes back a couple years ago, but I think
8 Senator Fumo was actually trying to get the NRA
9 Eddie Eagle program going down in Philadelphia,
10 and it kind of died out here over the last year
11 or two.

12 REPRESENTATIVE MARSICO: Well,
13 whatever we can do to help with that, I'm --

14 MR. HOHENWARTER: I'll be happy to
15 share with you some of the legislation that
16 passed out in Ohio. Maybe we can put it in
17 this year's budget.

18 REPRESENTATIVE MARSICO: Thank you,
19 Mr. Chairman.

20 CHAIRMAN CALTAGIRONE: Representative
21 Mantz.

22 REPRESENTATIVE MANTZ: Thank you very
23 much for your testimony, Mr. Hohenwarter. I'm
24 particularly intrigued by one section of your
25 testimony. Perhaps you will be in a position

1 to comment further and enlarge upon one remark
2 that you made, and that was pertaining to House
3 Bill number 22.

4 It says: This proposed House bill
5 would give little new ground -- forge little
6 new ground in the Commonwealth. Regulations
7 instituted by the Bureau of Alcohol, Tobacco
8 and Firearms require licensed firearms dealers
9 to file multiple purchase reporting forms with
10 the agency to document any such multiple sales
11 to an individual of more than one handgun in a
12 30-day period. These regulations became lawful
13 with Firearms Owner's Protection Act of 1986.

14 And you further go on to say that,
15 in 1994, the Clinton crime bill later mandated
16 that the federal multiple purchase form also be
17 sent to the local chief of police or sheriff.

18 Now, my question is, what has been
19 the prosecutorial consequences of that
20 regulation, if any? Has there been a law to
21 make it criminal not to make such reports?

22 MR. HOHENWARTER: Well, that's a very
23 good question, Representative. As far as what
24 the reports on the local level, in this state
25 the sheriff department and the chief of police

1 shame on you. Fool me twice, shame on me.
2 This individual, you go back twice and he's
3 reporting that his firearms have been stolen,
4 guess what? This guy is no good and you should
5 be investigating this guy. It's just not being
6 done.

7 It could be manpower, it could be
8 money. It may very well be manpower. And if
9 that's the case, I think this Governor and
10 members of this General Assembly need to step
11 up to the plate and let's put some money on the
12 table and let's increase cops on the street in
13 Philadelphia.

14 You know, I sat at a hearing down in
15 Philadelphia where Sylvester testified, Chief
16 of Police Sylvester Johnson testified that
17 putting more cops on the street in Philadelphia
18 will not reduce crime. Well, that goes against
19 everything I ever heard about crime fighting
20 and reduction of crime. But he sat there in
21 front of the Senate Judiciary Committee last
22 year and made that statement.

23 Let's put the cops on the streets in
24 Philadelphia, let's give the money to
25 prosecutors to go after these individuals.

1 I'm told that an average case the prosecutor
2 has about an hour to spend on a case down in
3 Philadelphia, an hour. So they're looking at
4 plea bargaining, they're looking at at least
5 getting something on this guy. The majority of
6 the people who are committing crimes in
7 Philadelphia, 80 percent of them are repeat
8 offenders that are taken in and given a slap on
9 the wrist and thrown back out on the streets of
10 Philadelphia.

11 And I think the detectives, the chief
12 of detectives down in Philadelphia, Fox just
13 nailed it. We need to start throwing the books
14 at these people and quit making the excuses.
15 So, that's a long answer to your question.

16 REPRESENTATIVE MANTZ: Is this
17 primarily -- Are there federal criminal
18 penalties prescribed for violation of these --

19 MR. HOHENWARTER: Absolutely. These
20 are felony penalties we're talking about.

21 REPRESENTATIVE MANTZ: Then they have
22 to be prosecuted by federal prosecutors.

23 MR. HOHENWARTER: Well, we've raised
24 these penalties in Pennsylvania, the federal
25 penalties as well. I mean, the penalties are

1 there. I mean, there's a couple maybe places
2 here and there, we may be able to raise some of
3 these standards to felonies, but if you're not
4 going to prosecute under these provisions, it
5 does little good. Criminals, if they know --

6 The bottom line is, if they know
7 they're going to get automatic five years,
8 you're a gang member and you're walking down
9 the street, not committing a crime and you pull
10 this guy over to the side and he has a gun; if
11 he knows he's going to be drug into court and
12 given mandatory five, do you think his friends
13 aren't going to think twice about going down
14 the street the next day with a firearm? I
15 mean, it's common sense. You need to go after
16 these folks.

17 REPRESENTATIVE MANTZ: And in your
18 opinion this is not being done?

19 MR. HOHENWARTER: It's absolutely not
20 being done.

21 MR. RYAN: Basically what you're
22 saying is, the prosecutors and the police in
23 the Commonwealth are large failures?

24 MR. HOHENWARTER: Well, I'm saying
25 they're failing to prosecute criminals under

1 these provisions that have been given to them
2 by the legislature for one reason or another,
3 whether it's monetary, whether it's time.
4 Absolutely, there's a failure to prosecute
5 criminals in Pennsylvania under these laws,
6 absolutely.

7 MR. RYAN: We've had a five-year
8 minimum mandatory for years, and we've had
9 nothing but an increase in the number of people
10 in jail and we've had an increase in general
11 violence crime that was put out. So what
12 you're saying is, generally, the prosecutors in
13 this state are failing the people of this state
14 by not properly doing their jobs.

15 MR. HOHENWARTER: Absolutely, they
16 are not -- They are cutting deals.
17 Philadelphia is a classic example. I mean,
18 there's 2,000 -- well, over 2,000 outstanding
19 warrants in the City of Philadelphia right now,
20 2,000.

21 I mean, Philadelphia cannot come
22 into Harrisburg and ask for gun control laws
23 the way they're handling that city. And I
24 think it's embarrassing that they're in here
25 asking for more. That's not the solution to

1 their problem.

2 Again, as I said in my testimony,
3 this is feel-good legislation, not good
4 legislation.

5 MR. RYAN: In effect, the increase in
6 penalties in these mandatory minimums really
7 haven't had any effect over the years either.

8 MR. HOHENWARTER: They haven't
9 because they're not giving them to them. I
10 mean, they are not prosecuting them. A lot of
11 this does have to do with money and time and
12 the amount of prosecutors. It takes money and
13 I understand that.

14 If you're averaging an hour a case,
15 of course, you're going to be looking to cut a
16 deal. But, you know, Pennsylvania suffers
17 because of it. And Philadelphia, if you take a
18 look at the Pennsylvania crime rate -- And most
19 violent crime across the board in Philadelphia
20 represents 50 percent of violent crime in
21 Pennsylvania, and they represent 12 percent of
22 the population. So there is, obviously, a
23 problem in Philadelphia.

24 MR. RYAN: It is in other towns too.
25 Reading, unfortunately, where I spend time has

1 some of the similar problems. The number of
2 homicides over the years and everything else
3 have increased substantially.

4 Another technical term is, under the
5 federal statute, if you go into a gun store and
6 buy more than one gun on a day, you're
7 reported, right?

8 MR. HOHENWARTER: Correct.

9 MR. RYAN: But if I go into five
10 different gun stores and buy a gun in each
11 store, I'm not reported.

12 MR. HOHENWARTER: You may get around
13 the system by doing that.

14 MR. RYAN: Yes. One of the things
15 that, you know, at least one gun a month in
16 purchasing does, when we go in to do the
17 instant check, that person can go around now in
18 the federal system and buy one gun every day,
19 30 guns in 30 different gun stores; couldn't --

20 MR. HOHENWARTER: Well, there is a
21 record of sale. Well, yes and no. I mean, a
22 lot of folks do not support this, but the state
23 police do have what's called a record of sales.
24 So if an individual does go around to five
25 different gun shops, they are getting that

1 information. They're just not getting it on
2 the federal form. Are they using that? No.

3 MR. RYAN: We can't computerize that,
4 though, and we can't --

5 MR. HOHENWARTER: Well, as far as I
6 know it is computerized over at the state
7 police. I think if you ask the commissioner of
8 the state police, that data is entered for --
9 That's why a lot of the individuals that were
10 here in Harrisburg this past week are upset
11 with that law; that they've been doing it since
12 the '30's, they have been keeping the record of
13 sale on handgun purchases.

14 So if you do go in and buy five
15 firearms in five different days, the state
16 police is getting that information. Are they
17 doing anything with it? No, probably not.

18 MR. RYAN: They don't do anything
19 with it because they feel that under the law
20 they can't; that it's a technical thing that
21 they're doing from a collection standpoint when
22 they get the data, but they're not supposed to
23 regularly access that information for the
24 purposes you're talking about.

25 MR. HOHENWARTER: No. That's why the

1 state police wants to keep that -- That's why
2 they've been pleading to keep that because they
3 do come out and say that they are using it for
4 criminal investigations. So, that's why
5 they're getting the records. If it wasn't the
6 case, this legislature would have pulled that
7 away from them a long time ago.

8 MR. RYAN: Would you be in favor of
9 the fact that the state police could from an
10 intelligence standpoint cross-reference the
11 purchases of -- purchasers of guns over a
12 particular period of time and identify multiple
13 purchases by some standard to give them
14 investigative leads with that?

15 MR. HOHENWARTER: Well, I have to
16 tell you, our organization is a little leery on
17 the state police here in the last few years.
18 Typically, we have a good working relationship
19 with them, but there's a lot of our members
20 feel that what they're doing right now is a
21 registration by retaining the records of sale,
22 particularly since they're not utilized, so we
23 would have problems with that.

24 MR. RYAN: But BATF, when they do
25 collect this information, they are restricted

1 in what they can do to --

2 MR. HOHENWARTER: They are. I mean,
3 the sheriffs do get the information, but I've
4 never saw any press releases.

5 MR. RYAN: Ironically, they're not a
6 primary law enforcement agency.

7 MR. HOHENWARTER: Right. That's
8 right.

9 MR. RYAN: Thank you.

10 MR. HOHENWARTER: You're welcome.

11 CHAIRMAN CALTAGIRONE: Representative
12 Gabig.

13 REPRESENTATIVE GABIG: Thanks. You
14 just rattled off some statistics. I wanted to
15 make sure that I got them correctly. It was
16 sort of a fast exchange in the last two
17 questioners. Did you say 50 percent of the
18 violent crimes in the state are coming out of
19 Philadelphia?

20 MR. HOHENWARTER: Correct. Many of
21 the violent crime, and I have the statistics
22 here, but that's correct. And most of the
23 violent crime categories, Philadelphia
24 represents nearly, you know, 50 percent in most
25 categories.

1 REPRESENTATIVE GABIG: And how many
2 outstanding warrants did you say they had?

3 MR. HOHENWARTER: Over 2,000
4 outstanding warrants in Philadelphia.

5 REPRESENTATIVE GABIG: That's just
6 astounding.

7 But just to follow up on John's
8 point, you know, in terms of how well we're
9 enforcing the law because people are committing
10 crimes, I mean, law enforcement prosecutes
11 crimes. It doesn't -- It's not out there in a
12 primary preventive mood.

13 The idea is, if you prosecute
14 effectively a criminal, that can deter future
15 crime. Certainly that criminal may, if he gets
16 put into jail, would be deterred for a period
17 of time. So I don't think we can blame law
18 enforcement and prosecutors for crime, which I
19 don't think you were intending to do.

20 But there was one thing that you said
21 about budgets. I was elected here in 2000.
22 2001 was my first term. I think our general
23 fund budget was 19 billion, and it's twenty-
24 seven to 30 billion depending on how you count
25 it now. Under this budget the Governor, whose

1 allies from Philadelphia are supporting a lot of
2 this gun-control stuff at this time and trying
3 to show they're tough on crime because of
4 Philadelphia, cut the state police budget and
5 cut the Attorney General's budget.

6 So how are you going to get down
7 those 2,000 warrants without manpower, without
8 budgets? You've got to go arrest those guys,
9 get them off the street. They could already be
10 convicted, waiting sentence of gun crimes.
11 That takes money to do, that takes personnel to
12 do and programs and projects.

13 So, I think -- Sometimes they say
14 the proof is in the pudding. When the Governor
15 cuts law enforcement and the Attorney General's
16 budget, that sort of shows where this
17 Administration's real commitment to law
18 enforcement or prosecution is in my opinion.

19 So thank you very much, Mr.
20 Chairman.

21 MR. HOHENWARTER: Can I follow up,
22 Mr. Chairman, to that briefly?

23 CHAIRMAN CALTAGIRONE: Sure.

24 MR. HOHENWARTER: No, I think the
25 Governor -- We've been hearing, well, through

1 his whole administration on certain anti-gun
2 initiatives. I think the Governor needs to
3 step up to the plate and let's cough up some
4 money for Philadelphia. This is good stuff. I
5 suggest, look at this press release that Lynn
6 Abraham just did down in Philadelphia.

7 The program that you funded, and it's
8 in the budget as far as I know for this
9 up-coming year, next year, this works. These
10 programs work. It takes money. Instead of
11 five million, you should be giving them
12 10 million down there. They are catching --

13 All of these individuals were either
14 lying when they're buying a firearm or they
15 were straw purchases, or they were selling guns
16 illegally. I think since last fall they have
17 arrested in this program alone through
18 investigations over 20 individuals down in
19 Philadelphia that have had multiple counts of
20 illegal firearms transactions.

21 So, this works. Give them
22 \$10 million. Let's start doing PSA
23 announcements in Philadelphia about this
24 program. They've done it in other cities.
25 They've had budgets for PSA announcements on

1 these types of aggressive programs, billboards.
2 Criminals read that stuff. It gets around in
3 the community, and believe me, it works. They
4 stop buying guns. They stop carrying guns on
5 the streets if they know they're going to jail.

6 MR. COREY: Just for future reference
7 and, John, this may help some of your
8 questions. I know from the Pittsburgh City
9 Police, Detective Bielevicz -- And Joe, if I
10 got your name wrong I apologize. In the
11 Pittsburgh hearing he had a lot to say about
12 how they use their record-of-sale data base for
13 any investigative purposes. I know the state
14 police have already testified, but the
15 detective may be able to help us.

16 MR. RYAN: Is that the ATF data base?

17 MR. COREY: No, that's the
18 Pennsylvania State Police record-of-sale data
19 base.

20 CHAIRMAN CALTAGIRONE: Thank you,
21 John. Is there anything you can share with us
22 about the blue ribbon you had talked about?

23 MR. HOHENWARTER: We had talked about
24 that in the past on a one on one. Another
25 great -- Is anybody familiar--I know you

1 are--with the Blueprint For a Safer
2 Philadelphia? It was put together, I think
3 it's probably been what, four years ago now?
4 And it was put together with civic groups,
5 legislators, law enforcement, just about every
6 shareholder down in Philadelphia was involved
7 in putting together this document. In fact,
8 your Speaker, Denny O'Brien, was very much
9 involved in this.

10 It's a very large report. In the
11 report there's no mention of gun control laws.
12 There's mention of other areas, obviously, to
13 reduce crime in Philadelphia. That being a lot
14 of -- The problem you have in Philly I think,
15 and this is really was summarized in the
16 Blueprint for Philadelphia, you have two key
17 areas that you need to focus on in
18 Philadelphia. One is the bad guys who are
19 already out there.

20 For some reason over the last couple
21 of years in Philadelphia, you have a group of
22 individuals who have reached a certain age that
23 all of a sudden they are bad individuals. It's
24 not because gun laws in Pennsylvania have
25 gotten weak in the last two years. In fact, we

1 have some of the toughest gun laws in
2 Pennsylvania. And crime had been dropping in
3 Philadelphia. So our gun laws have not
4 changed.

5 You have a new group of people down
6 in Philadelphia that are bad individuals that
7 need to be addressed. I think that's what
8 we've been talking about, putting them in jail,
9 prosecuting them.

10 The other side of the coin is, you
11 need to get to, by intervention, these kids
12 that are seven, eight years old. They don't
13 have fathers; they're growing up in broken
14 homes. They're living in very poor areas of
15 the city that really don't stand much of a
16 chance of growing up to contribute to this
17 society. The odds are against them.

18 You know, we need to get into those
19 areas, use some of these programs that were
20 brought out in the Blueprint of Philadelphia
21 and try to stop that eight year old growing up
22 to be a bad 16 year old.

23 These programs cost money, again.
24 It's not going to be done for free. That's the
25 type of intervention that works, and that's

1 what was put in the Blueprint of Philadelphia.
2 I think this General Assembly needs to really
3 take a close look at that and try to adopt some
4 of those programs.

5 CHAIRMAN CALTAGIRONE: Thank you,
6 John.

7 MR. HOHENWARTER: Thank you, Mr.
8 Chairman.

9 CHAIRMAN CALTAGIRONE: Walter
10 Phillips, Chairman, Pennsylvania Commission on
11 Crime and Delinquency.

12 MR. PHILLIPS: Thank you,
13 Representative Caltagirone, and members of the
14 House Judiciary Committee for inviting me to
15 speak here today.

16 In Pennsylvania last year, guns
17 claimed the lives of almost 700 people. That's
18 four times as many people as were killed in
19 Oklahoma City bombing.

20 Already this year, the lives of over
21 100 Philadelphians have been lost to gun
22 violence, 10 just last weekend. But it's not
23 just Philadelphia. No major town in
24 Pennsylvania has been free of gun violence.
25 This is unfathomable and it's tragic.

1 I've heard people say that it's just
2 drug dealers shooting one another, so why
3 should we care. It's not just drug dealers
4 getting shot. It's a mother of four who was
5 killed while trying to protect her children
6 from a barrage of gunfire taking place on the
7 streets near her home. It's a man in his
8 bedroom getting ready for work on Easter Sunday
9 when he was struck in the head by a stray
10 bullet from a shootout taking place outside his
11 home.

12 I'm here today as both the chairman
13 of the Pennsylvania Commission on Crime and
14 Delinquency, and as a former state and federal
15 prosecutor for close to 10 years to encourage
16 you to pass meaningful laws that would curb
17 these out-of-control gun violence.

18 It's going to take a vast change in
19 our culture. This means measures to reduce the
20 poverty and hopelessness that often fuel the
21 violence, and measures to create opportunities
22 for employment, education, housing and economic
23 development.

24 It's going to take prevention
25 programs that teach young people how to resolve

1 conflicts peacefully, not with weapons. It's
2 going to take strong response from the police
3 and the entire judicial system to make sure
4 that violent offenders are removed from
5 society, away from the communities they
6 terrorize.

7 But it's also going to take bold
8 measures by you, our legislators, to enact laws
9 that would reduce the number of illegal
10 firearms available on the streets.

11 I realize that any kind of gun
12 control legislation will spark enormous
13 opposition from certain sportsmen's
14 organizations. The NRA wields tremendous power
15 in the halls of Harrisburg and Washington. But
16 at some point, common sense, not the NRA, has
17 to prevail if anything meaningful is to be done
18 about the level of gun violence we are
19 experiencing in Pennsylvania. This means
20 passing laws that would reduce the availability
21 of handguns to criminals without infringing on
22 the lives and rights of law-abiding citizens.

23 One piece of legislation I would urge
24 you to pass is legislation that would require
25 gun owners to report lost and stolen firearms

1 within 24 hours or face consequences if that
2 gun is used in a crime.

3 This is pro-prosecution legislation.
4 Police officers and prosecutors repeatedly have
5 said that this legislation would give them a
6 critical tool to lock up straw purchasers,
7 those who illegally sell guns to felons who
8 then commit crimes with those guns and kill
9 people with those guns.

10 Right now, when an illegal gun is
11 used in a crime and police locate the straw
12 purchaser who bought and sold it, that straw
13 purchaser simply claims the gun was lost or
14 stolen, and he is not prosecuted because there
15 is no evidence to prove otherwise.

16 Unless police can prove the owner is
17 lying, there's little they can do about it. If
18 missing handguns had to be reported, the police
19 would have one more tool to hold accountable
20 straw purchasers who lie to them about their
21 weapons being stolen and who are directly
22 responsible for much of our gun violence.

23 I would also like to see Pennsylvania
24 pass a law giving cities the authority to enact
25 stricter firearms laws. Some states, including

1 New York, allow cities to pass stronger
2 firearms laws than those at the state level;
3 thus, enabling those cities to respond to the
4 high levels of violence they face.

5 Pennsylvania goes the other way. We
6 have a law on the books that prohibits cities
7 from passing their own firearms laws. If
8 Philadelphia leaders believe that stricter gun
9 laws can help curb the violence right here, why
10 should they be prohibited from passing them?
11 It certainly would not infringe on any rights
12 that citizens in the rest of the state have.

13 I support legislation that would make
14 it a felony to possess a stolen firearm. It
15 would be a felony the first time and every
16 time, no questions asked. Why is this
17 important? Because, according to the Bureau of
18 Alcohol, Tobacco and Firearms, there are three
19 primary ways that guns, particularly handguns,
20 end up on our streets.

21 One way is through straw purchases.
22 Another way is through thefts from gun shops.
23 At any given time the Philadelphia ATF office
24 is investigating six to eight gun shops thefts
25 that result in dozens, sometimes hundreds, of

1 firearms illegally showing up on the streets.
2 And the third way is through thefts from
3 private residences.

4 The impact of such legislation
5 reaches also beyond the initial crime. Gun
6 thieves not only would face felony charges and
7 hence felony jail time, but this law would also
8 make them ineligible to ever legally purchase a
9 gun again. Once someone has a felony
10 conviction on his record, he can never purchase
11 a firearm again.

12 Governor Rendell has talked about
13 how, in some cases, thieves face a harsher
14 punishment for stealing a television than they
15 do for stealing a firearm. This makes no
16 sense. Today, it is only a felony if the
17 prosecutor proves that the person acquiring a
18 stolen gun is in the business of dealing in
19 stolen property; that is, he's a professional
20 fence, or if the value of the firearm is in
21 excess of \$2,000. Few handguns on the street
22 are worth that much. In many cases, possessing
23 a stolen handgun is a third degree misdemeanor.

24 Possession of any stolen firearm in
25 Pennsylvania should be a felony, plain and

1 simple. In any discussion today about gun
2 violence and proposed gun control laws, we
3 cannot ignore the tragedy at Virginia Tech last
4 week. In Pennsylvania, as in Virginia, such an
5 event may not have been preventable.

6 In the wake of that tragedy, some
7 people have said that anybody and everybody
8 should be encouraged to have guns so that we
9 can defend ourselves from being the victim of a
10 crazed shooter. In my view, this would be
11 highly dangerous and would take us back to the
12 lawlessness of the Wild West of the 1800's.

13 Would I want 20 year olds carrying
14 around guns, going to beer parties without any
15 training on using them? Do our police
16 departments send their recruits out onto the
17 streets carrying guns without any training? Of
18 course not.

19 At the other extreme, an absolute
20 prohibition on the possession or ownership of
21 the guns is anathema to our way of thinking and
22 to our liberties. It is true that in countries
23 such as Great Britain and Japan, to name two,
24 the possession or ownership of handguns is
25 prohibited, and the homicide rate is extremely

1 low; indeed, ridiculously low compared to
2 America's homicide rate. But such a complete
3 ban would be unacceptable in America.

4 However, these are restrictions that
5 are reasonable and acceptable in our society
6 under our laws. Whether the Second Amendment
7 protects individual ownership of guns or
8 not--The Third Circuit Court of Appeals says
9 that it doesn't and the D.C. Court of Appeals
10 recently held that it does--reasonable
11 restrictions on the exercise of that right,
12 just like reasonable restrictions on the
13 exercise of our First Amendment rights, are
14 acceptable when they provide an important
15 protection to the public, such as protecting
16 our citizens from violence.

17 The same court that held the Second
18 Amendment to be applicable to individual
19 ownership of guns also said in its opinion that
20 reasonable restrictions such as requiring a
21 license to own a gun do not infringe on our
22 constitutional or privacy rights. Just as with
23 the First Amendment, and virtually all of our
24 constitutional rights, nothing is absolute, and
25 reasonable restrictions, particularly those

1 designed to protect the public, are eminently
2 acceptable to almost all Americans.

3 One reasonable restriction on gun
4 ownership is what is know as one-handgun-a-
5 month legislation, permitting the purchase of
6 no more than one handgun per month. While such
7 a law would not have prevented the tragedy at
8 Virginia Tech, since the perpetrator of that
9 shooting bought the two guns he used in
10 different months, it has been shown to be the
11 most effective way of keeping guns from finding
12 their way onto the streets through straw
13 purchasers and into the hands of violent
14 predators.

15 A study published in the Journal of
16 the American Medical Association tracked the
17 effects of one-handgun-a-month legislation that
18 has been passed, and it concluded that such
19 laws are an effective means of disrupting the
20 illegal interstate transfer of firearms.

21 Prior to Virginia passing
22 one-handgun-a-month legislation in 1993, that
23 state was a main source of handguns used in
24 crimes committed in a number of northeastern
25 states.

1 Three years later, guns recovered in
2 criminal investigations that were purchased in
3 Virginia decreased by 36 percent nationwide; by
4 66 percent across New York, New Jersey,
5 Connecticut, Rhode Island and Massachusetts; by
6 71 percent in New York alone.

7 One-handgun-a-month legislation does
8 reduce the number of illegal handguns that make
9 their way onto the streets and into the hands
10 of criminals. If the primary purpose of
11 purchasing a handgun is for protection or
12 target shooting, are not 12 handguns a year
13 enough; 24 if you're married? And remember,
14 we're only talking about handguns. You could
15 still buy as many rifles and shotguns as you
16 want.

17 So, as to not infringe upon the
18 rights of law-abiding citizens, Governor
19 Rendell and I, and many others, support
20 exemptions for gun collectors or others who
21 would have a legal reason for purchasing more
22 than 122 handguns a year.

23 Those who oppose one-handgun-a-month
24 legislation offer spurious reasons to oppose
25 it. For example, they say it is not a panacea,

1 and that we should enforce the laws we have.
2 Of course, it's not a panacea; nothing in life
3 is a panacea. Chemotherapy is not a panacea
4 for cancer. But has anybody suggested it be
5 discontinued for that reason?

6 As to lack of enforcement, that
7 assertion is an insult to all of the dedicated
8 police officers in Pennsylvania. There is
9 nothing that police officers would rather do
10 than lock up criminals; that's what they get
11 paid to do. But there's something known as the
12 Fourth Amendment that makes that task not too
13 easy when it comes to gun cases.

14 When the limited data we have shows
15 that one gun a month works, it is worth trying
16 because it just might save a number of innocent
17 lives.

18 Good public policy involves
19 thoroughly analyzing and addressing a problem.
20 It involves identifying and offering solutions
21 to eliminate that problem. Pennsylvania's gun
22 violence epidemic cannot be solved with a
23 piecemeal approach. It requires a global
24 approach and multiple solutions.

25 Yes, enacting tougher laws, that is

1 mandatory minimum sentences, could be helpful,
2 but it should be combined with one-gun-a-month
3 legislation, as well as legislation making it a
4 crime not to report lost or stolen guns, and
5 legislation making it a felony to possess a
6 stolen gun.

7 Please think about this as you would
8 any other issue of great importance. We need
9 to help our district attorneys prosecute those
10 who victimize our citizens.

11 Just as important, we need to improve
12 life in the inner cities so as to reduce the
13 sense of hopelessness that exists there and
14 which is a root cause of violence.

15 As the Philadelphia Inquirer said in
16 an editorial last week, different policies and
17 practices chip away at different parts of the
18 problem. There is no single solution.

19 I implore you, as members of the
20 legislature, to pass stronger firearms laws so
21 as not only to reduce gun violence, but also so
22 that we, as a state, can show our neighboring
23 states that we are every bit as capable as they
24 are of tackling the scourge of gun violence.

25 If you do your job, we can reduce

1 the number of shootings and homicides across
2 Pennsylvania. At the same time, our image as a
3 state willing to take responsible action to
4 address a problem affecting the entire country
5 will be greatly enhanced. Thank you.

6 CHAIRMAN CALTAGIRONE: Questions from
7 the panel? Representative Gabig.

8 Oh, I do want to recognize the
9 representative from Philadelphia, Kathy
10 Manderino has joined our panel.

11 REPRESENTATIVE GABIG: Thank you, Mr.
12 Chairman. I just wanted to confirm -- This
13 testimony was somewhat repetitive with some of
14 the other stuff. But I do want to try confirm
15 these statistics.

16 Is it your understanding that 50
17 percent of the violent crime in Pennsylvania is
18 from Philadelphia?

19 MR. PHILLIPS: It could be. I don't
20 know what that statistic is, but it's obviously
21 an overwhelming amount.

22 MR. GABIG: How do I confirm that?
23 I mean, if it's not the PCC?

24 MR. PHILLIPS: I would think the
25 Philadelphia Police Department or the state

1 police.

2 REPRESENTATIVE GABIG: I'm talking
3 about the statewide --

4 CHAIRMAN CALTAGIRONE: State Crime
5 Index that --

6 MR. PHILLIPS: I'm sure it's readily
7 available.

8 REPRESENTATIVE GABIG: But you're not
9 contesting that? You just don't know is what
10 you're saying?

11 MR. PHILLIPS: I don't know the exact
12 number, no.

13 REPRESENTATIVE GABIG: Don't you
14 agree that if we went after those 2,000
15 outstanding warrants in Philadelphia, if it's
16 true that 50 percent of the violent crime in
17 the state is coming from someplace that is --

18 How big is it -- How big is
19 Philadelphia? Is that -- How big is it? Is it
20 12 percent of the state, 10 percent of the
21 state?

22 MR. RYAN: 1.5 million people; about
23 a million and a half.

24 REPRESENTATIVE GABIG: They're
25 obviously over represented in this violent

1 crime area as far as a statewide issue, so it's
2 a hot spot for violent crime it seems. And if
3 they have 2,000 outstanding warrants there, it
4 seems like if we spent some time and energy and
5 money to go pick those people up, that that
6 might reduce the crime rate in Philadelphia.
7 Do you agree with that?

8 MR. PHILLIPS: Obviously, if you had
9 the resources, the criminal justice system in
10 Philadelphia like in other towns is
11 overwhelmed. I remember when I was assistant
12 district attorney in the 1960's there was
13 always a lot of outstanding warrants. An
14 assistant district attorney like myself would
15 go into court and somebody wouldn't show up,
16 could be for a very minor crimes, we were under
17 orders to ask for a bench warrant. We get a
18 bench warrant for somebody who may have just
19 done something very minor. So, a lot of those
20 2,000 warrants I suspect are for very minor
21 crimes.

22 I mean, each parole officer, each
23 probation officer --

24 REPRESENTATIVE GABIG: You talked
25 about a culture -- That's a good point. If all

1 the criminals, no matter whether it's major or
2 minor, in other words, you just don't have to
3 show up and you get a bench warrant and nobody
4 executes them, doesn't that create a problem in
5 the neighborhoods, in the town that has utter
6 disrespect for the law then? I mean, don't you
7 have to execute --

8 I think it was Mayor Giuliani didn't
9 buy into that, it's only minor so we don't
10 worry about it. He went down and executed the
11 law and they reduced violent crime in New York
12 City. I think if we did something like that in
13 Philadelphia, that it would actually reduce the
14 homicide rate and reduce crime in there and not
15 just get into gun control measures for the
16 entire state for a problem that seems to be
17 restricted to certain areas.

18 MR. PHILLIPS: Well, the Comp-Stat
19 program that the New York City Police
20 Department developed under Bratten was
21 introduced in Philadelphia when John Timoney
22 came to town and it did have a beneficial or
23 positive effect in reducing crime, there's no
24 question about that. It has not -- Timoney has
25 left and Commissioner Sylvester Johnson now is

1 the police commissioner. Things are not as
2 they were.

3 REPRESENTATIVE GABIG: I appreciate
4 that. I just think if we put some resources
5 into proven programs like that, and to be
6 honest, I'm just not convinced that one a month
7 has the evidence backed, the empirical data
8 that supports that it's effective at all.

9 And when you're going, and basically
10 law-abiding citizens are being -- they fear
11 that their Second Amendment rights are being
12 violated. If we don't have the evidence to
13 support that it's going to do anything, why
14 don't we do these other measures which are
15 proven to fight crime? That's what a lot of us
16 are sort of struggling with up here. But I
17 certainly appreciate your testimony.

18 Thank you, Mr. Chairman.

19 MR. PHILLIPS: One of the reasons, if
20 I can answer you, about getting evidence of
21 whether one a gun a month works is the fact
22 that you can't get that evidence anymore. The
23 figures I was quoting from were from 1996.

24 NRA lobbied Congress to pass a
25 statute or a law that prohibit ATF from

1 disseminating this type of data in computer
2 form where it can be analyzed by researchers.
3 They can't do that anymore. They can
4 disseminate it only in hard copy to a police
5 department, so it's very difficult to get that
6 empirical evidence.

7 But let me just say this about one
8 gun a month as well, because you were talking
9 about, I think with the previous speaker,
10 Virginia and what they were able to do in
11 reducing crime because of the efforts of the
12 federal government and the federal prosecutor
13 down there.

14 The federal prosecutor was a fellow
15 named Jim Comey. And I've spoken to Jim Comey.
16 He later became U.S. Attorney in New York and
17 then he was the Deputy Attorney General for the
18 United States. He said that without the
19 one-a-gun-month law he would not have been
20 able -- as successful as he was in reducing the
21 crime rate in Virginia to the extent that he
22 was able to do so -- or they were able to do
23 so.

24 CHAIRMAN CALTAGIRONE: One of the
25 things I do want to add for the record. We

1 spent a lot of time down in Philadelphia, and I
2 think credit has to be given to Representative
3 Dwight Evans.

4 I'll tell you, in a lot of the
5 programs that he has been able to institute,
6 whether it was the education area, the economic
7 development area, these are the kinds of things
8 that I really think if we could ever get to a
9 perfect world where we know we need to keep the
10 kids in school, give them good educational
11 programs and supports that are necessary, the
12 economic development of providing good-paying
13 jobs for people, housing and things like that,
14 and Dwight's been on the cutting point of that.

15 I mean, I know we're talking about
16 the guns and violence and the drugs, but it's a
17 lot of these underlying issues that I think are
18 driving a lot of these problems. And I know it
19 always comes down to dollars and cents, always.
20 But in the programs that Dwight has pushed that
21 I've seen for myself down there, spending so
22 much time over the last few months, I've seen
23 evidence that those things do work.

24 I know rather than build more
25 prisons, I wish to God's sake we could spend

1 that kind of money in helping the people around
2 the state, especially in Philadelphia, where it
3 is pretty tough. I mean, if you spend any time
4 down there, you see how difficult it is for a
5 lot of the people in a lot of those
6 communities. It's not their choosing, but for
7 the fact they (inaudible words), we need to
8 look out at those type of situations and issues
9 so that we can start spending, hopefully, some
10 hard earned dollars from the state and do some
11 of the positive things rather than always being
12 reactive.

13 You know, I'm just throwing that out
14 there for what it's worth. We're going to end
15 up doing something, I don't know what that
16 something is going to be. We're going to work
17 together on getting some legislation hopefully
18 that will start to address these problems.

19 Kathy.

20 REPRESENTATIVE MANDERINO: Thanks,
21 Tom.

22 Thanks, Mr. Phillips, for being
23 here. A couple observations. And I always
24 appreciate when it's a new day. But the talk
25 about resources is a little frustrating for

1 someone like me.

2 For example, when we had the
3 Committee of the Whole of the House last year
4 on crime and I offered an amendment for
5 additional money for the Blueprint in
6 Philadelphia, to get resources to Philadelphia
7 and to get it to other communities across the
8 state that are suffering, not on the same scale
9 of magnitude but the same severity of problems,
10 this chamber voted that down. Maybe it's a new
11 day.

12 We want to say that it's only a
13 Philadelphia problem, but we don't want to give
14 Philadelphia the tools to solve it. When they
15 did have tools to solve it, we took it away
16 from them.

17 I don't know if you know whether
18 there's a correlation between when we repealed
19 Philadelphia's ability to do permits to carry
20 concealed weapons and what's been happening
21 with guns and violence in our city, but I know
22 there's been a 10 or 20 or 25-fold increase in
23 the number of people who have gotten those
24 permits since the state repealed the city's
25 ability to be more restrictive in who got

1 those. I don't know if you have any insight on
2 that issue.

3 MR. PHILLIPS: No, I don't,
4 Representative.

5 REPRESENTATIVE MANDERINO: Thank you.

6 CHAIRMAN CALTAGIRONE: Thank you very
7 much.

8 MR. PHILLIPS: Thank you very much.

9 CHAIRMAN CALTAGIRONE: We appreciate
10 your testimony.

11 We'll take a half-hour break and
12 we'll come right back at it.

13 (At or about 1:05 p.m., a recess was
14 taken for lunch. At or about 1:50 p.m., public
15 hearing reconvened).

16 CHAIRMAN CALTAGIRONE: Next we have
17 Ann Schwartzman, Director of Policy,
18 Pennsylvania Prison Society.

19 MS. SCHWARTZMAN: Thank you. Thanks
20 very much for inviting us to testify today. On
21 behalf of the Pennsylvania Prison Society, I'm
22 Ann Schwartzman, I'm the policy director.

23 And just very briefly on the agency,
24 we've been around since 1787. Ben Franklin was
25 one of our charter members, so there is a long

1 history. We provide monitoring services at the
2 state prisons and county jails, we work on
3 issues, and we also provide specific programs
4 throughout the state.

5 Crime, drugs and violence, in fact,
6 to all of us, it's critical. It's wonderful
7 that you're having these hearings to talk about
8 the issues, but we really think the solutions
9 are different. We don't think you can just put
10 Band-Aids or simple solutions on these kinds of
11 problems. We really think you have to look
12 systemically, and look at the big picture
13 before you can really move ahead.

14 Public safety is the bottom line for
15 all of us, and we all want to make sure that
16 that is the end result. We all want to feel
17 safer, but the question is, do we? We've been
18 using incarceration as the sole method to fight
19 crime, but do we really feel any safer? Are we
20 seeing any differences in our communities?

21 Obviously, there are offenders who
22 need to be locked up. We do need police, we
23 need the courts, we need prisons, but to what
24 extent? And how much are we willing to put our
25 scarce resources into these different areas?

1 Is this going to give us the solutions that we
2 need?

3 Does relying so heavily on
4 imprisonment, does including more mandatory
5 sentencing, does including harsher penalties,
6 does this really get to what we're trying to
7 do?

8 The solution has been incarceration.
9 It's now costing, just for prisons alone, over
10 \$1.6 billion. There's a 13 percent increase
11 for the coming year. We're looking at least
12 three new state prisons. We're reintroducing
13 Western on our slate of 25 state institutions,
14 we're looking at additional cell blocks, and is
15 this really going to make us feel safer? Is
16 this going to get to the solution that we all
17 seem to agree we really need to have?

18 Right now we're spending over
19 \$30,000 per inmate. We're spending roughly
20 \$10,000 per student. Are these the kind of
21 numbers we want to talk about and have
22 reflected for the Commonwealth?

23 Contrary to popular opinion, the
24 Pennsylvania Prison Society feels strongly that
25 prison is not the solution and, in fact, it's

1 one of the leading contributors to crime and
2 violence. Prisons are warehouses that
3 effectively incapacitate violent offenders, but
4 do little to rehabilitate them. We have
5 numerous nonviolent offenders who are in there,
6 they come out, no new skills, no new jobs,
7 really, what can ask we expect?

8 In an article written by Todd Clear
9 and Dina Rose they talk about the tipping
10 point, they talk about over-incarceration, and
11 that actually leading to more violence. I
12 quote:

13 High levels of incarceration
14 concentrated in impoverished communities has a
15 destabilizing effect on community life, so that
16 the most basic underpinnings of informal social
17 control are damaged. This, in turn, reproduces
18 the very dynamics that sustain crime.

19 For example, incarceration of women
20 adds to the stress of family members who care
21 for their children, especially since these
22 families typically live under stress already.
23 The incarceration of men weakened boys' sources
24 of male role models. In general, incarceration
25 reduced the overall human capital, the talent,

1 social skills and energy that everybody brings
2 to the community.

3 The neighborhoods hardest hit by
4 crime end up experiencing loss of their young
5 men through murders and also incarcerations.
6 Those that are left generally are on probation
7 or parole; basically, not being able to have a
8 normal life that you or I might do because they
9 do have a social control on them.

10 The neighborhoods that are hardest
11 hit are left with children, and for the most
12 part grandparents. They're fragile to start
13 with, and they become more fragile as time goes
14 on.

15 Drug abuse, gangs and violence are
16 symptoms of cultural infections, as somebody
17 said earlier, in many of these urban areas.
18 These diseases are basically alternate
19 structures that people set up for themselves.
20 They thrive on poverty, a lack of opportunity
21 and alienation from society, everything that is
22 actually exacerbated by further imprisonment.

23 According to the Commission on Safety
24 and Abuse in America's Prisons--what was talked
25 about at a hearing earlier this week--what

1 happens inside jails and prisons comes home.
2 It comes home with the correctional officers
3 and it comes home with the over 70,000
4 incarcerated men and women in our state prisons
5 and county jails.

6 A growing concern that we have at the
7 Prison Society is not only looking for
8 solutions, really trying to find out what
9 impacts crime, but looking at some of the
10 victims; victims affected by crime, including
11 children of incarcerated parents.

12 It's a largely invisible issue, but
13 it's a growing population. Nationwide, some
14 2.5 million children have a parent serving
15 time. With 70,000 men and women incarcerated
16 in the state, and the majority of them having
17 young children, we're looking at a huge pool of
18 kids that are going to end up growing without
19 an adult in their family, without a parent.
20 They may have caregivers, they may be able to
21 be in foster care, they may end up living on
22 the street.

23 These kids have extreme needs. They
24 have self-esteem problems; they have
25 anger-management problems; and they have

1 school-adjustment problems. Many of them are
2 the new bullies, the new fad that we're looking
3 at now.

4 Studies suggest that these children,
5 children with incarcerated parents, are more
6 likely to end up in the juvenile justice system
7 or incarcerated as adults if they're left
8 unattended to. It's our new grouping of prison
9 inmates.

10 Although family ties are critical to
11 successful reintegration, visiting in prisons
12 is difficult at best. Children of incarcerated
13 parents may live with a relative, a
14 grandmother, foster care, whatever.
15 Nationally, more than 60 percent of mothers and
16 fathers in prison are held more than a hundred
17 miles from home, making visitation almost
18 impossible; cutting the bonds that are shown
19 through research to be critical.

20 With no ongoing connection,
21 establishing relationships after prison is
22 challenging. With recent changes in child
23 custody laws, mothers and children can be
24 legally separated for life when there's no
25 contact.

1 Fathers labeled as dead-beat dads
2 come out of prison with huge child support
3 costs on their records. They need to pay it,
4 they know they need to pay, but they can't.
5 Oftentimes, they come out with no jobs, no
6 skills, and now they're trying to hide so
7 authorities don't find them so they don't have
8 to pay these bills. It's an impossible
9 situation, it doesn't work, and what we find is
10 the fathers often abandon the very kids that
11 need to see them.

12 One thing we can and should do is
13 alter prisons, the focus of prisons. Instead
14 of just locking them up and throwing away the
15 key, we need to look at treatment. We need to
16 look at something other than punishment,
17 because 90 percent of these individuals are
18 coming back. And unless we decide we want to
19 put billions upon billions of dollars into
20 locking everyone up forever, they're going to
21 come back no matter what happens. We need to
22 do something to make sure they have a better
23 opportunity for a job so that they're taxpayers
24 instead of tax burdens.

25 Re-entry is the concept now that

1 everyone's looking at, and it actually is very
2 positive if it's done right and if there are
3 enough resources there. It represents a second
4 chance for the offender, us and the community,
5 and that offenders family. But, how do you do
6 re-entry?

7 There are lots of different theories.
8 It does take money, it's a priority decision.
9 Are we going to do it right or are we just
10 going to put a little bit of money in and
11 decide it's not working without really giving
12 it a chance?

13 What does re-entry do for public
14 safety? What does it do for families? What
15 does it do for our future criminals? These are
16 all questions that we have to ask because it
17 does impact crime and it does impact violence.

18 A long-term strategy must be
19 developed around parenting and child rearing.
20 Too many parents are too young, too immature,
21 too tired and too poor in spirit to provide
22 positive values for their children. With
23 little to look forward to, kids who haven't
24 made it out of elementary school often end up
25 in the world of illegal drugs. As lookouts and

1 these--And many of hardened criminals--were
2 people who served their sentences, people
3 looking forward to getting out at some point,
4 but they were afraid. They were able to get
5 guns, they were able to get weapons when they
6 were in their 20's. The majority of the age
7 group in the class was early 30's, late 20's.

8 The weapons that the young kids get
9 today, though, and I'm talking middle school
10 kids, high school kids, are more powerful and
11 more deadly. It's dangerous, and even the
12 offenders are afraid to come out and face
13 what's facing them.

14 Many of them felt that these kids
15 really had nothing to live for, and their only
16 expectation was that they were going to die
17 young. If that's your belief and you feel that
18 you have nothing in this world except to die
19 before you hit the age of 25, it doesn't matter
20 what kind of punishment you're faced with
21 because your life really doesn't count.

22 There are a number of programs that
23 do appear to work, you've heard about some of
24 them today. Just a couple mentioning briefly,
25 the Momobile at Riverside Prison, which is

1 located in Philadelphia, is an actual service
2 that goes into the prison and provides prenatal
3 care for pregnant women and also information
4 about women who just had their babies.

5 Many women who are incarcerated
6 either have young children, are pregnant or
7 have just given birth. It's an area that we
8 need to look at, an area that requires
9 resources, and here's a program that's
10 providing things that many of these women
11 actually need.

12 The program that we run at the
13 Prison Society is called SKIP. It's Support
14 for Kids with Incarcerated Parents. It's
15 actually done in school. There's support
16 sessions for kids in classes, they opt to go in
17 it themselves, and we get caretaker permission.
18 So it's not the kids just doing it without
19 anyone knowing that they're doing it. It's a
20 way for kids to compare notes and find out that
21 they're not alone, and also, that there are
22 adults that care and resources that can help.

23 A program that we're familiar with--
24 it's kind of old now. It was developed in the
25 1990's, but it's very similar to Weed and

1 Seed--It's called Comprehensive Communities
2 Program. It was incredibly effective. It
3 looked at the abandoned properties. It looked
4 at the smaller crimes that people were talking
5 about before, before we get to the violent
6 crimes. It used community policing or
7 problem-solving policing in nontraditional
8 ways.

9 Officers became part of the
10 community. They spent time at meetings, they
11 knocked on doors. They became friends instead
12 of enemies to the communities who were there.
13 The neighborhood folks along with members of
14 the faith, with the D.A., with the public
15 defender, with the warden, with the mayor, with
16 anybody you can think of would sit down and
17 talk. They'd spend time together, they had
18 built relationships. They actually made bonds
19 so that the young people were less likely to
20 commit crimes.

21 The City of Boston was involved in
22 this program. Delaware had Wilmington
23 involved. There are a number of jurisdictions
24 around the country who all saw dramatic
25 decreases in crime when this program was

1 operational.

2 Another alternative is Open Schools.
3 This actually took place in Wichita, Kansas,
4 and it's been repeated all around the country.
5 Instead of locking up a school, padlocking it
6 at the end of the day, you keep it open. You
7 have the principal there, you have teachers
8 there, you have police officers there, you have
9 neighborhood folks there. You have people
10 there who can work with young kids who have
11 nothing else to do.

12 This program did have midnight
13 basketball. I know that had an incredibly
14 negative label years ago, but there's something
15 to be said for having an organized activity for
16 kids instead of having them standing on a
17 street corner selling drugs or looking for
18 guns.

19 It's time for the community acting in
20 its own self-interest to work with localized
21 support mechanisms and to get the resources
22 they need from the state.

23 Another long-term approach involves
24 political leadership to tackle the thorny issue
25 of handgun availability, mainly the issue

1 that's been debated so far. It does not look
2 like a single response is going to take place
3 soon, although a short-term response to the
4 deaths that are increasing, especially in areas
5 like Philadelphia and Reading, are needed now.

6 But what's needed is a concerted
7 effort and a real commitment for people like
8 yourself, policy makers, decision makers, to
9 sit down, to work out a compromise, to figure
10 out how to tackle this long-term issue.
11 Without it, it becomes a life-and-death
12 priority.

13 State lawmakers like yourselves need
14 to hear about strategies that are effective
15 from the real professionals, the members of law
16 enforcement, corrections, the D.A., whoever you
17 can think of, as well as the neighborhood
18 individuals themselves; people who live through
19 this, people who know what they're talking
20 about, who see the violence every single day.

21 It's not a quick-and-easy fix. It's
22 nothing that's going to get anybody a wonderful
23 reputation. You're probably not even going to
24 get many sound bits from it, but it's the right
25 thing to do. And without it, we're stuck with

1 a system that costs billions of dollars, more
2 people coming out of prison going back into
3 prison, more violence, more crime, more kids
4 without their parents, and just repeating the
5 same steps their parents did. Thank you.

6 CHAIRMAN CALTAGIRONE: Thank you,
7 Ann. Rod.

8 MR. COREY: Thank you for your
9 testimony. I just had a quick question.

10 Last session Representative
11 Mackereth had introduced legislation to
12 establish a Center for Evidence-Based
13 Prevention within the Pennsylvania Commission.
14 on Crime and Delinquency. I know the goal was
15 to create an on-going permanent center to
16 institutionalize a commitment to evidence-based
17 crime prevention programs, I think some of the
18 things that you're talking about.

19 MR. SCHWARTZMAN: Um-hm.

20 MR. COREY: Big Brothers Big Sisters
21 just comes to mind off the top of my head as
22 one of those. And some of the programs --
23 Actually, I recognize some of the programs you
24 mentioned. It was also to supplement the
25 current efforts of PCCD in this regard.

1 I believe it's been introduced,
2 although the number escapes me at this time. I
3 was going to ask, did you happen to have an
4 opportunity to see that legislation last
5 session? And if so, do you have any thoughts
6 about that?

7 MS. SCHWARTZMAN: Actually, I don't
8 think I saw that legislation, but the concept
9 sounds wonderful.

10 CHAIRMAN CALTAGIRONE: Any other
11 questions?

12 (No response).

13 CHAIRMAN CALTAGIRONE: Thank you,
14 Ann.

15 MS. SCHWARTZMAN: Thank you.

16 CHAIRMAN CALTAGIRONE: We'll next
17 hear from Melody Zullinger, Executive Director
18 of the Pennsylvania Federation of Sportsmen's
19 Clubs.

20 MS. ZULLINGER: Good morning, Mr.
21 Chairman, committee members. My name is Melody
22 Zullinger. I'm the Executive Director of the
23 Pennsylvania Sportsmen's Clubs. With me today
24 is Mr. Kim Stolfer. He is the chairman of the
25 legislative committee for the Allegheny County

1 Sportsmen's League.

2 The PFSC represents 95,000 sportsmen
3 and women, and we're here today to reiterate
4 our adamant opposition to any new laws that
5 would add unnecessary restrictions to the
6 Second Amendment rights of law-abiding
7 citizens. Thank you for allowing us the
8 opportunity to testify.

9 After Tuesday's pro-Second Amendment
10 press conference, two men unrolled and held up
11 a sign that was reprehensible and
12 inappropriate. These men were asked to remove
13 the sign as soon as it was seen by the
14 organizers of this event.

15 That sign was in no way authorized or
16 condoned by any person or group involved in
17 coordinating Tuesday's event. We, however,
18 apologized to Representative Cruz and others
19 for the offensive and disrespectful behavior of
20 those two individuals.

21 No one is more opposed to crime and
22 violence than honest gun owners, but you will
23 not solve Philadelphia's or other cities' crime
24 problems by disarming victims, or by
25 implementing more laws restricting the rights

1 of law-abiding citizens, because they are not
2 the ones committing the crimes. The criminals
3 do not acquire their guns through legal
4 channels.

5 We believe the key to reducing crime
6 is to prosecute criminals relentlessly, and to
7 impose tough sentences with no time off for
8 good behavior. To stop crime you need to stop
9 the criminal; not ban the tool, because a
10 criminal mind will always find another tool.
11 Instead, we should be supporting programs like
12 Project Exile, which do away with plea
13 bargaining and early parole for violent gun
14 criminals.

15 The gun ban lobby's arguments are
16 tired. They claim one handgun a month will
17 reduce the number of straw purchases, and ask
18 why 12 handguns a year are not enough to
19 protect one's home and family?

20 Gun-rationing proposals do not work.
21 Only three states have one-handgun-a-month
22 laws: Virginia, California and Maryland.
23 South Carolina repealed their law a few year
24 ago. None of these states have experienced the
25 end to the black market in guns or straw

1 purchases of guns; yet, law-abiding citizens
2 are greatly penalized and treated like
3 children.

4 A straw purchase is already illegal
5 under federal law. One gun a month will not
6 stop straw purchases. Under current
7 conditions, if you buy more than one gun in a
8 limited time period, the ATF gets notified.
9 You get put on an investigative list and
10 dealers usually get a phone call asking about
11 such purchases.

12 The PIC system, which was mentioned
13 here earlier today and with some questions, the
14 PIC system will throw a red flag if multiple
15 purchases are made by the same individual, even
16 if they're not made in the same store.

17 Why are we not penalizing those who
18 are convicted of straw purchases? In last
19 year's Pittsburgh hearings we heard a City of
20 Pittsburgh detective testify about one perp who
21 was convicted of multiple straw purchases and
22 his sentence was six months' probation. Not
23 much of a deterrence, is it?

24 In Act 17 of 1995, the General
25 Assembly declared that it is not the purpose of

1 the Pennsylvania Uniform Firearms Act to place
2 any undue or unnecessary restrictions or
3 burdens on law-abiding citizens with respect to
4 the acquisition of firearms. But, perhaps, if
5 we're going to ration our Second Amendment
6 rights, we should also start rationing some of
7 our other constitutional rights. If gun
8 rationing is legitimate, then why are we not
9 speech rationing? Which one of our
10 constitutional rights will be next?

11 Some would like to weaken our
12 preemption laws. Almost every state preempts
13 localities from instituting their own gun
14 restrictions like Pennsylvania. No citizen
15 wants to run a gauntlet of patchwork gun laws
16 every time he or she takes a trip across the
17 state. And why should some law-abiding
18 citizens have their rights oppressed just
19 because of the city where they happen to
20 reside?

21 If anything, Pennsylvania needs
22 stronger preemption beyond localities, to take
23 care of state agencies and businesses which
24 institute their own arguably unconstitutional
25 gun bans, like the DCNR's gun ban in state

1 parks, or bans at workplace parking lots.

2 Giving Philadelphia and the
3 surrounding counties an opportunity to call
4 their own shots on gun control is not a wise
5 and pragmatic step. Disarming the victims of
6 crime and violence will not stop the criminal
7 from illegal possession of a firearm.

8 The criminals do not apply for
9 concealed carry permits or acquire their guns
10 through legitimate means, nor will they
11 register their firearms if registration became
12 law. Knowing that their victims are not armed
13 only allows the criminals to be more brazen and
14 the citizens more vulnerable.

15 Another proposal would require
16 reporting of lost or stolen firearms within
17 24 hours. Not doing so would make the firearm
18 owner a criminal. While we understand the
19 intent of this proposal, what's to stop a straw
20 purchaser from reporting it stolen as soon as
21 they sell it? And what about someone who
22 doesn't know their firearm was lost or stolen?

23 A perfect example is myself. A few
24 years ago my husband and son were target
25 shooting on our property with my handgun. When

1 they finished they laid the gun on the bumper
2 of our truck while they were cleaning up. They
3 each thought the other one put the gun away.
4 Later they drove down the road. Several days
5 later I received a call from the state police
6 asking if I had lost my handgun. My immediate
7 answer was, I don't think so, let me go check.
8 When I went to check where my handgun was
9 normally stored, it was not there.

10 Well, yes, this was irresponsible on
11 my husband's part. If this law were in effect,
12 I would now be a criminal and the burden would
13 be upon me to prove otherwise. Most law-biding
14 citizens do report lost or stolen firearms, and
15 you must report that it's stolen if you intend
16 to file an insurance claim.

17 Please consider the words of
18 President Lyndon B. Johnson who said: You do
19 not examine legislation in the light of
20 benefits it will convey if properly
21 administered, but in the light of the wrongs it
22 would do and the harm it would cause if
23 improperly administered.

24 Many police and prosecutors are
25 top-notch people who perform difficult jobs

1 with integrity and with great respect to the
2 law and the constitutionally-protected rights
3 of the people. However, there are some who
4 seem to have a dislike for guns and a prejudice
5 towards gun owners.

6 Past experience tells law-abiding gun
7 owners that if this legislation is passed into
8 law, it will be misused.

9 Law-abiding gun owners are very much
10 aware that since 1997 it has been illegal to
11 maintain a firearm registry in Pennsylvania,
12 and that the Pennsylvania State Police ignore
13 the plain language of the law and maintain a
14 firearms registry, claiming that they maintain
15 a data base, not a registry, because it is
16 incomplete.

17 Given this experience, many gun
18 owners fear that this legislation will be
19 misused by some members of the criminal justice
20 system as a weapon to harm law-abiding gun
21 owners who are simply the victims of a theft.

22 Crime in Philadelphia is high because
23 of an unhealthy inner-city culture made worse
24 by failed social problems (sic) and a criminal
25 justice system that allows the criminals to be

1 right back on the street. Some other cities
2 have seen a rise in violent crime recently that
3 has been correlated to an influx of gang
4 activity, mostly believed to be made up of
5 illegal immigrants.

6 In an article last year, Police
7 Inspector Joseph Fox told the Associated Press,
8 and I quote: It's a clear indication that
9 there's too many guns on the street. Police
10 get some guns off the street only to be faced
11 with the same people back on the street within
12 days or weeks to commit the same type of crime
13 over and over again, unquote.

14 This sounds to me like there are too
15 many criminals on the street because not enough
16 criminals are going to and staying in jail.

17 Earlier I heard testimony, I believe
18 somebody read the recent letter to the editor
19 of the Philadelphia Inquirer, so I won't read
20 the whole thing again. But the main points
21 again were, until we're ready to strictly
22 enforce the current laws, there's no reason for
23 tougher ones.

24 Criminals do not obey laws, so
25 enacting another law will not make someone who

1 doesn't follow the current laws all of a sudden
2 start obeying new ones, and three of every four
3 violent crimes do not even involve guns.
4 Criminals laugh at gun laws because criminals
5 don't follow the law to begin with.

6 Gun bans and other misguided forms of
7 gun control give advantage to criminals because
8 they know unarmed victims are more vulnerable.
9 Washington, D.C. is the model of total gun
10 control and is also the example of a crime rate
11 that is out of control.

12 Most gun control proposals are
13 nothing more than feel-good promises to make
14 people think something is being done, or
15 outright attacks on the Second Amendment rights
16 of law-abiding citizens, with a goal of leading
17 toward a total ban on guns.

18 Legitimate law-abiding citizens
19 should not be made the scapegoats of a failed
20 system. Instead, time and money should be
21 directed towards adequate law-enforcement
22 personnel and enforcement of the some
23 20,000 current laws already on the books.

24 No matter how good our laws are or
25 how many we have, you will never be able to

1 legislate or regulate morality. All gun bans
2 and gun limits accomplish is punishment of
3 law-abiding citizens. And PFSC will continue
4 to adamantly oppose any and all legislation
5 that does nothing more than restrict the rights
6 of law-abiding citizens.

7 Remember this quote from Thomas
8 Paine: Arms discourage and keep the invader
9 and plunderer in awe, and preserve order in the
10 world as well as property. Horrid mischief
11 would ensue, were the law abiding deprived of
12 the use of them.

13 Now, I would like to turn it over to
14 Mr. Stolfer.

15 MR. STOLFER: Mr. Chairman, Chairman
16 Caltagirone, Chairman Marisco, members of the
17 committee: I am Kim Stolfer, Chairman of the
18 Legislative Committee of the Allegheny County
19 Sportsmen's League and Vice-Chairman of the
20 Pennsylvania Sportsmen's Association. I
21 appreciate the opportunity to appear before you
22 today on Pennsylvania's firearms laws.

23 We're here today to discuss, as has
24 been discussed, in all of the other hearings an
25 age-old problem that has plagued man across

1 time. An example of this can be found in the
2 writings of the father of modern criminology,
3 Cesare Beccaria, who in 1764 wrote:

4 Laws that forbid the carrying of arms
5 disarm only those who are neither inclined nor
6 determined to commit crimes. Such laws make
7 things worse for the assaulted and better for
8 the assailants. They serve rather to encourage
9 than to prevent homicides, for an unarmed man
10 may be attacked with greater confidence than an
11 armed man.

12 As you can see, the concept of
13 government considering the disarmament of the
14 law-abiding as a solution to crime has also
15 transcended the ages as has the derision of
16 that concept as doomed to failure. Thomas
17 Jefferson was so impressed with Beccaria's logic
18 that he copied these words into his notebook
19 for frequent reference. It is our opinion that
20 Pennsylvania's legislators would be well served
21 to learn from history and this sage advice.

22 The foundation for the creation of
23 the Constitution of the Commonwealth of
24 Pennsylvania was laid on the precepts of
25 freedom, freedoms that were meant to be

1 comprehensive lists of prohibitions on
2 purchase, sale, transfer or possession of
3 firearms in the country. This is a statement
4 of Handgun Control Chair Sarah Brady on passage
5 of comprehensive firearms legislation in
6 Pennsylvania on June 6th, 1995.

7 The unproven assumptions that justify
8 most gun-control laws have not withstood
9 independent study.

10 In 2003, the Centers for Disease
11 Control Task Force reported that they reviewed
12 51 published studies about the effectiveness of
13 eight types of gun-control laws. The laws
14 included bans on specific firearms or
15 ammunition, measures barring felons from buying
16 guns, and mandatory waiting periods and firearm
17 registration. In every case the CDC Task Force
18 found insufficient evidence to determine the
19 effectiveness of any of the firearms laws
20 reviewed for preventing violence.

21 It should be noted that prior to
22 actually studying the issue and producing this
23 report, the Centers for Disease Control used
24 tax dollars to lobby for gun-control laws as a
25 public health measure.

1 In 2005, the National Academy of
2 Sciences Review, "Firearms and Violence, a
3 Critical Review," reviewed 253 journal
4 articles, 99 books and 43 government
5 publications, evaluating 80 gun-control
6 measures. The researchers could not identify a
7 single gun-control regulation that reduced
8 violent crime, suicide, or accidents.

9 In summary, the committee concludes
10 that existing research studies and data do not
11 credibly demonstrate a causal relationship
12 between the ownership of firearms and the
13 causes or prevention of criminal violence or
14 suicide. The issue of substitution of the
15 means of committing homicide or suicide has
16 been almost entirely ignored in the literature.

17 Even more important is, in 2006, the
18 FBI Behavioral Science Unit, Violent
19 Encounters: A Study of Felonious Assaults on
20 Our Nation's Law Enforcement Officers. Ed
21 Davis, criminal investigative instructor with
22 the FBI's Behavioral Science Unit, was a
23 co-author of the study. Davis, in a
24 presentation and discussion for the
25 International Association of Chiefs of Police,

1 noted that none of the attackers interviewed
2 was hindered by any law, federal, state or
3 local, that has ever been established to
4 prevent gun ownership. They just laughed at
5 gun laws.

6 The FBI Behavioral Science Unit
7 Report is yet another underreported smoking gun
8 about the failure of gun control to produce a
9 measurable decrease in crime. Police chiefs
10 who serve at the pleasure of liberal mayors
11 seem reluctant to share these facts with the
12 media.

13 According to the United Nations,
14 unlike what has been testified to here before
15 earlier today, Great Britian is now the world's
16 most violent developed county. I provided
17 those facts in my testimony earlier this year
18 in March.

19 The British government has introduced
20 a novel way to reduce the number of cases
21 before the courts. Police have been instructed
22 to let off with a caution burglars and those
23 who admit responsibility for some 60 other
24 crimes ranging from assault and arson to sex
25 with an underage girl. That is, no jail time,

1 no fine, no community service, no court
2 appearance. It's cheap, quick, saves time and
3 money; and best of all, the offenders won't tax
4 an already overcrowded jail system.

5 British government insists upon sole
6 responsibility for protecting individuals,
7 meanwhile, banning all sorts of weapons, from
8 firearms to chemical sprays. The public
9 learned in April that among convicts released
10 early to ease overcrowding were violent or sex
11 offenders serving mandatory life sentences who
12 were freed after as little as 15 months. The
13 British legislators answer to this dilemma,
14 they hope to add toy or replica guns to the
15 list along with kitchen knives with points.

16 Jumping across the ocean to
17 Philadelphia, the similarity in the cavalier
18 treatment of serious violent offenders is
19 shocking. Take, for example, Khalil Slight who
20 was just 12 when he logged his first criminal
21 arrest for an assault. His first gun arrest
22 came eight months later, and by his 18th
23 birthday he'd racked up 13 arrests. Slight has
24 25 arrests on his record, including three
25 attempted murder charges and 11 arrests

1 involving gun crimes. And how many convictions
2 does Slight have? Two. That's it, two.

3 The irony is shocking as is the
4 similarity, in that, avoiding tackling the
5 tough issues and a revolving-door justice
6 system exacerbates crime. Existing laws need
7 to be reviewed with an eye towards eliminating
8 infringements that cannot be justified by
9 scientific research, not introducing more.
10 Until we focus on that reality, nothing will
11 change in either the body count or the
12 rhetoric.

13 Thank you for the opportunity to
14 testify before you today.

15 CHAIRMAN CALTAGIRONE: Thank you.
16 Questions?

17 REPRESENTATIVE MANDERINO: Thank you,
18 and thank you both for coming to testify.

19 On the issue of -- Actually, it was
20 Ms. Zullinger, this was part of your testimony,
21 when you talked about all these measures -- or
22 your opposition to measures that have to do
23 with acquisition of guns. And I probably don't
24 agree with your position on that aspect of it,
25 but I respect it. And I at least understand

1 where you're coming from, even though I don't
2 agree.

3 But I'll be very honest with you.
4 Where you lose me in terms of respect of your
5 opinion is on what I will call the
6 after-the-facts stuff, and there's two in
7 particular, one of which you mentioned and one
8 that you didn't.

9 The one where you lose me in terms of
10 credibility--I'm just being very honest--is on
11 the issue of the notion of reporting lost and
12 stolen firearms. I'm an automobile owner. I
13 have an automobile. If that automobile, which
14 is registered, in which the Commonwealth wants
15 to know who owns that car because that car
16 could be involved in an accident, and God
17 forbid, somebody could die from that incident.

18 Now, if my car gets stolen and I
19 haven't reported it lost or stolen, that
20 doesn't necessarily make me a criminal. But
21 that may make me a suspect until the burden of
22 proof is shown that I had a legitimate reason
23 that I was not in control of that automobile
24 and somebody else stole it from me. But the
25 police are absolutely right to come to me first

1 when my license-plate car is the one that
2 killed the little child on the street. Why
3 should guns be any different?

4 MS. ZULLINGER: With all due respect,
5 I don't believe guns are any different at this
6 point. It's not a law that you would have to
7 report your car stolen.

8 REPRESENTATIVE MANDERINO: Right, but
9 that's one of the things that -- Well, okay.
10 So you're saying if I want to make it a law
11 that I should -- that you have to report a gun
12 lost and stolen, you'd be okay with that if at
13 the same time I make it a law that you report
14 your automobile lost or stolen?

15 MS. ZULLINGER: No, I probably
16 wouldn't be okay with that either because --

17 REPRESENTATIVE MANDERINO: Tell me
18 why you wouldn't be okay with that. You know
19 what, and I don't want to argue this. Let me
20 ask it a different way, okay?

21 I believe that police ought to be
22 able to figure out when they arrest somebody
23 with a gun that that person doesn't legally
24 have, I believe they ought to be able to figure
25 out how that gun got from the legal stream of

1 commerce into that guy's hands.

2 Now, if reporting guns lost or
3 stolen is not an avenue to do that, what avenue
4 is there to do that that gun owners see that
5 would accomplish the same goal? Give me a
6 solution, because you don't like mine.

7 MS. ZULLINGER: I have no problem
8 with you coming to me if my gun is found
9 somewhere and asking me questions. I have no
10 problem with that whatsoever, and that's done
11 today. The problem that we have is where, like
12 I said, you make the victim the criminal
13 without them knowing they were even --

14 MR. STOLFER: Could I?

15 REPRESENTATIVE MANDERINO: Go ahead.

16 MR. STOLFER: First of all, there's a
17 number of avenues for research on this issue,
18 how a police officer can find this. It was
19 testified to in a lawsuit suit against the
20 record-of-sale data base. There's a National
21 Tracing Center.

22 In the City of Pittsburgh, the City
23 of Pittsburgh Police, when there was a
24 notorious shooting at a fast-food restaurant
25 didn't go to the state police. They went to

1 the National Trading Center. That is the best
2 research tool in the country. They can track
3 it from the manufacturer to the dealer, and
4 they were able to establish that very clearly
5 and concisely, even down to Virginia Tech on
6 the shootings, even when the person had the
7 numbers --

8 REPRESENTATIVE MANDERINO: So the
9 reason we don't do that a hundred percent of
10 time is just a matter of resources?

11 MR. STOLFER: Many times, yes. We
12 only have --

13 REPRESENTATIVE MANDERINO: So the
14 information is there for a hundred percent of
15 the guns. It's just, we don't have the
16 resources --

17 MR. STOLFER: The ones that have been
18 sold, yes.

19 REPRESENTATIVE MANDERINO: -- to make
20 it happen.

21 MR. STOLFER: Because they track even
22 the firearms that are imported in. Let me add
23 one other thing.

24 REPRESENTATIVE MANDERINO: Sure.

25 MR. STOLFER: The importance of this

1 is not lost on the criminal because that's why
2 they try to file off the serial numbers. The
3 reason I'm here today is to follow up on the
4 other testimony. Some of the information we
5 have -- that had been testified to today talks
6 about the enforcement of laws.

7 But before I came here last year
8 during the Committee of the Whole, I wanted to
9 find out how the laws were enforced. And part
10 of this is, filing serial numbers off or having
11 an illegal gun is already against the law.
12 Now, I have the records here from the
13 Commission on Sentencing. The imposition of
14 the five-year mandatory has been only used on
15 an average of 500 times per year throughout the
16 Commonwealth.

17 The record of sale or use of the
18 6111 on the sale of firearms, if you violent
19 that because you're trying to transfer a gun
20 illegal, that's only been used in 10 years
21 300 times. Punishment for stealing a firearm,
22 that's been used less than 300 times in
23 10 years.

24 And let me just emphasize one point.
25 We have members of our organizations, many of

1 them are law enforcement officers. And they
2 will tell you a completely different story than
3 what you hear from police chiefs. And what
4 they see every day in court is people walking
5 out of those courts with charges plea
6 bargained, charges not applied because -- for a
7 number of reasons.

8 REPRESENTATIVE MANDERINO: Were you
9 here for the testifier right before you or were
10 you still out at lunch?

11 MR. STOLFER: The lady with the
12 prisons?

13 REPRESENTATIVE MANDERINO: Right.

14 MR. STOLFER: Part of her testimony,
15 yes.

16 REPRESENTATIVE MANDERINO: Second
17 question, which you just brought up that wasn't
18 in your testimony, but your question leads to
19 it. We had a series of meetings last session
20 during the Committee on the Whole and one of
21 the most interesting, promising things that was
22 brought to my attention was that, there is the
23 ability technologically to leave a fingerprint
24 on every bullet that leaves a weapon so that
25 you know if you find a dead body with a bullet

1 in it but no gun, you know where that bullet
2 came from.

3 MR. STOLFER: Well, New York,
4 Maryland and California all tried that.

5 REPRESENTATIVE MANDERINO: Right.

6 MR. STOLFER: California never
7 adopted it because the Attorney General said it
8 was too expensive and every example they had
9 failed --

10 REPRESENTATIVE MANDERINO: Isn't it a
11 gun manufacturer issue, not a law enforcement
12 issue?

13 MR. STOLFER: Well, they provide the
14 bullet with the firearm. But the problem is,
15 like the tires on your car, a firearm wears. A
16 different type of ammunition causes it to be
17 rendered useless.

18 REPRESENTATIVE MANDERINO: It was
19 explained to us -- I'm not talking about -- I'm
20 not talking about --

21 MR. STOLFER: Ballistic fingerprint?

22 REPRESENTATIVE MANDERINO: I'm not
23 talking about what it might leave when it comes
24 out of the gun's chamber and having to trace
25 that back and have the actual gun to see where

1 it's coming from.

2 It is my understanding that
3 manufacturers and under -- both manufacturers
4 proposed and gun owners proposed technology
5 that's available now, where literally, I'm
6 don't if it's a laser imprint--I'm trying to
7 remember--where literally that gun is
8 manufactured so that, as any piece of
9 ammunition that was clean when it was bought
10 gets shot out of that gun, a code, a something
11 is left on that bullet that matches the gun.

12 MR. STOLFER: You're talking about
13 the microstamping that leaves an impression on
14 the case.

15 REPRESENTATIVE MANDERINO: I remember
16 it being a unique identifier stamping --

17 MR. STOLFER: Let me --

18 REPRESENTATIVE MANDARINO: --
19 stamping, but I don't really know.

20 MR. STOLFER: Let me give you the
21 answer what -- We have a consultant who used to
22 be the Assistant Director of Criminal
23 Investigations for the Bureau of Alcohol,
24 Tobacco and Firearms. His name is Robert E.
25 Sanders. For 24 years he set criminal policy

1 for that organization. And he scoffs at this
2 because he says, it will not --

3 REPRESENTATIVE MANDERINO: Why? If I
4 have a dead child on the streets in my city,
5 why shouldn't I do whatever there is for me to
6 know whose bullet's in that dead child?

7 MR. STOLFER: Because law enforcement
8 doesn't connect these issues they have now.
9 You have a state police data base --

10 REPRESENTATIVE MANDERINO: So there's
11 a better tool, we don't want to give it to them
12 because they're not using the not-so-good tools
13 they have now?

14 MR. STOLFER: No. I would --

15 REPRESENTATIVE MANDERINO: I mean,
16 I'm okay if you tell me that tool is a fantasy
17 cappy (phonetic). But if you're telling me
18 that tool is a real tool, we just don't want
19 you to have, you're losing credibility with me.

20 MR. STOLFER: No, I'm telling you
21 that Robert E. Sanders says it will not work,
22 period. And on top of that, the National
23 Academy of Sciences says it will not work. The
24 Centers for Disease Control says it will not
25 work.

1 REPRESENTATIVE MANDERINO: Can you
2 get that stuff only if the stuff says it works?

3 MS. ZULLINGER: In my testimony on
4 back pages, which I did not talk about, there
5 is a link -- there's two links that talk about
6 ballistic fingerprinting.

7 REPRESENTATIVE MANDERINO: And since
8 you quoted Thomas Paine, I'll close with my
9 favorite Thomas Paine quote. A long habit of
10 not thinking a thing wrong gives it the
11 superficial appearance of being right. This
12 has so many applications in everything that we
13 do, but from my perspective we have been doing
14 a lot of things up here because this is the way
15 we've always done it and it just doesn't mean
16 it's always the right way to do it. I'm
17 looking for new ways. Thank you for being
18 here.

19 MR. STOLFER: Thank you.

20 MR. RYAN: I've heard the same
21 argument that Representative Manderino has
22 about the fact is, you might be mistakenly
23 identified as a person who accidentally lost a
24 gun and questioned on it. It happens or could
25 happen, if somebody were to send your child

1 pornography and you opened up your computer, it
2 wouldn't be your intention to have viewed or
3 done it.

4 We just recently passed a statute
5 that says it has to be knowingly done, but it
6 could be misinterpreted because you actually
7 did see it and somebody might come after you.
8 You might buy something at a flea market that
9 it turns out is stolen and the police come and
10 trace it down and find it in your possession,
11 that might be misunderstood, that factual
12 pattern, that you were the person who stole it
13 or that you knowingly received stolen property.

14 See, we have these elements in crime
15 which require a proof, and it doesn't shift the
16 burden to you of knowingly or intentionally
17 doing things. So when you give me an argument
18 like that, I know it applies to just about
19 every criminal statute I can think of.

20 I, as a prosecutor, used to have to
21 prove you did something knowingly or
22 intentionally. You accidentally lost your gun.
23 It's going to cause an inquiry. You bought
24 something that was stolen unbeknownst to you.
25 It's going to cause an inquiry. It shouldn't

1 put you at any particular risk any more than
2 any other offense.

3 So, do me a favor when you talk to
4 your people, take that one home because it
5 applies to every criminal statute we have out
6 there.

7 MR. STOLFER: Mr. Ryan, could I give
8 you a real-world practical situation?

9 MR. RYAN: If you're going to tell me
10 that somebody got prosecuted who you think
11 didn't --

12 REPRESENTATIVE MANDERINO: We see
13 that every day.

14 MR. RYAN: We see it every day. I
15 can tell you about people who have been
16 prosecuted for receiving stolen property who
17 may have, in fact, been innocent. I've
18 actually defended people in that circumstance.

19 The system isn't exactly perfect. I
20 know that from having participated and executed
21 in it. The point is, we take all reasonable
22 efforts we can and we use our best judgments.
23 To give me a factual circumstance that could
24 have happened for the commission of any and
25 every crime I can list doesn't speak well to

1 why this particular crime is one we need not to
2 deal with or we need to exempt out, because it
3 could be misinterpreted by an overzealous
4 prosecutor.

5 MR. STOLFER: When we have the
6 experts saying that we're not prosecuting the
7 laws; when we have this here, and then when we
8 have on top --

9 MR. RYAN: That's another issue.
10 I'll agree with you.

11 MR. STOLFER: Well, no, the issue --

12 MR. RYAN: But one of the statistics
13 you gave about the number of gun particular
14 offenses, you know, when you keep those
15 statistics -- And I'll tell you this from the
16 standpoint--And maybe even Representative Gabig
17 might tell you--if I had an armed robber or a
18 rapist who actually used the gun and I had him
19 plead guilty to an armed robbery and gave him
20 seven and a half to 15 years, or seven to
21 20 years, I did throw away the gun charge.

22 So those particular statistics,
23 oftentimes the gun-possession offenses and
24 those other matters are what I call a secondary
25 offense to a homicide. And guess what? When

1 you're prosecuting, you worry about the person
2 being sentenced for killing the person; not
3 whether they had an illegal handgun. And those
4 statistics sometimes can be misleading, so you
5 have to be careful of those and examine those
6 on a case-by-case basis.

7 MR. STOLFER: Well, Mr. Ryan, I have
8 been careful. But what I've done in 20 years
9 of studying this is, I've look at sociological
10 reports as well as this, and when you combine
11 them together, what you find is an
12 encouragement of criminals to use firearms
13 because they know we're not serious about
14 charging them. And that's what the federal
15 charges do. When a person is caught and
16 prosecuted for having a gun in the federal
17 courts, they know they don't want to go there.
18 But they know in the state courts we're not
19 serious.

20 MR. RYAN: It didn't stop them from
21 using it still. And see, the point we're
22 getting at here is -- You know the person who I
23 can impact most in the situation is the person
24 who really isn't of a complete criminal mind
25 and who might have a second thought about

1 whether they involve themselves in criminal
2 prosecution.

3 So when I look at this I look at,
4 you know where this gun goes from a legal --
5 because every gun starts out as a legal gun.
6 It's manufactured somewhere, it's shipped to a
7 dealer --

8 MR. STOLFER: That's a given.

9 MR. RYAN: -- other than zip guns or
10 whatever. It turns illegal when somebody
11 distributes it to somebody who's not supposed
12 to have it or somebody steals it.

13 But in that distribution thing is,
14 if a person is afraid that if they act as a
15 straw purchaser and give it away and have them
16 report it lost or stolen, that is a person, the
17 girlfriend of some thug in Philadelphia; you
18 know, the innocent person, person who thinks
19 they're not doing any harm, that's the kind of
20 person that I think, actually with a statute we
21 might be able to actually cause them to pause
22 and hesitate before they're willing to go into
23 that gun store, buy a gun and give it away
24 knowing they could be in trouble later on if
25 they didn't report it lost and stolen,

1 especially if they're told at the time of the
2 purchase they have an obligation to report it
3 lost and stolen because -- (Inaudible words;
4 both talking at same time).

5 MR. STOLFER: With all of the history
6 we have and all of the reports that have been
7 examined by all the credible researchers in
8 this nation, we're going to try to reinvent the
9 wheel here in Pennsylvania with something
10 that's going to cost thousands of dollars we
11 can't afford to use, on an issue that's doomed
12 to failure according to the experts.

13 MR. RYAN: That's not a hard issue to
14 require someone to report it lost and stolen.

15 MR. STOLFER: The prosecution of
16 those person will be, the requirement of --
17 The paperwork will be. There is legacy cost to
18 go with this.

19 MR. RYAN: We need to stop
20 prosecuting people for criminal activities, we
21 just give up and go home?

22 MR. STOLFER: Well, we've done that
23 with criminals now.

24 MR. RYAN: Okay. Thank you.

25 CHAIRMAN CALTAGIRONE: Thank you,

1 both.

2 MR. STOLFER: Thank you.

3 CHAIRMAN CALTAGIRONE: We appreciate
4 your testimony. I'd like for you to share that
5 information on the sentencing commission --

6 MR. STOLFER: You can have this.

7 CHAIRMAN CALTAGIRONE: I'd like to
8 have copies made of that.

9 MR. STOLFER: It's in my earlier
10 testimony as well.

11 CHAIRMAN CALTAGIRONE: Okay, yeah.
12 But we have several new members in here today.

13 Detective Joe Bielevicz, Firearms
14 Tracking Unit, Pittsburgh Police Department.

15 REPRESENTATIVE MARSICO: Have we
16 heard from Doctor Johnson?

17 MR. RYAN: There was a representative
18 from his office here that I just saw earlier.
19 So I have a funny feeling she was keeping track
20 of roughly where we are.

21 CHAIRMAN CALTAGIRONE: I apologize to
22 those of you waiting. We'll try to keep it
23 moving as quickly as possible.

24 WOMAN IN ATTENDANCE: Chairman
25 Marsico, for the record, I do believe you have

1 previous testimony from Doctor Johnson from a
2 previous hearing in Philadelphia in the file
3 and on the record.

4 REPRESENTATIVE MARSCICO: That's
5 true. Okay.

6 CHAIRMAN CALTAGIRONE: Detective.

7 MR. BIELEVICZ: Good afternoon. My
8 name is Joe Bielevicz. I'm a detective with
9 the Pittsburgh Borough of Police. For the past
10 six years I've focused exclusively on the
11 investigation of illegal firearms activity,
12 first as a member of my department's firearms
13 tracking unit, and for the past three years as
14 a federal task force officer with the Bureau of
15 Alcohol, Tobacco and Firearms. I've,
16 therefore, become quite familiar with firearms
17 trafficking, as well as the obstacles that law
18 enforcement faces in combatting it.

19 My experience has given me a strong
20 understanding of how firearms are making it to
21 the streets, and I believe I'm in a good
22 position to comment on how the proposed
23 legislation could help law enforcement curb the
24 flow of guns to our streets.

25 But first let me briefly discuss the

1 problem and some of the trends that we see in
2 the Pittsburgh area. Firearms are generally
3 making it to the streets in one of two ways.
4 They're simply stolen and then they're sold or
5 traded for drugs; or they are straw purchased
6 by individuals who are willing to do the
7 bidding of drug dealers, gang members, and
8 felons. As you may already know, a straw
9 purchaser is simply someone without a criminal
10 record who buys guns for those who are
11 ineligible or unwilling to do so themselves.

12 Interviews with those possessing
13 firearms have revealed a preference for
14 straw-purchased firearms; obtaining guns in
15 this manner gives the criminal added confidence
16 that he is getting a quality weapon that will
17 fire when necessary. It also gives him added
18 street credibility, because it demonstrates an
19 ability to obtain quality weaponry in a
20 quasi-legitimate fashion. He's getting over on
21 the system, an attribute that is valued among
22 the criminal element.

23 Straw purchasing, and gun possession
24 in general, are tied directly to the drug
25 trade. First, drug dealers need weapons to

1 protect themselves and will do whatever is
2 necessary to obtain them. Secondly, drug users
3 who run out of cash are often willing to commit
4 straw purchases in order to feed their habit.

5 Unfortunately, straw purchasing is a
6 difficult crime to detect because we often
7 don't know the crime has occurred until a gun
8 is recovered and traced back. In some cases,
9 the straw purchaser files a stolen gun report
10 shortly after the purchase as a means to cover
11 themselves in the event the gun is recovered in
12 a crime.

13 To prove straw-purchase cases, law
14 enforcement often has to rely heavily on
15 circumstantial evidence, or the confession of
16 one of the parties involved in the straw-
17 purchase scheme. Law enforcement needs
18 additional tools to assist in the detection and
19 investigation of straw purchases.

20 I believe that several of the bills
21 currently being considered would be great tools
22 in the fight against illegally-trafficked
23 firearms. I would like to briefly address each
24 and explain how law enforcement may find them
25 useful.

1 House Bill 29 would require gun
2 owners to promptly report their firearms stolen
3 upon discovering the theft. Reporting your gun
4 stolen once seemed like a no-brainer, but I'm
5 always surprised by the number of people,
6 including legitimate gun owners, who do not
7 report their firearms stolen.

8 Between 2004 and 2006, the
9 Pittsburgh Police recovered 2,535 firearms. Of
10 those, 2,210, or over 80 percent, were not
11 reported stolen. Very few of these were
12 recovered in the possession of the actual
13 owners, so how do we explain why the rest are
14 not reported stolen?

15 One explanation is irresponsibility
16 on the part of otherwise legitimate gun owners,
17 people who simply don't make the effort to
18 report their weapon stolen. This is simply
19 unacceptable.

20 The remainder is a combination of
21 straw purchasers and legitimate owners who
22 illegally sell or trade their firearms. They
23 don't report the gun stolen because they are
24 not actually stolen. However, when a gun is
25 recovered and the police come knocking on the

1 door, many owners claim then that the gun was
2 stolen and that they simply failed to report
3 it.

4 House Bill 29 will, therefore, put
5 the onus on straw buyers and others to either
6 report their firearms stolen or face criminal
7 charges later. This will, presumably, prompt
8 more straw purchasers to report their firearms
9 stolen, which will bring them to our attention
10 sooner, as we can often detect straw purchases
11 through suspicious reports or short time to
12 crime.

13 This is important because, starting
14 the investigation before the gun is recovered
15 increases the likelihood that we will get it
16 off the street before it is used in a crime.
17 We have had great success investigating cases
18 and recovering guns on the front end. House
19 Bill 29 would greatly enhance our ability to do
20 that.

21 House Bill 19 is also a measure that
22 would be welcomed by law enforcement. This
23 bill would apply mandatory sentences to certain
24 felons arrested with a gun. The bill
25 essentially mirrors federal law, but because

1 the federal system can only handle so many of
2 these cases, many worthy candidates have
3 escaped harsh punishments due to lax state
4 sentencing guidelines. My only added
5 recommendation would be to ensure that the
6 mandatory is truly mandatory.

7 We currently have laws regarding
8 so-called mandatory sentences in cases
9 involving crimes with firearms, such as armed
10 robbery. But it has been my experience that
11 prosecutors frequently waive their right to
12 seek the mandatory sentence in these cases in
13 order to secure guilty pleas.

14 Failure to seek the mandatory should
15 be the rare exception, not the rule. If we
16 continue to pass laws with mandatory sentences,
17 but fail to carry them out, then we are simply
18 crying wolf, and the deterrent effects of such
19 laws are lost. I would, therefore, suggest
20 that before finalizing the language in House
21 Bill 19, the legislature develop a very
22 specific set of criteria that must be met in
23 order for the mandatory sentence to be waived.

24 House Bill 28 is a long-awaited
25 addition to the crimes code. It specifically

1 identifies carrying a firearm without a license
2 as a prohibiting offense under Section 6105.
3 Currently, carrying a firearm without a license
4 is not one of the enumerated offenses that
5 would prevent an individual from carrying a
6 firearm in the future. This bill would change
7 this and fall in line with federal law.

8 In addition to my comments on these
9 bills, I would like to offer a few more
10 recommendations for future consideration.

11 The first is drafting of a statute
12 that would make straw purchasing a specific and
13 separate crime under Title 18. Currently, the
14 statute governing straw purchases is buried in
15 Section 6111 of the Uniform Firearms Act. In
16 my experience, many police officers themselves
17 are unaware of it; therefore, the public is
18 even less likely to be familiar with the law
19 regarding straw buys. I believe that educating
20 the public about straw purchasing is important,
21 because straw purchasing is a very deterrable
22 crime.

23 Remember, the reason that straw
24 purchasers are able to obtain a gun in the
25 first place is because they've managed to stay

1 out of serious trouble and they have no
2 significant criminal history. But we must
3 clearly define this as a crime and attach
4 sentences that are appropriate to the serious
5 nature of the offense if we wish to have a
6 deterrent effect. Having a separate statute
7 would give straw purchases the attention they
8 deserve, and may help to reduce this growing
9 crime.

10 Secondly, I would strongly urge the
11 legislature to draft a law that makes it a
12 felony for someone to use a firearm as a
13 bartering tool in the acquisition of narcotics.
14 Currently, this crime would fall under
15 6111(g)(1), which applies to transfers of
16 firearms without the proper paperwork. This is
17 a mere misdemeanor of the second degree.

18 We need to differentiate between two
19 gun collectors who trade a gun without doing
20 the proper paperwork and a drug user who
21 knowingly puts a gun in the hands of a drug
22 dealer or felon as a way to obtain narcotics.
23 The gun collectors are merely cutting corners,
24 but the drug user is arming the very people who
25 are perpetrating the violence we see every day

1 on the street of Pennsylvania.

2 This type of act goes to the very
3 heart of our firearm-trafficking problem. And
4 I urge you to make the trading of guns for
5 drugs a felony for both the person trading the
6 gun and the person receiving it.

7 Finally, I would recommend that the
8 legislature make it a requirement that all
9 private sales and trades of semi-automatic
10 rifles be conducted before a licensed firearms
11 dealer. Currently, someone who lawfully
12 purchases an AK-47 or SKS rifle, for example,
13 from a gun dealer may, at a later date, give,
14 sell, or trade that gun to someone without
15 completing any paperwork whatsoever and without
16 any type of background check being conducted on
17 the purchaser.

18 There is no requirement of the
19 original owner to maintain a record of who the
20 gun was sold to; therefore, when these guns are
21 recovered in crimes, the original owner can
22 simply tell police he has no idea who he sold
23 the gun to, whether it's true or not.

24 As an example, we recently
25 investigated a case in Clearfield County in

1 which an individual went to a gun store and
2 attempted to purchase a case of SKS rifles.
3 Fortunately, the dealer was suspicious and
4 contacted ATF. Our interview of the
5 prospective purchaser revealed that he was
6 buying the rifles for a drug dealer in the
7 Pittsburgh area.

8 Had the gun dealer not been
9 suspicious, or had this individual been smart
10 enough to space out his purchases over time
11 instead of trying to make one large purchase,
12 these guns would have ended up on the streets
13 of Pittsburgh. Then the purchaser would have
14 been under no obligation to produce any
15 paperwork or otherwise explain what he did with
16 these firearms.

17 This creates a huge loophole for
18 high-powered rifles to be sold or given to
19 criminals, and creates an obvious opportunity
20 for the straw purchase of such rifles.

21 In virtually every instance that I
22 know of, it is unlawful to hunt with
23 semi-automatic rifles in Pennsylvania, so
24 requiring the completion of a firearms
25 application would not place undue burden upon

1 hunters and sportsmen. It is a reasonable
2 measure that would allow us to more accurately
3 trace semi-auto rifles used and recovered in
4 crimes.

5 I would like to say one other thing
6 in response to some of the comments I heard
7 here today. I certainly respect the opinions
8 of the NRA and Mr. Stolfer in terms of their
9 position on these issues. But I will say that
10 I resent anyone from those organizations or
11 anyone outside of law enforcement coming in
12 before you and telling you what tools we need
13 and what tools we don't need, and what tools we
14 use and what tools we don't use.

15 Mr. Stolfer told us that he's been
16 studying this issue for over 20 years. I've
17 been in the firearms-tracking unit in the City
18 of Pittsburgh, the only firearms tracking unit
19 in western Pennsylvania that I know of, and
20 never once during the past six years has Mr.
21 Stolfer approached me or anyone in my office
22 and asked me what tools we need, how we do our
23 job, how we can better do our job. We're there
24 for the asking if he would like to do that, and
25 that's never occurred.

1 So just please keep in mind when you
2 listen to those comments, the comments of law
3 enforcement about how to go about doing law
4 enforcement is more important than the comments
5 of people who are members of special interests
6 groups.

7 I will close by thanking you for the
8 opportunity to speak before you today. It is
9 encouraging to know that our legislators value
10 the opinion of those in the field, who not only
11 have a unique perspective on the problem of gun
12 violence, but also will be required to enforce
13 any new laws that are passed. So for that I
14 thank you, and ask that you to continue to seek
15 the input of rank-and-file law enforcement
16 officers when discussing public safety issues.

17 I'll be happy to answer any questions
18 you may have.

19 CHAIRMAN CALTAGIRONE: Thank you,
20 Detective.

21 REPRESENTATIVE MARSICO: Thank you,
22 Mr. Chairman. Thanks for being here. I
23 appreciate your testimony.

24 You said that you know of no other
25 firearms tracking units in western

1 Pennsylvania. Are there any others that you're
2 aware of in this part of the state or the
3 eastern part of the state?

4 MR. BIELEVICZ: I know Philadelphia
5 has a specific unit dedicated to firearms
6 investigations, and we've been in contact with
7 them over years for different reasons. Outside
8 of that I'm not aware of any.

9 REPRESENTATIVE MARSICO: What about
10 the Pennsylvania State Police? Are you in
11 contact with them much regarding the
12 tracking --

13 MR. BIELEVICZ: We are in contact
14 with their firearms unit in Harrisburg as far
15 as finding out owners' information, getting
16 records of sales, and so forth. I don't know
17 that there's any specific investigation that's
18 done out of that office.

19 REPRESENTATIVE MARSICO: Just real
20 quick then, what does it take to put a firearm
21 tracking unit together, just the logistics of
22 that and the resources?

23 MR. BIELEVICZ: It depends on the
24 size of the city, obviously, that you have, but
25 I think you need just like in any other unit,

1 burglary, robbery, what have you, you need a
2 number good detectives, a good supervisor, and
3 I think a good understanding and schooling on
4 the law behind the Uniform Firearms Act and
5 even federal firearms laws.

6 I think this area of the law is
7 very -- I think a lot of officers on the street
8 are very unfamiliar with firearms laws with the
9 exception of 6106 and 6105. But as far as the
10 actual laws regarding transactions of firearms,
11 I think the officers that I know are very
12 unfamiliar with those laws.

13 REPRESENTATIVE MARSICO: What's the
14 size of your unit?

15 MR. BIELEVICZ: Our unit currently
16 has four detectives and one supervisor.
17 Unfortunately, a lot of the time is spent
18 tracing the firearms, which is actually filling
19 out the paperwork that gets forwarded to ATF to
20 conduct the trace.

21 I am assigned to the ATF full time,
22 so I'm not directly involved in the tracing of
23 firearms. I receive the information back after
24 my fellow detectives do the traces.

25 So, much of the investigation that

1 our unit does is actually done through myself
2 and another officer who are assigned to ATF
3 full time. So the remaining detectives in that
4 unit are not -- are not able to really do a lot
5 of investigation because they're basically
6 doing a lot of paperwork regarding the traces
7 themselves.

8 REPRESENTATIVE MARSICO: Okay, thank
9 you.

10 CHAIRMAN CALTAGIRONE: Representative
11 Gabig.

12 REPRESENTATIVE GABIG: Thank you, Mr.
13 Chairman, and thank you, Detective, for coming
14 here from Pittsburgh to provide us that
15 information.

16 I don't know if you were here this
17 morning. I just want to reiterate this
18 afternoon that apparently in the last few years
19 the legislation tried to enhance a gun penalty
20 for stolen guns. When I was in the field it
21 was a felony if you stole a gun or were in
22 possession of a stolen gun, and we routinely
23 prosecuted people that did that. They would
24 burglarize somebody's home, whether it was a
25 rifle, any type of gun was a felony.

1 difficult to prove that the person in
2 possession of a stolen gun knew it was stolen.

3 If it was stolen six months earlier,
4 the clear argument could be, it passed through
5 10 different people's hands before it got to
6 this guy. How was he to know it was stolen?

7 REPRESENTATIVE GABIG: Right. In our
8 area we'd have burglaries and people steal
9 people's guns. And then we catch the burglars
10 and they'd have guns and other paraphernalia
11 that they stole and they'd be charged with the
12 burglary and the felony for the firearm no
13 matter how much it's worth.

14 MR. BIELEVICZ: Correct.

15 REPRESENTATIVE GABIG: And
16 apparently, you know, in our quest to try to
17 make it more serious for the fencing of that,
18 we actually created a loophole that needs to be
19 fixed. I just wanted to check to see if in the
20 field in Allegheny County some of the reports
21 that we've been getting that that's true also.

22 You know, you mentioned being, you
23 know, you don't like being told by others or
24 special interests groups. What I said this
25 morning -- When you said that, it sort of hit

1 me having spent a long time as an assistant
2 district attorney.

3 You know, when I see this
4 administration telling us that all these gun
5 control laws are designed to help the
6 situation, particularly in Philadelphia, and I
7 see them cutting the budget of the state police
8 who we rely on in Dauphin County and Cumberland
9 County to do most of the ballistics and guns
10 and all that, that's who we had, it wasn't the
11 local police that was handling that.

12 When I see them cutting the A.G.'s
13 Office who could certainly help with the
14 2,000 warrant situation in Philadelphia, sort
15 of a task force with the marshals and
16 detectives such as yourself, I just think you
17 hit on a good point. You sort of listen to
18 those who you think are really concerned about
19 the issue and then you wonder where people --
20 where the rubber meets the road on some of
21 these things.

22 How many stolen gun cases are there
23 outstanding in Allegheny County or Pittsburgh?
24 You know, you said that a lot of these are hard
25 to prosecute, I guess. You find out about

1 them. There are law-abiding citizens reporting
2 them now, that their guns were stolen.

3 MR. BIELEVICZ: Very few actually.
4 When you look at the numbers, the number of
5 stolen -- The number I gave you, we had
6 somewhere around 2500 guns recovered over a
7 three-year period.

8 REPRESENTATIVE GABIG: No, no.
9 There's my -- I heard that. People are
10 reporting that their guns were stolen I guess
11 in Allegheny -- or they're not --

12 MR. BIELEVICZ: They're reporting
13 them, but not at --

14 REPRESENTATIVE MANDERINO: The
15 aggregate number of stolen gun reports you get
16 in a year.

17 MR. RYAN: 2500.

18 REPRESENTATIVE GABIG: No, no, no.

19 REPRESENTATIVE MANDERINO: No, no.
20 That's guns recovered. Do you keep a log if
21 somebody calls and says, my gun was lost or
22 stolen?

23 MR. BIELEVICZ: Absolutely, yes.

24 REPRESENTATIVE MANDERINO: How many a
25 year?

1 MR. BIELEVICZ: I don't have that
2 number for you. I would say a couple hundred a
3 year. But when you're recovering far more than
4 people are reporting stolen, obviously, there's
5 a problem.

6 REPRESENTATIVE GABIG: So you have a
7 couple hundred, you know, give or take. And of
8 those how many are successfully prosecuted?

9 MR. BIELEVICZ: Well, successfully --
10 They have to be successfully investigated
11 before they can be successfully prosecuted.
12 How many of those where we actually identify
13 the perpetrator and make an arrest? I would
14 say most of them are burglaries, burglary
15 reports.

16 REPRESENTATIVE GABIG: Right. Or
17 cars, people have them stolen out of cars
18 sometimes.

19 MR. BIELEVICZ: Right. And as you
20 know, the clearance rate for burglaries is
21 generally quite low.

22 REPRESENTATIVE GABIG: Right.

23 MR. BIELEVICZ: So I would say that
24 the number of people prosecuted for actually
25 stealing a gun in Allegheny County and probably

1 throughout the state is very low. Probably
2 less than 20 percent.

3 REPRESENTATIVE GABIG: See, I
4 appreciate you asking for more tools, and we
5 want to give you more tools up here.

6 But this thing about having a
7 law-abiding citizen now committing a crime for
8 failing to report within 24 hours, I don't know
9 how much impact that's going to have in
10 Pittsburgh or Philadelphia to reduce the crime
11 rate. It's hard to prove those, anyway. What
12 you try to do is get the shooter somehow,
13 right? And we're trying to stop the homicide
14 rate.

15 MR. BIELEVICZ: And as I said in my
16 testimony, I believe that a lot of the straw
17 purchasers -- A lot of these people straw
18 purchase a gun --

19 REPRESENTATIVE GABIG: Which is
20 illegal right now.

21 MR. BIELEVICZ: -- which is illegal.

22 REPRESENTATIVE GABIG: You say a lot
23 of your police don't know about it, but it's
24 illegal right now. It's against the law.

25 MR. BIELEVICZ: It is. It is

1 illegal, but a lot of them will purchase it to
2 get that quick fix, or what have you; put the
3 gun out on the street, and just cross their
4 fingers and hope that that gun is never
5 recovered.

6 But, a lot of times they will think
7 about it later and say, hey, maybe I better
8 report that stolen. Some of them do. And in
9 those cases we oftentimes see those reports and
10 see suspicious circumstances that lead us to
11 identify that as a straw purchase.

12 REPRESENTATIVE GABIG: Right.

13 MR. BIELEVICZ: I think if we have a
14 law that requires people, puts the burden on
15 people to report their gun stolen, I think a
16 lot of these straw purchasers that haven't been
17 reporting them stolen will now start to report
18 them, and we will start to investigate those
19 again on the front end as opposed to waiting
20 until the gun is recovered.

21 REPRESENTATIVE GABIG: I understand
22 what you're saying. What you're saying is,
23 right now there's people that are violating the
24 straw purchase law. And you think they might
25 start obeying it.

1 MR. BIELEVICZ: No, I'm not --

2 REPRESENTATIVE GABIG: You're going
3 to make law-abiding citizens subject to penalty
4 under this. Do you see what I'm saying?

5 MR. BIELEVICZ: Actually, I disagree.
6 I think what's happening now is, there is no
7 requirement for them to report it stolen and,
8 therefore, when we knock on their door they can
9 throw up their hands and say, hey, I didn't
10 know I had to.

11 But, if we have that law and they do
12 start reporting it stolen -- I believe that
13 they will start reporting it stolen because
14 then they don't have that out. They don't --
15 They can't explain it away later by saying they
16 didn't know because, once you have the law and
17 they're required to --

18 REPRESENTATIVE GABIG: Do you
19 think -- You think they'll obey the law to
20 report them stolen. So where does that get us
21 from stopping homicides in Pittsburgh or not?

22 MR. BIELEVICZ: Because I think the
23 people who don't obey the law are the ones that
24 are going to be more easily identified as straw
25 purchasers. Like right now there's nothing

1 that tells anyone that they have to report a
2 gun stolen.

3 I think if we put another, I don't
4 want to say a roadblock, but if we put
5 something else there to require them to do
6 that, I think there is less of a reason for
7 someone to not to report it stolen if it is, in
8 fact, a legitimate theft.

9 REPRESENTATIVE GABIG: Okay. Well, I
10 heard you. I think who's going to be caught up
11 in that more are law-abiding citizens that made
12 some kind of mistake or error, or maybe they
13 didn't know the law. Just like you said some
14 of these police officers aren't totally
15 familiar with the total crimes code. Some
16 innocent person out there might not be as
17 familiar as you are or I am with it.

18 MR. BIELEVICZ: I think aggressive
19 PSA could certainly help in that.

20 REPRESENTATIVE GABIG: That's true
21 that we can educate the people on the
22 importance of reporting your gun stolen.
23 Whether there's a law or not, we can just go
24 out and tell them, hey, it's important to stop
25 crime to report your gun stolen. Please do

1 that.

2 And I don't know if we need to make
3 it a criminal penalty for law-abiding,
4 tax-paying, church-going, God-fearing people
5 because we're trying to catch this criminal
6 element. That's what some of us are struggling
7 with on that particular tool.

8 But, I really appreciate your service
9 and your willingness to come. Thank you very
10 much.

11 Thank you, Mr. Chairman.

12 CHAIRMAN CALTAGIRONE: Free to go,
13 Counsel Dana, Counsel Rod and Kathy. Kathy,
14 you can go first, please.

15 REPRESENTATIVE MANDERINO: Thank you.
16 When you were talking about House Bill 29 and
17 you said you have great success in
18 investigating cases and recovering guns on the
19 front end, give a specific example.

20 MR. BIELEVICZ: What I mean by that
21 is, cases in which someone files a stolen gun
22 report even though it's a straw purchase to
23 cover themselves, and then we go out, interview
24 them because circumstances seem unusual and we
25 end up -- it ends up leading us to the recovery

1 of a gun. That's happened numerous times over
2 the years in my experience. I've had a number
3 of cases like that, where we were able to
4 recover the gun, or at the very least identify
5 who received the gun.

6 We've even had instances where we've
7 gotten in contact with a person who received
8 the gun, and they had already passed it on to
9 someone else. It gives us a good idea of how
10 these guns travel. But, we've actually had
11 someone in one case put the gun in an abandoned
12 house and told us where to go to find it.

13 But, it was because we were able to
14 start this investigation almost at the point of
15 the purchase because the girl reported the gun
16 stolen about a week after she bought it. We
17 have that happen quite often, and we do have
18 great success in doing that.

19 REPRESENTATIVE MANDERINO: Let me get
20 your reaction to this because I've got a
21 germination of an idea that Gabig and I are
22 going to agree on here. Because I'm not
23 interested in making more criminals anyway
24 because, Lord knows, we don't have any more
25 room and I don't want to build three more jails

1 three more years from now to fill them.

2 There's a concept in the law right
3 now called an attractive nuisance. I'm a
4 homeowner, I have a swimming pool in my
5 backyard. It's on my private property. Now,
6 technically, the neighborhood kids should not
7 be trespassing. It's illegal for them to
8 trespass and come into my yard and dive into my
9 pool when I'm not home, or any time and, God
10 forbid, drown and die.

11 But the law enforces on me a legal
12 obligation to put a fence around that pool.
13 And if I don't put a fence around that pool and
14 the neighborhood kids come in and swim and, God
15 forbid, drown and die, I have a civil liability
16 for my negligence in not properly securing that
17 pool.

18 Why don't we do the same thing with
19 the lost and stolen gun? Why don't we make it
20 a big serious civil liability instead of a
21 crime? Then we can educate the public, then we
22 can encourage the true law-abiding citizen who
23 does not want that civil liability on their
24 head to report their guns lost and stolen. And
25 you know what it might just do, it might just

1 make sure a couple more kids don't drown and
2 die.

3 Would a civil penalty, a civil
4 liability accomplish the same goal that you
5 needed to accomplish as a criminal penalty? I
6 know I'm just throwing this out. Will you
7 think about it and get back to us?

8 MR. BIELEVICZ: I think if we have it
9 as simply a civil penalty, I think the people
10 that we're looking to target, which are the
11 street criminals and their associates who are
12 doing the straw purchases, a civil penalty does
13 not really impact them. As the saying goes,
14 you can't get blood out of rock. Some girl on
15 welfare who's buying a gun for her boyfriend or
16 his buddies, you can sue her all day and she's
17 not going to be able to give you anything.

18 So, I think a civil penalty for
19 someone like that, which is the vast majority
20 of the straw purchasers; people who couldn't
21 pay a civil penalty if they had to, it's not
22 going to really impact those folks. And I
23 think that's who we're really trying to get at.

24 So I certainly think the gun owners
25 have a responsibility to keep their guns secure

1 and keep them safe, and so forth, but at the
2 same time I don't think we would be
3 accomplishing our goal.

4 REPRESENTATIVE MANDERINO: It may
5 not -- I'm thinking out loud here. I hear what
6 you're saying. Are what you're saying to me
7 is, the vast majority of the straw purchasers
8 are the one-time transaction of the junkie
9 needing a fix, buying the gun and exchanging it
10 for drugs? Or, is it also the mass purchaser
11 who's making a living and making a profit on
12 the purchase of multiple firearms and selling
13 them on the black market?

14 MR. BIELEVICZ: We don't really have
15 what you would call mass purchasing. We do
16 have drug --

17 REPRESENTATIVE MANDERINO: Or you
18 haven't found them.

19 MR. BIELEVICZ: We do have -- Well,
20 we haven't found it yet, but those are easy to
21 detect because you start to see, you know, 10,
22 20, 30 traces all coming back to the same
23 individual. What we tend to have more of, not
24 so much the one-gun purchase, but tend to have
25 anywhere from five to 15. That's probably the

1 vast majority of the straw purchases. They
2 fall somewhere in that area. And for some
3 reason 12 seems to be a magic number. I've had
4 so many cases with 12 guns, you wouldn't
5 believe it.

6 But generally it falls somewhere in
7 there. There's nobody going out and buying,
8 you know, 30, 40, 50 guns a year as a straw
9 purchaser. First of all, it's too easy to
10 detect. And second of all, the person that's
11 requesting the gun be straw purchased knows
12 better than to keep going back to the same
13 person time after time for straw purchases
14 because eventually that's going to come back to
15 them.

16 REPRESENTATIVE MANDERINO: Do you
17 have any -- Just one last -- Do you have any
18 comment, experience, expertise or knowledge to
19 lend to the discussion that happened earlier on
20 the whole identifier-of-ammunition issue?

21 MR. BIELEVICZ: I don't have enough
22 knowledge in that area.

23 REPRESENTATIVE MANDERINO: Thanks.

24 CHAIRMAN CALTAGIRONE: Carl.

25 REPRESENTATIVE MANTZ: Thank you.

1 Thank you again for your testimony and your
2 dedication, obviously, to investigating crimes
3 over the years. I have one question.

4 Related to the number of crimes
5 involving handguns that you did investigate,
6 what proportion of the guns involved were straw
7 purchased as opposed to otherwise illegally
8 obtained?

9 MR. BIELEVICZ: I would put a
10 conservative estimate at about 30 percent.
11 Unfortunately, we don't have a good number on
12 it because a lot of the straw-purchased guns
13 don't show up for many years. The ones that we
14 are able to detect are the ones that show up
15 in, say, within a year to two years' time.
16 Those are easier to track back to an owner who
17 may very well admit to being a straw purchaser.

18 But you're just as likely to have a
19 situation where a person straw purchases the
20 gun, it's out on the street but it doesn't get
21 recovered in a crime for five, six -- I had one
22 that was straw purchased 12 years ago. It was
23 way beyond the Statute of Limitations. So we
24 don't know how many of those guns are out there
25 that just never were recovered. But I would

1 put the number conservatively at
2 30 percent right now.

3 REPRESENTATIVE MANTZ: I guess this
4 would be a guess on your part. Do you think
5 this is fairly representative across the state
6 or is it peculiar to Allegheny County?

7 MR. BIELEVICZ: I'm not real sure to
8 be honest with you. We have been in contact
9 with the Philadelphia police and I know straw
10 purchasing is a big problem out there as well.
11 So, I would imagine the numbers are probably
12 similar, if not higher there.

13 REPRESENTATIVE MANTZ: Thank you.

14 MS. ALWINE: While we have an expert
15 here in firearms tracking, I want to ask
16 question on the forensic aspect of this, but I
17 do have a method to my madness.

18 We know when there are stolen
19 vehicles that one of the recovery and
20 identification tools they have are the multiple
21 VIN numbers, some in very secret spots in the
22 car.

23 When we are talking about recovered
24 guns where serial numbers are filed off or
25 burned off, are there multiple places for you

1 to look for identification on those, or is that
2 not possible given gun --

3 MR. BIELEVICZ: There are some
4 firearms that have multiple locations for
5 serial numbers, but generally not. But our
6 crime lab in Allegheny County has had great
7 success at raising the serial numbers. A lot
8 of times a criminal will think they filed the
9 serial numbers off and you and I couldn't read
10 it, but they are able to apply some sort of an
11 acid to the area where the serial number was
12 and the number is raised and it's very visible.
13 So, a lot of the guns where the serial numbers
14 are removed end up being identified later on.

15 MS. ALWINE: I was also thinking in
16 terms of -- because in instances of automobiles
17 some of them are put in places where nobody
18 could get to them to obliterate them without
19 destroying an important component of the car.

20 Would there be any point in us
21 pursuing something with our federal counter-
22 parts as far as requiring gun manufacturers to
23 also put something in an inaccessible part of a
24 gun, that can only be accessed by law
25 enforcement once it's retrieved and then

1 destroyed in reaching it? Would that be
2 helpful in tracking owners?

3 MR. BIELEVICZ: There may be
4 something you can do that would allow you to
5 put a serial number in a location where the
6 only way to find that serial number is to
7 essentially destroy the gun. That may be
8 something to look into. I wouldn't feel
9 comfortable commenting on whether that would be
10 something that would be worthwhile or not. I'd
11 have to look into that more.

12 MS. ALWINE: Okay, thank you.

13 MR. COREY: Detective, thanks again.
14 Thanks for participating in our hearing in
15 Pittsburgh we had a little earlier this year.
16 You just happened to mention the benefits of an
17 aggressive PSA campaign when we were talking a
18 little bit earlier about stolen guns. I know
19 we addressed this at the Pittsburgh hearing.

20 When the General Assembly passed
21 legislation to create a mandatory five-year
22 prison sentence for the use of a gun in a drug
23 crime, part of that legislation was to
24 authorize PCCB to create a PSA program so that
25 folks would know about this mandatory penalty.

1 This is modeled after things done in Boston and
2 some of the other successful projects. It was
3 Act 225 of 2004 as I recall.

4 My understanding is that this month,
5 actually, they are rolling out the first of
6 that PSA. You and I had briefly mentioned this
7 earlier, but I thought it would be worth noting
8 for all. Have you seen any of that advertising
9 yet, any of the radio spots, anything like that
10 in Pittsburgh?

11 MR. BIELEVICZ: I've not, not as of
12 yet.

13 MR. COREY: Thanks.

14 CHAIRMAN CALTAGIRONE: Thank you. We
15 appreciate -- Counsel.

16 MR. RYAN: Just briefly. Do you
17 actually think there might be some percentage
18 of straw purchasers who might hesitate if they
19 knew and they were told at the time they bought
20 the gun that they had to report it to the
21 police if it was lost or stolen? If that was
22 part of the actual transaction process in
23 bright print you sign saying, I understand that
24 I have an obligation to report this gun lost or
25 stolen, that some girlfriends and other

1 scuzzbuzzes who might be willing to go in there
2 and do it for a few bucks might say, ah, this
3 could come back and haunt me and actually cause
4 them to stop or hesitate?

5 MR. BIELEVICZ: I do, again, because
6 as I said earlier, I think a lot of these
7 people, some of them are drug users, but
8 outside of that, because they are able to buy a
9 gun they don't have a criminal record. They've
10 generally been towing the line. And I think
11 everything we could put in front of them to
12 dissuade them is certainly helpful. And I
13 think that it certainly couldn't hurt.

14 I think a lot of those people will,
15 in fact, hesitate. I don't want to say a lot.
16 I think a number would. If we -- If 20 percent
17 of the current straw purchasers turn away and
18 don't purchase a gun because of that, then
19 we've accomplished something in my opinion.

20 MR. RYAN: Okay.

21 CHAIRMAN CALTAGIRONE: Thank you,
22 Detective.

23 MR. BIELEVICZ: You're welcome.

24 CHAIRMAN CALTAGIRONE: We'll next
25 hear from the Honorable Doctor Calvin Johnson,

1 Pennsylvania Secretary of Health.

2 SECRETARY JOHNSON: Good afternoon,
3 Chairman Caltagirone, and members of the
4 Judiciary Committee. I'm Calvin Johnson,
5 Health Secretary for the Commonwealth. I want
6 to thank you for the opportunity to come and
7 discuss the issue of violence, interpersonal
8 violence, and gun violence in particular from a
9 health and public health perspective today.

10 Gun violence, in fact, affects all
11 citizens of the Commonwealth. As Governor
12 Rendell stated during his budget address
13 earlier this year, Pennsylvania needs to
14 implement a comprehensive approach to address
15 the epidemic of gun violence that is occurring
16 throughout the Commonwealth and is destroying
17 the sense of community that connects us all.

18 The issue of gun violence is a
19 public health issue in addition to a criminal
20 justice issue, in that, it affects large
21 populations, it results in significant
22 disability and death, and perhaps, more
23 importantly, can be prevented.

24 In 2004, firearm-related injuries
25 accounted for 1,572 hospitalizations and

1 1,264 deaths in Pennsylvania. Death rates are
2 highest among African-American males between
3 the ages of 15 and 44 years old. The
4 Washington-based Violence Policy Center
5 reported earlier this year that Pennsylvania
6 leads the nation in the per capita rate of
7 black homicide victims. This alone should
8 cause immediate alarm and immediate action for
9 each and every one of us.

10 Thirty-five percent of the deaths
11 from firearm-related injuries in Pennsylvania
12 occurred among individuals under the age of 30.
13 These numbers indicate a cost to our health
14 care system of \$107 million in hospitalization
15 charges. Approximately 72 percent of this cost
16 is carried directly by public dollars through
17 Medical Assistance, or indirectly through
18 billing to uninsured patients.

19 To effectively reduce gun violence
20 for the long term, we must break the cycle of
21 violent behavior and prevent it from happening
22 in the first place. To do this, we must
23 understand the who, what, when, where, and how
24 of violence, certainly better than we do today.

25 One major challenge we face is the

1 absence of a centralized system for the
2 collection and sharing of information on
3 firearm injuries, including location of
4 incident, the circumstances leading to and
5 surrounding the incident, the type of firearm
6 used and the treatments and interventions
7 directed to the victims, family members, and
8 the consequences for the perpetrators.
9 Applying a public health approach similar to
10 what is used in any disease outbreak
11 complements criminal justice and community
12 efforts.

13 A sound public health approach
14 focuses on clearly defining the disease or
15 injury and identifying the causes or the cause.
16 It uses data to determine who is being affected
17 and how they're being affected. It considers
18 the overall context in which the outbreak is
19 occurring, including what circumstances lead up
20 to that outbreak or injury. It then designs
21 immediate, short, and long-term interventions
22 to prevent further disease or injury, and
23 implements them at the earliest possible point
24 of intervention. More information is collected
25 afterward to evaluate the impact of those

1 interventions.

2 This approach works to contain and
3 prevent disease outbreaks, and with criminal
4 justice interventions it can do the same for
5 gun violence.

6 There's several existing initiatives
7 to reduce gun violence that we can build on.
8 Under Governor Rendell's leadership, the number
9 of state troopers in Pennsylvania has reached
10 its highest level ever. The Governor's
11 2007-2008 proposed budget contains \$10 million
12 for the second year of the Police on Patrol
13 Program, which provides funding to
14 20 cities and municipalities throughout
15 Pennsylvania to hire additional police
16 officers.

17 The Governor and your colleagues in
18 the legislature have already started to address
19 gun violence on several fronts: State funding
20 has been increased to support the efforts of
21 local police departments and law enforcement
22 agencies, and more resources have been
23 allocated for public education to help young
24 people understand the consequences of violence,
25 and to make better -- how to make better

1 choices for themselves and those around them.

2 The Governor and the legislature took
3 recommendations from the Governor's Commission
4 to address gun violence in March of 2005, and
5 provided funds to implement several
6 initiatives, one of which is the Pennsylvania
7 Injury Reporting and Intervention System,
8 PIRIS. Based on a public health approach to
9 reducing gun violence, PIRIS serves as a pilot
10 program begun in Philadelphia to test our
11 ability to collect and utilize information
12 about violent deaths and firearm injuries, to
13 target activities and interventions, and to
14 evaluate current gun violence reduction
15 efforts.

16 Data to determine those most at risk
17 are collected through partnership with the
18 Pennsylvania Trauma Systems Foundation and
19 three trauma centers; the Hospital of the
20 University of Pennsylvania, Temple University
21 Hospital, and Albert Einstein Medical Center.
22 These three institutions represented 37 percent
23 of the total firearm-related discharges among
24 persons 15 to 24 years of age statewide in
25 2004.

1 The goal is to provide immediate
2 intervention when a firearm victim is admitted
3 to one of these trauma centers. Before
4 discharge, hospital workers assess and refer
5 victims and their families to the Philadelphia
6 Health Management Corporation, which has
7 coordinated a network that provides
8 interventions and services designed to prevent
9 future gun violence.

10 These interventions and services
11 address the individuals' needs from education
12 to job training, to substance abuse treatment,
13 to mental health services. Our community
14 partners include the Philadelphia Department of
15 Public Health, the Blueprint for a Safer
16 Philadelphia, and the Philadelphia Anti-Drug/
17 Anti-Violence Network.

18 As of April 13th, 2007, PIRIS had
19 received 131 referrals. Among those
20 participants, 92 percent were African-American
21 males. Of all the participants, 30 percent are
22 actively involved in PIRIS and close to
23 50 percent had already been discharged.
24 Reasons for discharge -- From PIRIS that is.
25 Reasons for discharge included, their service

1 needs had been met or they have moved out of
2 the service area. Only 5.3 percent of
3 referrals have refused service from the
4 program. The remaining percentage accounts for
5 pending enrollment into PIRIS, meaning, they
6 may be waiting for the full consent to be
7 signed, or an inability to make contact with
8 the referral.

9 Among the clients enrolled, the most
10 common services needed have been in maintaining
11 health status such as, keeping medical
12 appointments, taking medication as prescribed
13 and obtaining medical coverage, and completing
14 education and finding employment.

15 I'd like to just briefly share an
16 example of how PIRIS breaks the cycle of
17 violence and broke in one person's life,
18 a young man who I have met who suffered
19 multiple gun shot wounds when trying to break
20 up a fight. Through referral to PIRIS and
21 staying actively involved in the program, he is
22 now pursuing his GED and plans to go to college
23 and pursue his interests in science and music

24 Evaluation of PIRIS efforts have been
25 ongoing since the initial implementation in

1 April of 2006. Both the Firearm and Injury
2 Center at Penn and the University of
3 Pennsylvania Center for Clinical Epidemiology
4 and Biostatistics analyzed the data collected
5 to identify individual and system outcomes that
6 can be used to effectively evaluate PIRIS's
7 impact and the impact of the interventions, and
8 the value of the overall system.

9 Gun violence, whether in schools, in
10 the streets, or in the home, has reached crisis
11 proportions. It impacts all of us, and is a
12 major economic burden to our health care
13 system. While several steps have been taken to
14 address this issue, the current circumstances
15 indicate that more clearly needs to be done.

16 Relationships with and between
17 parents, youth, clergy and community members
18 have to be supported and nurtured. And work to
19 improve the quality of education for all public
20 school students making certain they graduate
21 with sufficient preparation for higher
22 education, employable skills or job certainly
23 must be a priority as well.

24 Interestingly enough, approximately
25 60 percent of PIRIS participants thus far do

1 not have high school education or GEDs.

2 I encourage you to consider the
3 Governor's proposed solutions to address the
4 issue: Upgrading the possession of a stolen
5 gun to a felony; passing legislation making it
6 mandatory to report the loss or theft of a gun
7 to police; passing legislation that enables
8 local communities to enact their own
9 restrictions on the flow, distribution and use
10 of handguns; enact one-handgun-a-month law; and
11 certainly continue funding for PIRIS.

12 I thank you again for the opportunity
13 to offer a public health perspective and
14 solution to this issue. I'd be happy to answer
15 any questions you may have.

16 CHAIRMAN CALTAGIRONE: Thank you, Mr.
17 Secretary. Questions?

18 (Pause.)

19 CHAIRMAN CALTAGIRONE: This was an
20 easy one. Representative Gabig.

21 REPRESENTATIVE GABIG: I don't want
22 to insult the Secretary by not asking him
23 questions. He took all his time to come here.

24 SECRETARY JOHNSON: Representative, I
25 think you know I'm never insulted if you choose

1 not to ask me questions, but I'm happy to
2 answer.

3 REPRESENTATIVE GABIG: Gosh, this is
4 a different committee for you to come before.
5 You've been very cooperative with the
6 legislature since your initial appointment, Mr.
7 Secretary. I remember when I served on the
8 Health and Human Services Committee you were
9 always very available. So I want to thank you
10 for taking your time, in a little bit different
11 role here with the Judiciary Committee, and
12 thank you for your service to the Commonwealth
13 in your role, also.

14 And I think you're going to be the
15 right person to ask some of these questions to
16 because you really brought up some important
17 things that were brought up tangentially. The
18 focus on the African-American boys and young
19 men, and particularly in the Philadelphia
20 municipal -- you know, in Philadelphia, you
21 brought some highlights with the statistics and
22 they're very concerning I think to all of us.

23 PIRIS sounds like a very good
24 program. The drop-out rate for African-
25 American males in Philadelphia, it's been

1 reported to be about 70 percent. Does that
2 jive with your experience with the program in
3 Philadelphia?

4 SECRETARY JOHNSON: Yeah. As I
5 indicated, the kids that have been referred to
6 the program and young men that have been
7 referred to the program, we looked at what
8 we've seen just in the past year of this
9 program actively being up, 60 percent do not
10 have a high school education or a GED. And I
11 expect as the numbers increase, we'll see that
12 percentage increase as well.

13 REPRESENTATIVE GABIG: And 70 percent
14 of the children generally, I don't know if it's
15 African-American, or just generally, are
16 children being born out of wedlock in
17 Philadelphia. Does that jive with your
18 experience and information?

19 SECRETARY JOHNSON: I'm not sure of
20 that statistic. And that's not a piece that
21 we're actively looking at or reporting on right
22 now in the PIRIS program.

23 REPRESENTATIVE GABIG: Well, I think
24 it's been fairly widely reported and I might be
25 a few percentages off here, give or take. A

1 lot of these boys are growing up without
2 fathers, and certainly without a stable father
3 figure in their lives.

4 So I'm gathering that the programs
5 that you're talking about, the community
6 outreach programs, which I know have been
7 effective in my county also, are designed to
8 reach some of those boys, you know, young
9 people, youth at a relatively early age and to
10 give them some positive role models and give
11 them some hope for the future, some of these
12 things that we heard, some of the root causes,
13 if you will, of some of this violence that
14 we're hearing about. Are those the programs
15 that you're finding as the Secretary of the
16 Health to be the most effective in violence
17 prevention?

18 SECRETARY JOHNSON: I think a couple
19 points. And you raised a number of very good
20 issues, important issues to talk about.

21 I think, one, with respect to the
22 issue of out-of-wedlock births, there are a
23 number of out-of-wedlock births, but that does
24 not necessarily correlate one to one with the
25 absence or presence or involvement of a father

1 figure or a father in the child's life. In
2 fact, in many instances, although the child was
3 born out of wedlock, the father is there and
4 present from birth and an influence in that
5 young man's life.

6 But the factors that come together to
7 tempt, to misdirect, to get a kid, a young
8 person off track are so complex and so numerous
9 that we're actually talking about in some cases
10 the second and third generation of individuals
11 who have been unemployed for significant
12 periods of time or may not have had -- and/or
13 may not have had the opportunity for whatever
14 reason to finish a high school education.

15 So, even though that father figures
16 is present and offers a very positive role
17 model in terms of abiding by the law, the
18 limits that they've had in terms of being able
19 to be gainfully employed and provide for that
20 family and provide a stable structure for that
21 family contribute to all of this.

22 REPRESENTATIVE GABIG: Now --

23 SECRETARY JOHNSON: The kinds of
24 programs -- I do want to just answer this
25 question. The kinds of programs actually that

1 we see and I think I've seen in terms of best
2 practices across the nation that really do have
3 an impact are, one, problems that get at some
4 issues that may not have been brought to light.
5 Substance abuse issues, underlying substance
6 abuse issues are the case sometimes and have
7 not been addressed, and so those do.

8 Getting kids in educational programs
9 that meet their needs and that they can attend,
10 are encouraged to attend, required to attend
11 and have supports to keep them there are
12 absolutely incredibly effective and needed.

13 Job training and providing them with
14 employable skills, and then education, training
15 and opportunities to get out there and
16 interview and have access to employment are all
17 critical pieces that, though it doesn't seem
18 necessarily intuitively are related directly to
19 someone picking up a gun or engaging in
20 criminal activity, these are the types of
21 things that open up doors and opportunities for
22 these young men that they're dying for, but
23 have those doors closed.

24 So those are the types of programs
25 that actually tend to be and have been shown to

1 be very effective.

2 REPRESENTATIVE GABIG: I'm sure there
3 was no punt intended, dying for.

4 SECRETARY JOHNSON: It was not at
5 all.

6 REPRESENTATIVE GABIG: Meaning dying
7 for lack of some of those programs. I think
8 you hit on some very good things.

9 I guess some of the initial
10 questions I was trying to get at is what's
11 typically referred to as at-risk children, if
12 you will, and to identify those at-risk
13 children; to get them into environments that
14 are much positive and constructive to prevent
15 them from getting into the gangs and other
16 things that they could get into where they'll
17 go out and shoot.

18 And I think we're in agreement that
19 those are very effective and positive programs
20 that can help bring a community and a
21 neighborhood back that has suffered the ravages
22 of a crime wave that's apparently going on in
23 some of these neighborhoods.

24 So I want to thank you for your
25 testimony today, and thank you, Mr. Chairman.

1 CHAIRMAN CALTAGIRONE: Thank you.

2 SECRETARY JOHNSON: If I could just
3 add one last comments because you also raise
4 another good point about the at-risk children.

5 A lot of the kids that we also see
6 is at risk based on their behavior and the
7 things they get engaged in are actually kids
8 that come from single-parent and two-parent
9 homes where that parent is working, and both
10 parents are working during those hours
11 immediately after school sometimes. There's a
12 period of unsupervised time where, because
13 parents are at work, that these kids get
14 engaged in all kinds of activity.

15 So, also programs, I neglected to
16 mention, that provides some real positive
17 opportunities and activity during those hours
18 where their time would be idle otherwise.

19 So thank you for recognizing that,
20 Representative. Thank you all.

21 CHAIRMAN CALTAGIRONE: Thank you,
22 Doctor.

23 We'll next hear from the Honorable
24 David J. Freed, District Attorney of Cumberland
25 County and the Honorable Edward M. Marsico,

1 Junior, District Attorney of Dauphin County.

2 MR. FREED: Good afternoon. If it
3 meets with the approval of the committee, we
4 thought that I would start, Ed will follow up
5 and then we'll take questions after that to the
6 extent there are any.

7 Good afternoon, Chairmen Caltagirone
8 and Marsico, members of the committee,
9 especially my former colleague in the
10 Cumberland D.A.'s office, Representative Gabig.
11 My name is David Freed, and I'm the District
12 Attorney of Cumberland County. I appreciate
13 the opportunity to address this panel and the
14 pressing issues regarding gun violence.

15 In preparation for my testimony I
16 have reviewed House Bills 20, 22, 29 and 784.
17 I've also reviewed the testimony from last week
18 by Joseph Labar from Philadelphia County. I
19 did look at some other pieces of legislation,
20 as well as the Blueprint for a Safer
21 Philadelphia that was provided to me by my
22 colleagues in the Philadelphia District
23 Attorney's Office.

24 Although Cumberland County is far
25 different from Philadelphia in terms of crime

1 issues, we are still plagued with far too much
2 crime that's related to illegal firearms.

3 In my experience, the vast majority
4 of gun crimes are committed with firearms that
5 have been illegally obtained. Whether the
6 product of a straw purchase, an illegal street
7 transfer or simply a theft or house burglary,
8 which is the most common occurrence in
9 Cumberland County, guns quickly find their way
10 into the hands of criminals who use them as a
11 tool of the trade like a carpenter uses a
12 hammer. Guns are currency on the streets.
13 They're easy to conceal, transport and
14 transfer.

15 It is no secret in the illegal
16 marketplace that drug dealers are more than
17 happy to accept guns in lieu of cash payments
18 for drugs. Two recent examples of this
19 relating to Cumberland County spring
20 immediately to my mind.

21 Like many places in the midstate,
22 Cumberland County has a strong market for
23 illegal drugs, in particular crack cocaine,
24 that is supplied by dealers from New York City
25 who enjoy easy access to the area via the

1 interstate highway system.

2 A few years ago one such dealer
3 whose street name was Gotti, G-O-T-T-I, after
4 the convicted mafia leader, gunned down a rival
5 in the Borough of Carlisle at close range. The
6 murderer used a firearm that had been stolen in
7 a house burglary several months before and
8 traded for drugs. The murder was in Carlisle
9 Borough, the burglary was in North Middleton
10 Township, which is a township just outside of
11 the Borough of Carlisle.

12 The burglary had been reported but
13 remained unsolved at the time of the murder.
14 The legal owner of the firearm was by all
15 accounts a responsible citizen who had the
16 misfortune of having his house burglarized.
17 The police found the murder weapon at the scene
18 where the killer had dropped it.

19 We're fortunate in Cumberland County
20 that we don't have very many murders. However,
21 those that we do have are evenly divided
22 between domestic violence and illegal drug
23 activity, of which firearms are invariably a
24 part.

25 More recently, a man was murdered on

1 the streets of Brooklyn, New York, in another
2 drug-related shooting. Again, the killer
3 dropped the gun at the scene. The gun was
4 recovered by police and easily traced back to
5 yet another house burglary in Cumberland
6 County. Again, the gun was traded to drug
7 dealers for drugs or money and was ultimately
8 used to take the life of another human being.

9 I could spend the rest of the time
10 citing examples of gunpoint robberies using
11 illegal guns such as the case involving in four
12 defendants that we resolved last week from Camp
13 Hill Borough, or the shots fired after a
14 disputed rap music competition at Dickinson
15 College just past weekend, or interstate
16 traffic stops in which illegal guns are
17 discovered, but I will not.

18 I simply urge this committee in its
19 consideration of legislation involving illegal
20 firearms to increase punishment for those who
21 transfer, possess and use illegal firearms
22 while upholding the constitutionally-
23 guaranteed rights of responsible gun owners. I
24 propose that this can be done in the following
25 manner:

1 First, adopt the proposals presented
2 here last week by my colleagues from
3 Philadelphia to combat the practice of straw
4 purchasing, in particular the expansion of
5 categories of persons not to possess firearms
6 under Section 6105.

7 Second, adopt House Bills 29 and
8 784 as proposed. Now I need to qualify my
9 support for 29. I think that the idea -- the
10 section in 29 requiring state police to have a
11 registry all stolen firearms is an excellent
12 idea. I'm concerned about criminalizing the
13 lack of reporting for people where it might
14 just be an oversight. You know, the second
15 part of that, part of the statute indicates if
16 we can show that it was intentionally not
17 reported, that makes a difference to me.

18 I was interested to hear the idea of
19 perhaps a civil penalty and the attractive
20 nuisance.

21 REPRESENTATIVE MANDERINO: I'm
22 fishing.

23 MR. FREED: Well, it's an
24 interesting -- an interesting way to look at
25 it, though. I'm concerned about criminalizing

1 zone mandatory minimum sentences of two years.
2 Since we've been pursuing this aggressively, it
3 has certainly cut down on the amount of drug
4 transactions near schools and daycare centers.

5 Similarly, experienced criminals are
6 aware of the five-year mandatory minimum
7 sentence attached to the use of firearms in a
8 robbery. This has helped to reduce the number
9 of gunpoint robberies and no doubt prevented
10 related shootings.

11 Furthermore, the adoption of the
12 five-year mandatory minimum for guns and drugs
13 has had a similar effect. A serious mandatory
14 minimum sentence of at least two years for
15 violations of Section 6105 would have a direct
16 effect on illegal firearm possession, not to
17 mention putting serious criminals out of
18 circulation.

19 Fourth, amend Section 6105 and 6108
20 of the crimes code to ensure that offenders who
21 possess illegal firearms will face adequate
22 penalties. A juvenile adjudication of any of
23 the enumerated crimes in 6105 should prevent
24 that individual from possessing a firearm.

25 In addition, convictions under

1 Section 6106, which I think has been addressed
2 by other speakers, and 6108, related to
3 carrying firearms on public streets and public
4 areas in Philadelphia should be added to the
5 enumerated offenses under Section 6105 that
6 prevent persons from possessing firearms.

7 Fifth, adopt the Armed Career Violent
8 Criminal Statute. Under this statute persons
9 convicted of two prior crimes of violence or
10 drug-trafficking offenses will face a five-year
11 mandatory sentence for possessing firearms.
12 Three or more convictions would trigger a
13 ten-year mandatory minimum. This is obviously
14 reserved for the most violent repeat criminals.

15 Sixth, adopt House Bill 581 to
16 correct the grading of receiving stolen
17 property of a firearm. Theft is properly
18 graded as a felony of the second degree.
19 Receiving when that property is a firearm is
20 graded as a misdemeanor of the first degree.
21 Under this scheme, the drug dealer who trades
22 drugs for a stolen gun can only be charged with
23 a first-degree misdemeanor for possessing that
24 stolen gun. This is inequitable and must be
25 corrected.

1 In addition, this bill enhances the
2 grading for engaging in the business of fencing
3 stolen firearms.

4 Thank you for the opportunity to
5 share my views on these important matters.

6 MR. MARSICO: I'd also like to thank
7 the committee for having me here today,
8 Chairman Caltagirone, as well as other members
9 here in the House. Will is also a former
10 colleague of mine of the Dauphin County D.A.'s
11 Office before he went to work with Dave at the
12 Cumberland County D.A.'s Office. I'll leave
13 comments about Ron for another time.

14 I do applaud the committee for
15 taking the effort to look at this. Five years
16 ago I started preaching to everyone that guns
17 are a big problem. In early 2002, before we
18 saw the spike in violent crime across the
19 Commonwealth, especially in Philadelphia,
20 obviously, over the last two years, but in
21 other cities, we started to see it coming here
22 in Dauphin County; in areas like Berks County,
23 obviously, already has a drastic the crime
24 problem, as we do have here in Harrisburg.

25 I commend the members of the General

1 Assembly for the tools you've given us
2 recently. The five-year mandatory guns and
3 drug legislation was a great tool. I bought
4 into the Project Safe Neighborhoods program, a
5 program proposed by the federal Department of
6 Justice in 2002, under then Attorney General
7 Ashcroft, that encouraged local prosecutors to
8 work with their federal counterparts to send
9 cases federally.

10 My office cross-designated two
11 assistant D.A.'s as special assistant United
12 States attorneys. They worked in the U.S.
13 Attorney's Office on a regular basis. And we
14 took many of the cases federally because we
15 didn't have the state penalties here. Frankly,
16 the state penalties were insufficient, but
17 you've helped us a lot in state court by giving
18 us that five-year guns and drugs mandatory.

19 The other thing that helped a lot was
20 the revision of the sentencing guidelines with
21 regard to violations of the Firearms Act. It
22 used to be until the guidelines were changed
23 about a year or so ago, I could have a drug
24 dealer with a prior -- two prior drug offenses
25 caught with an illegal firearm maybe face

1 nine to 16 months under the standard
2 registering (phonetic) sentencing guideline.
3 Our judges routinely would give a nine-month
4 sentence. That's a guy with a third scrape
5 with the law with a gun getting nine months.

6 Those guidelines have been changed
7 thankfully. And now we're starting to see the
8 fruits of some of your efforts here that we've
9 lobbied you for for so long.

10 I know there's a lot of criticism
11 about prosecutors not seeking mandatories. Let
12 me tell you, we seek the mandatories in Dauphin
13 County. Not all the time. There's times when
14 we have to make a deal to get somebody to
15 testify against a bigger dealer or there's a
16 weakness in the case. But for the most part,
17 we're using the tools that you gave us.

18 The Project Safe Neighborhoods also
19 had a public service component, as did the PCCD
20 campaign. I haven't seen much with the PCCD
21 campaign. We're trying to think of different
22 things here in Dauphin County. I've used
23 federal monies under Project Safe Neighborhoods
24 to put up gun sensors, audio detention devices
25 that actually started going up yesterday in a

1 neighborhood here in Harrisburg. Hopefully
2 that will enable for a quicker response time,
3 first of all, for the medics, if somebody is
4 shot.

5 My main thing is, I want to save a
6 life if somebody is hurt, but also it will
7 automatically deploy police to the scene by
8 science beyond my capabilities, by
9 triangulation, global positioning directly to
10 the scene where a gunshot is fired. So, we're
11 are looking for new technology; we're looking
12 for new public outreach.

13 In January we had a public relations
14 event where we had a rap star who cut a CD
15 talking about the penalties for gun crime that
16 we did here in Harrisburg. Ironically, two
17 days later he was at the scene of a shooting.
18 But at least for the night that I used him, we
19 had a good response.

20 REPRESENTATIVE MARSICO: He wasn't
21 responsible?

22 MR. MARSICO: He was not responsible,
23 he was just a witness. Just a witness, just to
24 clarify that.

25 REPRESENTATIVE MARSICO: Otherwise,

1 you wouldn't use him again.

2 MR. MARSICO: Correct. But I mean,
3 there's too many illegal guns on the street,
4 that's what we're here about. In some senses
5 it's too late to make major changes I think.

6 Now, look at the good news, though.
7 Murders are down. The highest year for murders
8 we ever had in Dauphin County was 1972 when
9 there were 40 murders. In the late 1980's when
10 I started in the D.A.'s Office, we averaged
11 about 25 or so murders a year. In the last few
12 years, even with the spike up we've only had
13 around 15 murders. So, it's still not at
14 historic proportion, but any murder is too
15 many.

16 We're seeing a hugh increase in gun
17 possession cases among juveniles here in
18 Dauphin County. Our juvenile probation office
19 did a survey -- conducted a survey where around
20 60 percent of juveniles said they carry a
21 weapon. So, I think a lot of what we're
22 looking at is cultural changes. Kids are
23 putting on a gun like I put on my belt. That
24 we have to change.

25 What can you do? As I sat here and

1 listened to other speakers, I know something
2 that won't never happen, but might have an
3 effect, if we're really serious about gun
4 crime, give a 10-year mandatory for anyone
5 illegally possessing a firearm. I know prison
6 costs, things like that, it would never happen.
7 But if you really want to get serious, you
8 know, throw out something like that.

9 We're giving 10 years to child
10 molesters based on new legislation. That was
11 needed legislation that passed. But the guns
12 that are being used illegally are ending up
13 killing people. I know that's not going to
14 happen when we talk about some more practical
15 applications.

16 REPRESENTATIVE MANDERINO: Talk about
17 something we can do before someone is dead.

18 MR. MARSICO: That's what I want to
19 talk about.

20 REPRESENTATIVE MANDERINO: Okay.

21 MR. MARSICO: More police, more
22 police. We do not have enough police officers
23 on the streets of Harrisburg. Jetta has a
24 nephew who's a Harrisburg police officer here,
25 vastly undermanned. Other police departments

1 are undermanned; state police, you know,
2 despite efforts here in the legislature. And I
3 know Ron led many of those to get more state
4 police on the street. The response time in
5 some of our state police jurisdictions is
6 ridiculous because we don't have enough state
7 troopers. So again, I advocate anything you
8 can do to help us, Representative Manderino,
9 with more police.

10 Under Section 6105, count juvenile
11 adjudications the same as we count convictions
12 as a disabling offense, make it a felony. We
13 have too many juveniles that have
14 adjudications. And when we catch them with an
15 illegal firearm, they're looking only at a
16 misdemeanor. Make it the same, whether it's an
17 adjudication --

18 These kids are as sophisticated when
19 they're 15 as when they're 18. The direct file
20 statute, obviously, has been a great tool when
21 a gun is used in a robbery or other crime, but
22 give us more power with regard to juveniles
23 there.

24 I hadn't thought of this ahead of
25 time, but as I was sitting again I was

1 thinking, maybe even look at direct filing some
2 of these firearm act cases for juveniles
3 instead of just having it be a robbery or one
4 of the other underlying crimes with a weapon.
5 If we want to get at the juveniles, that word
6 gets out.

7 We talk about affecting behaviors,
8 just like when we started sending people to
9 federal prison here, that word got out, it had
10 an effect. When you start hammering these
11 juveniles, they know what direct files are, and
12 that word gets out on the street.

13 Representative Gabig referenced the
14 problem with grading theft by receiving stolen
15 firearms. For years, theft by receiving a
16 stolen firearm was the same as an actual theft
17 of a firearm. It used to be an F3 back when I
18 was actually trying cases. Then when we
19 amended the law, you upgraded the theft to an
20 F2, but theft by receiving was left out there.

21 And from a practical perspective,
22 those cases are -- The actual thefts are hard
23 to prosecute. It's much easier to prosecute a
24 theft by receiving. We don't have to prove the
25 guy actually took it; just that he had it in

1 his possession and knowingly, as we referenced
2 earlier; much easier to prove a theft by
3 receiving case than a theft case. I mean, that
4 was just a legislative oversight that can
5 easily be remedied.

6 I'd also ask you to look into
7 expanding the ability of parole officers to do
8 searches. As you know, case law in the last
9 10 years has restricted some of the ability of
10 parole officers to do searches, and it must be
11 pursuant to statutory scheme and pursuant to
12 regulations. If we could expand their
13 abilities in some sense to do searches, without
14 violating constitutional rights of the parolee,
15 I think that would help.

16 As you all well know, we're seeing
17 the same people over and over and over again.
18 You know, it's very rare that we see someone
19 the first time committing a major firearm act
20 that they'd never been in trouble before.

21 Harrisburg two nights ago, we had two
22 different shootings, one by a playground in a
23 housing project, another on a street corner.
24 We were very lucky children were not injured.
25 On any given night in this city within blocks

1 of this Capitol there's gunfire. But for bad
2 aim, frankly, our murder rate would be out of
3 control too.

4 So, I commend you, I thank you for
5 your effort. I know the legislature is looking
6 hard at this. As prosecutors, as members of
7 the D.A.'s association, anything we can do to
8 assist we certainly stand ready to do.

9 This is the biggest problem that
10 prosecutors across the state, especially in
11 areas -- And it's not a Philadelphia problem,
12 it's not a Pittsburgh problem. It's a
13 Harrisburg problem, it's Lancaster, York,
14 Reading, Norristown problem too, wherever we're
15 looking at.

16 So, thank you again for the
17 opportunity to be here.

18 CHAIRMAN CALTAGIRONE: Thank you,
19 gentlemen. Questions?

20 REPRESENTATIVE MARSICO: I might have
21 a few questions. Actually, I want to direct my
22 questions to District Attorney Freed, if you
23 don't mind, Ed.

24 MR. MARSICO: No, go ahead.

25 REPRESENTATIVE MARSICO: Seriously,

1 you made some very solemn recommendations, both
2 of you. We certainly appreciate your time and
3 what you do for our county -- counties here in
4 Pennsylvania.

5 Your recommendations with amending
6 Section 6105, 6108 of the crimes code and some
7 of your other recommendations, are they
8 supported by the D.A.'s association at the
9 time, your suggestions?

10 MR. FREED: Some are, some are not.
11 I think Ed might be better to answer that
12 question as he is a member of our executive
13 committee and I'm not.

14 MR. MARSICO: The juvenile
15 adjudications counting the same as convictions
16 our association has endorsed. What was the
17 another one?

18 MR. FREED: Making the juvenile
19 adjudication, 6108 --

20 REPRESENTATIVE MARSICO: Right, 6108.

21 MR. FREED: -- which is carrying in
22 Philadelphia, making that a disabling offense.
23 I know that's a Philadelphia issue and I know
24 Lynn is behind that. I don't know if the
25 association has gotten behind that yet or not.

1 MR. MARSICO: I don't know if we've
2 taken a position on that. I think as a whole,
3 you know, we're looking seriously at these
4 issues.

5 I think prosecutors' mindsets have
6 changed in the fall with regard to a lot of
7 these because we're just seeing too much
8 carnage, where I come from at least, I'm not
9 speaking on behalf of the D.A.'s association on
10 some of these issues either. But for the most
11 part I think we're looking long and hard at
12 these issues.

13 REPRESENTATIVE MARSICO: One of the
14 testifiers earlier mentioned, I think Will had
15 questioned this too, about the number of
16 warrants being out in Philadelphia. Was it --

17 REPRESENTATIVE GABIG: 2,000.

18 REPRESENTATIVE MARSICO: 2,000
19 warrants being out. Do we have anything like
20 that here in this area?

21 MR. MARSICO: We have a warrant
22 problem. I can tell you we have a big warrant
23 problem getting served in Dauphin County. And
24 there are steps to remedy that across the
25 street with some new technology. Most of us

1 went to this common pleas court management
2 system within the last two years.

3 But, there's still a lot of warrants
4 that are unserved, different areas here. We
5 have a marshals task force led by United States
6 Marshal Service, our sheriff's department
7 participates, local police also participate in
8 that.

9 And, actually, I've got Chief Martin
10 from Susquehanna Township and Chief Smith are
11 here, they're probably more well-versed in the
12 actual warrant problem on the street than I am
13 when they testify.

14 REPRESENTATIVE MARSICO: Okay. The
15 other thing was the firearms tracking unit that
16 the Pittsburgh Police Department has, the
17 gentleman that was here earlier, does
18 Harrisburg have anything like that?

19 MR. MARSICO: No, they don't. We
20 work closely with the state police and with
21 ATF. And even as he said, I believe the
22 gentleman from Pittsburgh was detailed with
23 ATF. So, we work closely with ATF here to help
24 them trace, you know, illegal firearms, but we
25 don't have a unit dedicated to the tracing of

1 that. The manpower need is stretched as much
2 as it is.

3 MR. RYAN: Is every gun traced?

4 MR. MARSICO: Not every gun. We're
5 moving toward that. We're tracing a lot more
6 than we did ten years ago through --

7 MR. RYAN: That's the problem I've
8 noticed and I was surprised --

9 MR. MARSICO: Yeah.

10 MR. RYAN: -- that there are a lot of
11 places where the guns aren't traced.

12 MR. MARSICO: The guns are -- The IDA
13 system has been a great benefit, but I think
14 there's more and more submissions happening to
15 it. So it's getting better, but I can't tell
16 you that every gun is traced.

17 REPRESENTATIVE MARSICO: Thank you,
18 Mr. Chairman.

19 REPRESENTATIVE GABIG: Thank you, Mr.
20 Chairman. Thank you, gentlemen. It's good to
21 see you both again.

22 I just want to make a comment on
23 District Attorney Marsico's observations, which
24 I think just hit the nail on the head. I think
25 what's happened in the criminal field is the

1 juvenilization of the crime.

2 We had this very, very serious drug
3 trafficking going on and the feds came in and
4 hammered down, and we did as a state too
5 participated in that, and so these adult
6 offenders, criminals, drug dealers started
7 pushing down to younger kids to avoid the
8 mandatories, starting using them as mules. And
9 then when those younger kids got involved, of
10 course, they got the guns, which we heard from
11 everyone here that guns and drugs go together.

12 So you're just seeing these, what I
13 call at-risk children, which we had a
14 discussion with Doctor Johnson, this population
15 without strong families, without community
16 involvement who are very vulnerable to these
17 criminal groups and gangs and activity, going
18 in there and offering them money and other
19 things. So you saw much more serious deadly
20 crime at much younger ages.

21 And our juvenile system is designed
22 for the 1950's. It's designed for the lad, you
23 know, boys will be boys and they get in
24 trouble, and, you know, let's just -- And we
25 don't treat it as serious criminal activity,

1 and we've taken some steps to address that.

2 Now, there still are juveniles that
3 are committing some, but we have this very
4 serious criminal activity that's destroying
5 neighborhoods and killing communities. I think
6 some of the recommendations, specific
7 recommendations that both of you made we really
8 need to take a serious look at, so I appreciate
9 those comments.

10 I keep wanting to say Dave because
11 we're friends, but we're on PCN here so let's
12 be a little more formal, I guess.

13 District Attorney Freed, the
14 recommendation you made on 784, as I understand
15 that House bill proposal, it would take straw
16 purchases, which we established earlier were
17 already illegal here in Pennsylvania, and I
18 think for a second offense there's a five-year
19 mandatory for a second offense on a straw
20 purchase, which is where you buy a gun having
21 reason to believe that you're going to give it
22 to somebody else, have a reason to believe that
23 it's going to be used in criminal activity.

24 This bill would make it for a first
25 offense a five-year mandatory. Is that what

1 you're supporting? Do you think that would
2 have an impact on preventing some of these
3 illegal guns being used in this criminal
4 activity?

5 MR. FREED: I do. I come at
6 mandatories not from a sociological
7 perspective, but from a practical prosecutor's
8 perspective. And I can tell you that in my
9 experience as a prosecutor, mandatories work.
10 And if we're serious about gun crimes and
11 serious about straw purchasing, to attach a
12 penalty like this to straw purchases I think
13 would be well advised.

14 REPRESENTATIVE GABIG: The other
15 thing I saw in addition to the juvenile, do you
16 agree with that juvenile, what I was just
17 talking about with --

18 MR. FREED: Yes, a hundred percent.

19 REPRESENTATIVE GABIG: The other
20 thing that you both sort of referenced is, it's
21 not only the juveniles that's sort of the
22 infantry, if you will, of the criminal gangs
23 out there in the cities, in Carlisle and other
24 areas, it's repeat offenders. It's people that
25 are in the system on parole, on probation, on

1 has a right to be protected. And when I hear
2 courts saying you almost have to get a search
3 warrant to go check up on these guys. If
4 there's anything that you think that we can do
5 to ensure public safety with regard to state
6 parolees, I know there's many of us up here
7 would be very, very interested in hearing some
8 of your ideas on that subject.

9 MR. FREED: That's an excellent
10 point. I mean, I can tell you on the street,
11 the perception is that state parole is
12 overburdened, and that's because we have so
13 many people.

14 You know, where we fail, where we
15 fail our prisoners is when we send them out
16 into the world with nothing to support them. I
17 mean, I'm all for the locking them up and
18 putting them away. But when they've done their
19 time, they need support when they get out.
20 And, you know, one contact a month with your
21 state parole officer is not support.

22 Now, look at what you did with the
23 DUI law a few years ago. You cut down a little
24 bit on the first offenses and the lower BACs,
25 but when when you recidivate and you keep

1 repeat offending, the penalties goes up and up
2 and up. And that's how we have to treat these
3 repeat offenders.

4 REPRESENTATIVE GABIG: Thank you.

5 CHAIRMAN CALTAGIRONE: Representative
6 Manderino.

7 REPRESENTATIVE MANDERINO: Thank you.

8 Thank you both for being here.

9 No big surprise to my colleagues and
10 probably not to you either, that I'm very
11 uncomfortable about the discussion about the
12 juveniles being hammered down, using Will's
13 term. What he says is true. We hammered down
14 on the adults so they've learned to use the
15 kids.

16 So our solution is, let's hammer
17 down on the kids. No, let's figure out another
18 way to hammer down on the adults so they don't
19 use the kids. Because, let's just say there
20 are 15,000 15 year olds in Pennsylvania today,
21 and we hammer down on them and we sock another
22 200 of them away in mandatory sentences of
23 10 years or more and make them hardened
24 criminals when they come out at age 25. Guess
25 what, next year there's 15,000 more new

1 15 year olds living in Pennsylvania.

2 It's not a solution that works for
3 me. So, I mean --

4 REPRESENTATIVE GABIG: Strong
5 families.

6 REPRESENTATIVE MANDERINO: I'm with
7 you on that. And my whole point is, we have to
8 stop building prisons if we're ever going to
9 have enough money to do some of this other
10 stuff on the front end. You know I'm going to
11 say this, but a 10-year mandatory sentence just
12 means to me build more prisons.

13 MR. MARSICO: No. I mean, I just
14 threw that out, obviously --

15 REPRESENTATIVE MANDERINO: I know.

16 MR. MARSICO: -- about how serious
17 are we about the problem? I agree with you. I
18 think my role as a D.A. has evolved into where
19 we are much more involved in crime-prevention
20 efforts, where in my county I sought over a
21 half million dollars for drug and alcohol
22 treatment. It wasn't the public defender's
23 office, it wasn't the court seeking it. It was
24 the D.A.'s office that looked for money,
25 because I agree, I don't want that new crime to

1 come up.

2 And I certainly agree with juveniles
3 getting a second offense, especially juveniles
4 that are being used by adults. I don't have a
5 problem with that.

6 I think the problem we're seeing,
7 Representative Manderino, are the juveniles
8 that are 16-year-old sophisticated criminals
9 that are using firearms to rob people; that are
10 actively involved in the drug trade without a
11 20 year old telling them to do it. They've
12 progressed to that point. I think those ones
13 we have to look at seriously and treat.

14 Your point is well taken. We can't,
15 you know, abandon an entire generation. We
16 can't just hammer down on the juveniles. We
17 have to look for alternatives because the
18 prisons are way too overcrowded now. Where are
19 we going to put everybody becomes a problem.

20 So, I wish I had some answers that I
21 could say to you, why don't we try this
22 juvenile program. We've been active in our
23 county in -- Our county commissioners are
24 actually going to start a police athletic
25 league, different programs like that for the

1 at-risk youth that Representative Gabig
2 referenced.

3 But again, we talk about
4 after-school programs. Everyone says, oh,
5 we've got to have after-school programs. I'm
6 not having problems from three to five o'clock.
7 My problems are 10 to 3 a.m., 10 p.m. to 3 a.m.
8 when people that should be at home aren't at
9 home and are out on the streets involved in
10 illicit activity.

11 But no, I certainly agree, I'd like
12 to see us be smart about the juveniles we
13 prosecute. I think we are, I think the direct
14 file statute was well thought out by the
15 legislature, you know, that the individuals
16 that use a deadly weapon to commit a robbery or
17 rape certainly should be punished as an adult.

18 And maybe the only area where I would
19 tinker with that is with some of these gun
20 charges. If they've been a juvenile, they've
21 already been adjudicated with possessing a gun;
22 now they're possessing a gun second time; maybe
23 look at the recidivism in the juvenile system
24 giving us an easier way to transfer or direct
25 fill those into adult court.

1 REPRESENTATIVE MANDERINO: I
2 appreciate that, and I do appreciate -- I have
3 noticed the voices of the district attorneys
4 being much stronger in recent years on the
5 issue of treatment dollars and prevention. I
6 appreciate it, and I also appreciate the voice
7 of acknowledgment of resources at the probation
8 and parole end.

9 I mean, one of the things that sends
10 me over the top is when I hear a story of
11 somebody who was so incorrigible in our
12 correctional institutions that they maxed out.
13 Well, wow, isn't that wonderful they maxed out?
14 What does that mean? We just let them out --

15 MR. FREED: No.

16 REPRESENTATIVE MANDERINO: -- into
17 society with no strings attached?

18 MR. FREED: I just got one of those
19 letters.

20 REPRESENTATIVE MANDERINO: It makes
21 absolutely no sense.

22 MR. FREED: I just got one of those
23 letters last week. He's maxing out, he's
24 coming out, you're forewarned --

25 REPRESENTATIVE MANDERINO: Yeah.

1 MR. FREED: -- is pretty much what
2 you get.

3 REPRESENTATIVE MANDERINO: It makes
4 no sense. So thank you for recognizing those,
5 and I know it's always a struggle, but, you
6 know, I always tend to lean against -- you
7 know, how am I going to free up some resources
8 for those needs?

9 MR. FREED: Sure.

10 REPRESENTATIVE MANDERINO: So I'm not
11 coming from a bad heart, but from trying to
12 approach it in a different -- in a different --
13 another way. Thank you, Mr. Chairman.

14 CHAIRMAN CALTAGIRONE: Dana Alwine.

15 MS. ALWINE: I'm kind of actually
16 following up on what Kathy just said. We met
17 with Secretary Beard two weeks ago, and he had
18 a suggestion for a kind of novel idea for the
19 max outs. We were talking about sex offenders
20 at the time, but it applies just as much to
21 juveniles, is that, instead of letting them max
22 out, have them max out minus six months and
23 then attach a tail so you have a little bit of
24 a carry-over into the afterlife of that.
25 Anyway, that's just an aside.

1 I wanted to focus on Ed and Dave
2 while we have you here. You mentioned a couple
3 proposals that we got them in bill form. I
4 just wanted to make sure we're talking about
5 the same thing --

6 MR. MARSICO: Okay.

7 MS. ALWINE: -- as to whether or not
8 you support. Representative Bill Keller has a
9 bill which would increase the ability to do
10 personal and property searches of parolees. I
11 can assume you're favor of that?

12 MR. MARSICO: Yes, I am in favor of
13 that. I thought, I don't know if it was in the
14 Blueprint for a Safer Philadelphia, but I know
15 at the time when all that was going on that I
16 thought that task force had made some
17 recommendations along those lines.

18 MS. ALWINE: Okay. That's good to
19 know. And then Representative James has what
20 you were just talking about, an increase in the
21 penalty for a solicitation of minors to traffic
22 drugs. Maybe we can even expand that to other
23 things that juveniles are being solicited to
24 do.

25 MR. MARSICO: Sure. Again, I mean, I

1 think that backs up Representative Manderino's
2 concern, punishing the adults.

3 MS. ALWINE: Two other points,
4 Representative Grell and also Senator Corman
5 had a bill last session, and I think it will be
6 reintroduced this session, to stop an I.D.
7 bill, which you probably heard about. It deals
8 with the Hiibel case.

9 In Pennsylvania its applicability
10 would be on the South Street issues where you
11 got a lot of people milling around and they
12 want to stop and ask them a question because
13 they have some suspicions but, of course,
14 there's some search --

15 MR. MARSICO: I'm sure there's some
16 constitutional concerns with that.

17 (Inaudible words; talking over each
18 other).

19 MS. ALWINE: -- the word goes out.

20 MR. MARSICO: But in theory I support
21 that. I assume Dave would too.

22 MR. FREED: I do.

23 MS. ALWINE: Okay. And then just one
24 other thing. You were talking about your
25 target time is the 10 to 3 a.m. Just like New

1 York cracked down on serious crime by starting
2 with the quality-of-life crime, I wonder if in
3 Harrisburg, York, Reading, Lancaster, cracking
4 down on curfew requirements and the truancy
5 sweeps?

6 MR. MARSICO: We started with that in
7 Harrisburg. Our police have -- We had a curfew
8 and there were some problems again about the
9 constitutionality of that ordinance, but we
10 have re-enacted that and our police have
11 started with that.

12 Although, frankly, by the time the
13 police get to a crime scene, it's too late.
14 The curfew violation has already occurred. But
15 I agree, if we can enforce more of that maybe
16 it will prevent some of the idle time that
17 leads to trouble.

18 MS. ALWINE: Thank you.

19 CHAIRMAN CALTAGIRONE: Chairman
20 Marsico.

21 REPRESENTATIVE MARSICO: Mr.
22 Chairman, one more quick question. You were
23 talking about -- I probably know the answer to
24 this. For the record, gun possession by our
25 kids, by the youth obviously is a serious

1 problem, a serious crime that they're creating.
2 Where are they getting the guns?

3 MR. MARSICO: In Dauphin County--And
4 I'll let Dave speak. Cumberland County might
5 be a little different--we're just starting to
6 see more of the straw-purchaser problem here in
7 the last year or two.

8 Most of our guns are stolen, some
9 from the area, some from out of the area. We
10 have many people that come from rural counties
11 into Dauphin County to trade guns for drugs.
12 That's always a problem we've had. You know,
13 people will drive 45 minutes, an hour away from
14 here to come into Harrisburg because it's a
15 drug hub of sorts and trade guns for drugs.

16 But frankly, I just think there's so
17 many guns on the street, there's just too many
18 guns. You know, I wish we could do more about
19 it, but the guns are out there. You could
20 drive from here right now and five minutes, you
21 know, you could be buying a gun if you have the
22 money. It's not a problem to get a gun. It's
23 way too easy to buy an illegal gun.

24 So I know Pittsburgh and Philadelphia
25 have more of a problem with the straw

1 purchasing than we see here in Harrisburg,
2 although we're starting to see more of that in
3 the last year or two, and that's certainly a
4 serious problem. But frankly, we just have so
5 many guns already out there, they're recycled,
6 traded, sold every day.

7 MR. FREED: Any juvenile or young
8 adult in Cumberland County, or even older
9 person, knows that you drive over here to the
10 city and you can trade your gun for the drugs
11 that you want.

12 Now, the guns that I'm seeing in
13 cases involving juveniles and younger adults
14 are either taken from grandpa or Uncle Joe, or
15 they're taken in specifically targeted house
16 burglaries. You know, word comes through the
17 grapevine that so and so has a household of
18 guns and those houses are targeted and
19 burglarized.

20 REPRESENTATIVE MARSICO: How do I
21 know where to go in the city?

22 MR. FREED: How do you know where to
23 go in the city?

24 REPRESENTATIVE MARSICO: I have a few
25 guns in my house. How do I know where to go?

1 MR. MARSICO: Just ask around.

2 MR. FREED: If you're involved with
3 the right criminal element who knows how to do
4 that, you ask them where to go, and you know
5 what corner to go to to get rid of the stuff.

6 MR. MARSICO: And that gets back to
7 more police. If we had more police, we
8 could --

9 REPRESENTATIVE MARSICO: That was
10 going to be my point.

11 MR. MARSICO: If we have more police
12 we can target those areas. We've got cops that
13 are doing a great job. We just don't have
14 enough of them.

15 REPRESENTATIVE MARSICO: Don't the
16 police know where the right corners are?

17 MR. MARSICO: Sure. But 24/7, you
18 know, you can't be there, and you're there for
19 a while, you chase them to another corner. You
20 know, we can move them around a little.

21 MR. FREED: I'm not saying all the
22 transfers happen in Harrisburg because we have
23 plenty of them that gets turned over in
24 Carlisle also. Don't want to get in trouble
25 with the mayor.

1 REPRESENTATIVE MARSICO: Well, thank
2 you very much again, both of you, for your
3 time.

4 MR. FREED: Thank you.

5 MR. MARSICO: Thank you.

6 CHAIRMAN CALTAGIRONE: Thank you
7 both. I appreciate it.

8 Doctor Alan Krug, legislation
9 firearms consultant.

10 DOCTOR KRUG: Here's about 22 copies
11 of a pretty good statement, but I'm not going
12 to read it. I thought I'd really rather use my
13 time talking with you all about some of this
14 stuff that you might have an interest in. You
15 know, I've been haunting these halls, if you
16 can believe it, for 40 years, isn't that
17 something?

18 CHAIRMAN CALTAGIRONE: I've known you
19 through 31 of those 40. We've been around a
20 while.

21 DOCTOR KRUG: And so I'm not for much
22 longer. But anyway, I thought I should do this
23 because, you know, just stuff I read every day
24 I get pretty frustrated because, being here
25 right now for me it's like deja vu all over

1 again. You know, these problems have not
2 changed in the 40 years, really, that we've
3 been trying to work on this stuff.

4 You all saw probably, or you heard it
5 read to you I guess someone said, Philadelphia
6 Chief of Detectives Joseph Fox's letter to the
7 Philadelphia Inquirer, about the revolving door
8 syndrome and lack of enforcement. You know,
9 that's not a new problem. Our police have been
10 complaining about that as long as I can
11 remember. It's a fact, and it's a serious
12 problem and it's a big contributor to gun
13 crime.

14 Then we hear about the prison
15 problems; that felons are being released
16 because of overcrowding, you know, and that's
17 not something new. We've had episodes of that
18 over the last decade.

19 And then the latest thing is that, I
20 read that we have 1.4 million unserved warrants
21 in the Commonwealth, thousands of which are
22 felony warrants, and over a hundred of which
23 are for homicides. So, you know, there again,
24 with the prisons it's a matter of resources.
25 There's never enough money out there. And when

1 it comes to serving these warrants, apparently
2 that's the same situation, it costs money to
3 provide law enforcement with the resources they
4 need and they just don't have enough resources.

5 So all this, really -- The sportsmen
6 came in here and you can tell they're pretty
7 frustrated. This is the reason they're
8 frustrated.

9 I mean, you know, day in and day out
10 they read in the paper and they talk to law
11 enforcement officers about our laws not being
12 enforced, about convicted felons not being kept
13 in prison for the length of their term, and all
14 these unserved warrants out there and criminals
15 running around, you've got all these problems,
16 and then the answer that some people in the
17 legislature come up with is to put more
18 restrictions on law-abiding gun owners. I
19 mean, it isn't any wonder that the sportsmen,
20 you know, maybe get a little testy when they
21 come in here. I can understand it, I guess.

22 But I wanted to remind you, in case
23 you've forgotten, that we have one of the best
24 state firearm laws in the nation. We have a
25 darn good state firearm law here, the

1 Pennsylvania Uniform Firearms Act of 1995.
2 That was the first state law, really, that
3 included juvenile violent crime checks and
4 mental health checks, as well as criminal
5 history checks on perspective firearm
6 purchasers, and we ought to be proud of that.
7 We did something real good there.

8 I'm a Hokie. I got my master's
9 degree at VPI back in 1958 to 1960, and my
10 office was right in the building next to Norris
11 Hall. I looked right out onto Norris Hall
12 there. So, it was a little bit tough for me
13 down at Tech last week.

14 But I couldn't help but thinking back
15 there that when I was there, there were just
16 lots of guns on campus. Everybody brought
17 their guns to campus. If they were going
18 hunting, if they had a handgun they just bought
19 and they wanted to show it to somebody else,
20 another shooter, people brought their guns to
21 campus; never was a problem. Some professors
22 kept a handgun in their desk drawer on campus.
23 It's sure different today than what it was when
24 I was there. But anyway, that's just an aside
25 there.

1 But one thing that I've been trying
2 to get for 20 years, believe it or not, is a
3 stolen gun data base. I heard today from
4 people that we need a stolen gun data base.
5 Now, I mean, isn't it incredible that we don't
6 have one?

7 When I first learned that years ago
8 I went over to the state police--I spent a lot
9 of time over there--found that, really, there's
10 no good stolen gun data base. When they get
11 information on a stolen gun, maybe they keep it
12 for a couple years and then all of that
13 information is purged and nobody has it.

14 I had a gun stolen a few years ago
15 and that was -- I wrote letters with the
16 information on it about that gun to everybody;
17 and yet, when I went over there and my friends
18 tried to find it, they couldn't find it
19 anywhere. It wasn't on the state police list
20 and it wasn't on the NCIC list at the federal
21 level.

22 So, we need to do something about
23 that. And that's just part of the lack-of-
24 information problem that is out there. We need
25 data on some of this stuff.

1 Take one gun a month, you know, the
2 citizenry is asked to make a giant leap of
3 faith and respond to a sound bite that says
4 nobody needs more than 12 guns a year, and
5 support a bill that would restrict purchases to
6 one gun a month when we really don't have any
7 data at all.

8 The truth is, we really don't have
9 any data on the extent of straw purchases,
10 where they're being made, on gun trafficking;
11 that is, multiple purchases. There is the
12 federal form, you're all aware of that, that
13 any time any one purchases more than one gun in
14 five days from a dealer, there has to be a form
15 filed with, the sheriff gets it and ATF gets
16 it. But that information hasn't been available
17 because of federal restrictions.

18 So, we hear a lot of comments being
19 made, but there really isn't any data to back
20 it up. That's why, you know -- I think at the
21 risk of maybe sounding a little overzealous, I
22 would say as a statistician I have to regard
23 the one-gun-a-month something -- or
24 one-gun-a-month idea as being somewhere between
25 a fraud and a hoax, really, at this point

1 because there's just no information out there,
2 no data out there that defines the problem.

3 And, of course, at the other end,
4 there sure aren't any data that shows that
5 where they've had it, it's done any good. Only
6 four states have ever passed that. South
7 Carolina got rid of it because they saw it
8 wasn't doing any good there. And a lot of
9 people didn't like it because it was,
10 obviously, just restricting law-abiding gun
11 owners. And I think that if it weren't so
12 difficult to get rid of a law once it's already
13 on the books, any law, Virginia would have
14 gotten rid of theirs by now.

15 I've talked with our chairman here
16 about this problem of data, trying to get data.
17 Maybe that's something that this committee
18 could do. If you want to undertake a really
19 good project, would be to try to get some hard
20 data on straw man sales and multiple purchases.

21 Now, the federal law -- I don't think
22 that the federal law necessarily would preclude
23 a sheriff giving out data on how many reports
24 he got of multiple purchases, or even maybe how
25 many guns were bought during these -- a

1 multiple purchase. You know, I suspect -- I'm
2 not a high-powered attorney here. We've got
3 Rod back there, but it just occurs to me that
4 that kind of information might be gotten from
5 county sheriffs.

6 I conducted -- About five years ago
7 when I was editor of the Pennsylvania Sheriff
8 Magazine, I conducted two surveys, one of
9 county district attorneys and one of sheriffs,
10 and asked about straw-man sales and gun
11 trafficking. And the responses that I got from
12 around the state indicated to me that, really,
13 at that time--this was five years ago--the only
14 problems that people saw were in Pittsburgh and
15 Philadelphia. You know, there's no problem up
16 in my county of Centre with straw-man
17 purchases. There's nobody up there making
18 straw-man purchases and gun crime as a result
19 of that.

20 So, I think again, we really do need
21 data, and I think what the detective from
22 Pittsburgh had to say by and large was pretty
23 good, but he did -- You know, he was ready to
24 expand his estimate of 30 percent straw-man
25 sales in Allegheny County to the rest of the

1 state, and I think that's totally wrong. I
2 think if you got the data, you'd find that in
3 most of the counties in the Commonwealth of
4 Pennsylvania this is not a problem. So,
5 anyway, data is something that we need there.

6 I covered some of that. Well, I'm
7 doing pretty good here. I'm just really going
8 on and on, aren't I? If I go on too long, cut
9 me off.

10 I need to talk a little bit about the
11 status of our current system for firearm
12 checks, our instant check system. We've had it
13 now since about '96 it began operation. It's
14 getting outdated. It really needs to be
15 updated.

16 In fact, the truth is, the state
17 police do need a whole new system over there
18 which would cost probably a couple million
19 dollars until they got done. You know, it's a
20 lot of money. I know it's a lot of money, but
21 we need to do it. It's something that we need
22 to do.

23 While I'm advocating spending all
24 that money, I have to talk a little bit about
25 where it's going to come from. Now, there are

1 a lot of new people in the legislature here and
2 they're not aware of what went on back when.
3 But the question of fees for license to carry
4 and for the checks that are run on the
5 perspective purchases, that was a big issue
6 back in '95, how all that was going to be paid
7 for.

8 There were a lot of negotiations with
9 the law enforcement agencies that were involved
10 and with the Governor's office. Everybody
11 agreed -- did agree on a basic premise, and
12 that is that, these laws that we have, the
13 license to carry requirement and the instant
14 check, when we give a law-abiding citizen a
15 license to carry or we give him an okay to
16 purchase a firearm, we're not doing him any
17 favor. What we're doing is part of a general
18 crime prevention program that benefits
19 everybody in the Commonwealth equally.

20 That law-abiding gun owner, as we
21 heard here today, has a constitutional right to
22 buy a gun and carry it. We make him get a
23 license to do it, but he does have a
24 constitutional right to do that. And we
25 shouldn't be expecting him to pay for all of

1 this general crime prevention measures that
2 constitute the license to carry and the check
3 and the purchase.

4 So, it was pretty well agreed that
5 the gun owner shouldn't have to pay more than
6 about one-third of the cost of issuing the
7 license to carry and of doing those checks, and
8 the other two-thirds ought to come out of
9 general revenue. As I say, that was a big
10 debate that went on in the committee that we
11 had that came up with Act 17, the Act of '95,
12 we went all through that.

13 I'd recommend that that be continued.
14 I hope you people will keep that in mind, you
15 know, that concept there of how these fees
16 ought to be divided. The Governor's Hunting,
17 Fishing and Conservation Advisory Council, they
18 recently took that up and they passed a
19 resolution. I stuck that on my statement here,
20 that resolution, which goes into what I've been
21 talking about there.

22 I want to say a word about
23 preemption. You know, there's always the
24 temptation -- Because we have the worst
25 problems in Pittsburgh, Philadelphia, there's

1 always a temptation to say, well, maybe they
2 ought to have stronger laws there, something
3 like that. But, I strongly recommend against
4 that; that we keep our laws uniform.

5 For the simple reason that, if a gun
6 owner in Tioga County, if a hunter in Tioga
7 County, he's going to travel the trap shoots
8 around the state, he's going to travel
9 different places hunting. If we didn't have
10 preemption, I'll tell you, it would be a
11 nightmare. No telling how many local laws that
12 we would have, and for the average gun owner to
13 know, be knowledgeable on all those laws, much
14 less comply with them, it'd just be an
15 impossibility.

16 And the thing that compounds that is
17 that, we have to be -- We want to be honest
18 about some of this stuff. Let's face it, a lot
19 of these laws that are proposed at the
20 municipal level, they're political in nature.
21 They know they can get their name in the paper,
22 a councilman, by putting in a bill for
23 Lancaster or for York, wherever it is, and so,
24 if we didn't have preemption, we would just be
25 buried in this kind of stuff at the local

1 level. So I hope we can stay away from that.
2 You know, our legislators here are smart
3 people, I think they can figure out what's
4 needed and apply it statewide there.

5 One thing, the business of stolen
6 guns, stolen guns not being reported, I have
7 mixed feelings about the proposal to require
8 people to report their gun. For one thing,
9 having had --

10 Well, actually, it was my wife's gun
11 was stolen, and it was almost a year before we
12 knew that gun was stolen. It was stolen out of
13 where she kept it. She hadn't been shooting
14 for a long time, and one day she decided she
15 was going to go shooting and, you know, she
16 went and no gun. And we figured out when it
17 was probably taken. And what we figured out
18 was, it was 11 months before probably where
19 somebody was around that they probably took it.
20 So that's a problem with that.

21 I don't know, and I -- I think you --
22 I liked your comment about the church-going,
23 God-fearing guy, you know, with a gun. There's
24 just something wrong about making a criminal
25 out of somebody because they were victimized

1 and then didn't report something. I don't know
2 how big of a thing to make out of that but it
3 just goes against my grain somehow. I just --
4 It bothers me.

5 One reason a lot of stolen guns don't
6 get reported is because of the ignorance of
7 people about gun laws. We heard here today
8 that even our law enforcement people, there's a
9 lot of ignorance among the law enforcement
10 community about our gun laws. I can tell you
11 that's true.

12 The ignorance is abysmal. I mean,
13 it really is. And that's why we get some of
14 the poll results that we get on some of these
15 gun questions because questions are asked of
16 people, and they don't really think there's any
17 laws out there, or they don't know what they
18 are. So the response they give is really out
19 of ignorance. If they understood what laws we
20 have in place already, you'd get a lot
21 different responses on this, so it's a big
22 problem. And when we -- And it's been a
23 problem for a long time.

24 When we were writing Act 17 back in
25 '95, one thing that I fought for, and I got it

1 in there, was that when a gun is sold there
2 should be some information on our gun laws
3 given to the purchaser at that time, so that
4 purchaser knows what the laws are; that that
5 purchaser is not totally ignorant.

6 That was put into the law, and it
7 started out pretty good. The state police,
8 they're responsible for making out the brochure
9 and distributing it to the gun dealers to be
10 distributed to the firearm purchasers. It had
11 a pretty nice piece in the beginning. But what
12 happened was, budget, you know, they started
13 running out of money. And they didn't want to
14 put all this money into a really good
15 informative piece, so it got whittled down to
16 where it doesn't really amount to that much
17 now.

18 So, again, tremendous ignorance out
19 there on the part of the citizenry, even law
20 enforcement, and we needed to do something
21 about that for a long, long time. You know,
22 maybe you can come up with something on that.

23 And because of that ignorance, a lot
24 of people, they do not want any contact with
25 the police relative to their firearm because,

1 if they have a handgun, a lot of people think
2 it has to be registered and they know it's not
3 registered, so -- It doesn't have to be
4 registered, but thousands of people think that
5 it does.

6 And so, if somebody steals their
7 gun, they don't want to call the police because
8 they're afraid that the police will come and
9 they'll get charged with something. So I think
10 there's just a natural hesitation there on the
11 part of a lot of people to report a stolen gun.
12 They just don't do it.

13 And again, I heard here today
14 comments about numbers, data, which really
15 aren't supported. You know, they're just
16 somebody's estimate, but there really aren't
17 any hard data to back them up.

18 So I think those are the main points
19 I wanted to make. I probably forgot some, you
20 know, right off the top of my head here.

21 Your bullet-marking scheme, if
22 that -- For manufacturers to produce that
23 bullet, it would cost about five dollars a
24 bullet for one bullet. So it would just put
25 ammunition manufacturers right out of business.

1 There wouldn't be any ammunition sales. It's
2 just an impractical thing, you know, cost
3 benefits there.

4 Actually, I should say, there's one
5 company in the United States that came up with
6 that. It's a skateboard company that make
7 skateboards out in Oregon. They came up with
8 this scheme to mark the bullets. They hired a
9 deputy sheriff who decided to run against his
10 boss, the sheriff, for the big job last year
11 and lost, so he was out of a job. So they
12 hired that guy to promote this scheme around
13 the country, tried to sell it. You probably
14 got a letter from that guy. May I ask if you
15 did get a letter?

16 REPRESENTATIVE MANDERINO: I don't
17 know. It wasn't a letter, but I don't know who
18 the guy is.

19 DOCTOR KRUG: Some legislators, I
20 know that some of the people in the legislature
21 did get a letter from that guy saying that they
22 ought to introduce a bill to require this, but
23 anyway, it's totally impractical. So, I'll
24 quit there.

25 CHAIRMAN CALTAGIRONE: Thank you,

1 Doctor. I do appreciate it. I enjoyed working
2 with you before because we, in fact, did work
3 together on that legislation.

4 DOCTOR KRUG: Yeah, we've done a lot.
5 I'm about to leave the scene, it won't be today
6 here. I'm 73, still here, but I am frustrated
7 about some of this. But as Tom says, we did a
8 lot of good work. I mean, we did a heck of a
9 lot of good work, and we've got one of the best
10 state firearm laws in the country, there's no
11 question about it.

12 It was very frustrating to me to have
13 the read about the Virginia Tech shooter having
14 been judged to be incompetent, and then that
15 information never getting in a data base that
16 got checked when he was run through their
17 system down there.

18 CHAIRMAN CALTAGIRONE: Should have
19 never got one.

20 DOCTOR KRUG: They have a good
21 instant check system. In fact, we learned a
22 lot. We went down there and went through their
23 system in Richmond. We learned a lot from what
24 they were doing, brought it back here. So they
25 do have a good system, but that mental-health

1 thing fell through the cracks.

2 CHAIRMAN CALTAGIRONE: Actually, it's
3 one of the things that we put into that
4 legislation.

5 DOCTOR KRUG: Yeah, we got that in
6 there.

7 CHAIRMAN CALTAGIRONE: It said about
8 convicted felons and people with mental health
9 histories or problems, no access to guns,
10 period.

11 DOCTOR KRUG: Yeah.

12 CHAIRMAN CALTAGIRONE: We did
13 negotiate that.

14 DOCTOR KRUG: And I should say
15 something about that too, that's interesting,
16 and which is a problem you'll face with that.
17 That's a complicated, difficult issue when
18 people's mental illness should be reported to
19 authorities and kept in a data base. And when
20 we were trying to get something in there on
21 that, the sportsmen and the NRA were all for
22 it. NRA would have probably gone farther than
23 what we did.

24 But, it was the mental health
25 community in Pennsylvania that didn't want it.

1 They didn't want anything. And the reason they
2 didn't was, they're afraid that if you expose a
3 person's mental problems when they go to a
4 doctor, then they're not going want to go; you
5 know, people are not going to go and seek the
6 treatment that they need. And they've got a
7 valid point. There's no question they've got a
8 valid point.

9 So, our mental health section is
10 still not perfect. There's still, somehow,
11 maybe a little too -- not enough due process in
12 it maybe the way it is. I think it could be
13 looked at again so, you know, if you do look at
14 that again, you'll find it will be a difficult
15 area to try to deal with.

16 CHAIRMAN CALTAGIRONE: Thank you,
17 Doc. Kathy.

18 REPRESENTATIVE MANDERINO: Thank you
19 for your testimony. But I feel compel to make
20 a comment on behalf of the Commonwealth
21 because, I let it go when Melody Zullinger said
22 this just in a unfounded way, but you said the
23 same thing in a unfounded way, and I fear that
24 though not intentional at least the wrong
25 impression. And that is, you keep referring to

1 Pennsylvania letting criminals out earlier or
2 letting felons out early were the words you
3 used.

4 We don't do that in Pennsylvania. We
5 don't have earned time, people don't get out
6 early. We don't have prison caps, people
7 aren't getting out before their minimum
8 sentences.

9 The absolutely only thing in
10 Pennsylvania that you could be referring to,
11 and if this is it, please do it accurately, is
12 that when somebody is arrested and they are not
13 yet a convicted criminal or a convicted felon,
14 and if they make bail or if the bail is not
15 enforced because of holding capacity, that is
16 probably an accurate statement.

17 But we are not letting felons out
18 early, and we are not letting criminals out
19 early, and we do not let people out. There are
20 proposals, and I'm not sure -- I've always kind
21 of been against them, but people are trying to
22 convince me, or are kind of convincing me that
23 we ought to consider some sort of earned-time
24 procedure in Pennsylvania, but we don't have it
25 right now.

1 So please, I know wordsmithing is so
2 important to you when people talk about issues
3 that are close to your heart, so please talk
4 accurately to the people who respect what you
5 say and hang on the accuracy of what you say in
6 the sportsmen's community, because it's just
7 not fair to give an inaccurate picture of how
8 Pennsylvania deals with convicted criminals.

9 DOCTOR KRUG: What I am talking about
10 is specifically --

11 CHAIRMAN CALTAGIRONE: I'd like to do
12 a quick wrap because I think our
13 stenographer --

14 DOCTOR KRUG: Let me respond to that,
15 please. May I?

16 CHAIRMAN CALTAGIRONE: Go ahead.

17 DOCTOR KRUG: What I'm talking about
18 is when the court orders jails, prisons to let
19 out people --

20 REPRESENTATIVE MANDERINO: I don't
21 know that's hap --

22 DOCTOR KRUG: -- like has happened
23 in Philadelphia.

24 REPRESENTATIVE MANDERINO: It isn't
25 happening in Philadelphia.

1 DOCTOR KRUG: It happened in
2 Pittsburgh not too long ago. And I
3 specifically say that in my statement, that
4 it's the court-ordered releases because of
5 overcrowding.

6 REPRESENTATIVE MANDERINO: We're not
7 having that in Philadelphia.

8 DOCTOR KRUG: So I accept your
9 suggestion. I agree with what you're saying.
10 Thank you.

11 CHAIRMAN CALTAGIRONE: Thank you,
12 Doc.

13 DOCTOR KURG: Thank you.

14 CHAIRMAN CALTAGIRONE: Just a short
15 break. The gentlemen can up that are going to
16 be testifying next. Thank you.

17 (Short recess occurred.)

18 CHAIRMAN CALTAGIRONE: Next we'll
19 hear from Robert A. Martin, Chief of Police,
20 Susquehanna Township, Dauphin County; and
21 William Smith, Chief of Police, Derry Township,
22 Dauphin County. Gentlemen.

23 MR. MARTIN: Thank you. I'm Rob
24 Martin from Susquehanna Township. Chairman and
25 Chairman, and members of the committee: Thank

1 you for having us today. We join you in the
2 common goal of public servants, both of us;
3 that we are in the business of saving lives.
4 We know that you join us in that duty and in
5 that commitment.

6 I'm actually coming in today wearing
7 three hats, both as the Chief of Police of
8 Susquehanna Township, the current president of
9 the Dauphin County Chiefs of Police
10 Association, and Chief Smith is the former
11 president and now vice president, and I'm also
12 the commander of the Dauphin County Tactical
13 Team, in which I serve under District Attorney
14 Marsico. So, I'm going to kind of highlight
15 some things from there as well. I think we're
16 going to be brief as the hour is late. But I
17 trust that our words will be meaningful.

18 Just from a geographic perspective,
19 Susquehanna Township borders the City of
20 Harrisburg, has a very long border on the north
21 and east sides of the city. Derry Township is
22 essentially the greater Hershey, Pennsylvania
23 area.

24 I've reviewed the House bills that
25 are being addressed. One thing I think we want

1 to say is, we support any measure by this body
2 that's going to toughen the sale, transfer and
3 responsibility, responsibility of owning a
4 firearm in the Commonwealth of Pennsylvania.
5 All too often our officers are seizing firearms
6 from vehicle searches associated with the
7 trafficking of drugs, and certainly that's
8 occurring throughout the Commonwealth of
9 Pennsylvania.

10 A review of this Commonwealth and
11 this nation speaks to the need for tougher
12 measures relating to weapons, too many officers
13 being killed, too many innocent civilian lives
14 are being lost on a daily basis due to gun
15 violence.

16 I want to support District Attorney
17 Marsico's plea for more police officers. And
18 believe me, I'm not a chief of police that
19 believes that there's got to be a police
20 officer on every corner. That's never been the
21 American way, but there has been an eroding and
22 decay of the number of police officers as it
23 relates to the population they're serving and
24 the crimes and incidents that they are faced
25 with.

1 Now, I've been a police officer
2 since 1984. I know that Chief Smith dates back
3 from the '70's. Sorry.

4 MR. SMITH: Thank you.

5 MR. MARTIN: I meant that in an
6 elder-statesman fashion.

7 But, we were both chiefs of police in
8 the '80's when there was a lot of money from
9 the federal government through the Office of
10 Community Oriented Policing, through a lot of
11 initiatives through President Clinton that put
12 a hundred thousand police officers on the
13 street throughout this nation. And both of us
14 are here to tell us that that initiative, as
15 well as the block grant initiatives, through those
16 years that have dried up now and they have gone
17 away for primarily just a couple reasons, has
18 decayed and eroded our ability to serve our
19 citizens.

20 Those extra officers allowed us to do
21 the positive things; to get those officers out
22 of the car, to interact with the citizens they
23 serve; to make a difference in the community.
24 So now, it's a bit of a siege mentality that
25 these officers throughout this Commonwealth are

1 going call to call. They're answering
2 incidents, they are tied up in that police car
3 answering 9-1-1 calls. I don't think that's
4 the kind of police departments we want. Does
5 that tie into gun violence? Absolutely. It
6 certainly ties in, so I want to support Mr.
7 Marsico's plea for that.

8 Secondly, I would encourage you to
9 take a look at the Police Executive Research
10 Forum's web site. They are essentially the
11 Ph.D. overview of law enforcement in this
12 nation. It's more commonly referred to as
13 PERF, and they've been doing a lot of studies
14 in terms of the increase in, not only gun
15 violence, but violent crime that is starting to
16 peak again in contrast with these less police
17 officers on the street and less community-
18 policing initiatives.

19 So I would encourage you to take a
20 look at that web site and read some of the
21 things that are being put forth there.

22 I like the analogy of the swimming
23 pool, and in terms of the word responsibility
24 of owning a firearm, and I own firearms -- I
25 actually thought of this sitting here for two

1 and a half hours. I own firearms, they're
2 secured in my house because I have three
3 children. I also own a baseball card
4 collection. Now, somebody breaks into my home
5 and steals that baseball card collection,
6 they're not going to be able to propel a
7 projectile at 3,000 feet per second that's
8 going to kill someone.

9 So, do I believe as a citizen
10 an inherent extra duty to secure those firearms
11 within my house? I think I do. Now I'm going
12 to step out and say that's probably my personal
13 view, but I think there is an inherent extra
14 responsibility in terms of the ownership of
15 firearms. Where you take that, take that where
16 you will, but I think that's just a thought
17 that needs to be considered.

18 And lastly, before I turn it over to
19 Chief Smith, about two weeks ago about seven
20 blocks from this Capitol, I was in command of a
21 barricaded subject incident in the 2200 block
22 of Logan Street in uptown City of Harrisburg,
23 where a homicide suspect where there were
24 warrants for him--he had allegedly killed
25 another young man in the projects on the south

1 side of Harrisburg--had barricaded himself and
2 told law enforcement he was not going to be
3 taken alive. That siege went on for about five
4 hours.

5 During that time, our tactical team
6 was fired upon by him within a AK-47. Now,
7 this was a 19-year-old male from the City of
8 Harrisburg who had possession of an AK-47 and
9 fired it at our tactical team. And I can tell
10 you it's a tribute to the team and a little bit
11 of me in terms of our restraint that that young
12 man was finally negotiated out, and he's in
13 prison and he will face the criminal justice
14 system.

15 But, there's got to be some type of
16 problem, and I think it was noted earlier,
17 where there's no record trail for these AK-47's
18 and SKS assault rifles in the Commonwealth.
19 That's a problem. I think we need to jump on
20 that as soon as possible. And that just
21 happened seven blocks from here.

22 So, those are my brief words. With
23 that, I'm going to turn it to Chief Smith.

24 MR. SMITH: Thank you, Rob.

25 Mr. Chairman, members of the

1 committee: And I promise you, sir, this will
2 not be repetitious.

3 I don't think that you could find
4 many law enforcement administrators in this
5 state that would tell you that we couldn't use
6 some more police officers. I think that's
7 almost a given, as one of your members of the
8 General Assembly introduced legislation or
9 intended to introduce legislation of
10 10,000 police officers by the year 2011. That
11 being said, I don't think that's going to
12 happen. It may, it may not.

13 My approach to this issue, as you
14 know, there are 1165 municipal police
15 departments in the State of Pennsylvania. Our
16 system of municipal law enforcement is very
17 fragmented. We heard testimony about one unit
18 in Philadelphia, one unit in Pittsburgh, and
19 now we have 3,000 more municipalities that we
20 have to worry about.

21 It seems odd to me that we want to
22 pass legislation without those resources in
23 which to have those officers available to go
24 out, check, recheck and do some of the work
25 that the legislature would create.

1 That being said, my approach is that
2 we have about 22,000 municipal police officers
3 in the State of Pennsylvania. Let's reduce the
4 fragmentation and let's deal with some more
5 consolidation of the resources that we already
6 possess within this state.

7 Now, I don't profess to say we
8 should have county departments. I'm not the
9 expert in that, but what I am saying is, when
10 you have 65 percent of those police departments
11 that have 10 officers and under; when we have
12 45 percent of those police departments with
13 five officers and under, we have 1165 chiefs,
14 we have redundancy. Let's better use some of
15 the resources that we currently possess, and
16 that can be accomplished through consolidation.
17 How the legislature can help is through
18 incentive, probably.

19 When municipalities who don't
20 currently have police departments, may be
21 encouraged financially to contract with those
22 police departments that currently do provide
23 those services. Representative Marsico has a
24 municipality directly to the east growing
25 rapidly. Derry Township has, Hanover is

1 growing rapidly to the north of our
2 municipality.

3 It just makes sense to me that we --
4 And they say the Pennsylvania State Police do
5 not have enough law enforcement personnel.
6 With consolidation, with regionalization, we
7 can free up troopers to do statewide mandates;
8 to do what their charge is under their
9 policies. And the municipals could do more
10 effective grassroots policing within the
11 municipalities that they serve.

12 Now, I do remember when I started law
13 enforcement, I could tell the difference when I
14 left Harrisburg City, drove down the road,
15 there was nothing there, and here's Swatara
16 Township let's say. Then you go down the road
17 and there's Hummelstown and Hershey. And I
18 understood pockets of population where local
19 municipal policing may have been more
20 effective, you know your clientele.

21 But I defy anyone to drive from the
22 City of Harrisburg to Lebanon and tell me where
23 you're at and whose police jurisdiction it is,
24 and you've crossed eight municipalities, eight
25 police departments until you get to Lebanon.

1 So my suggestion is, when bills or
2 proposals come before you that deal with
3 funding of consolidation or regionalization,
4 that you take a good, hard look at these and
5 some of these incentives that you may be able
6 to prepare or propose yourselves to further
7 this goal.

8 As an example, we know, the police
9 chiefs knew we had to share our resources, and
10 with the guidance of D.A. Marsico, we've been
11 able to do that. In Dauphin County we have a
12 Dauphin County Drug Task Force comprised of
13 officers from all the municipalities. We have
14 an accident reconstruction team that we can go
15 out and have expert officers with expert
16 training reconstruct these fatal and very
17 serious accidents.

18 We have a Capitol region forensic
19 unit when we have these crimes that you have
20 competent, well-trained officers to go out and
21 investigate murder scenes or rape scenes.

22 We have a crisis response team that
23 is as good as any. They've competed -- And I
24 have to give a lot of credit to Rob Martin.
25 He's been a founding member. But they've

1 competed against teams from across this
2 country, and have done very well.

3 We have a newly-formed child
4 abduction team in Dauphin County. Just
5 examples of the municipal police departments
6 working together, but you will find this is not
7 the norm when you have different chiefs, when
8 you have different D.A.'s, when you have
9 different county commissioners. We are just
10 lucky here in Dauphin County to be able to
11 regionalize our resources internally.

12 And one other plea, and I told you
13 I'd be short and I'll get out of here. I'm
14 here as a representative of the Pennsylvania
15 Chiefs of Police Association. We were up here
16 two days ago talking to various representatives
17 and senators on an initiative.

18 In 2001, Pennsylvania started police
19 accreditation. We got start-up costs from
20 PCCD. Well, PCCD does just that, start-up
21 costs. And what we approached the legislators
22 for was just \$400,000 to perpetuate this
23 program of accreditation. That might be five
24 or six officers in one department, at that
25 amount of money, so you can see in the scheme

1 of things that's not a lot of money.

2 What this program does is raises the
3 level of police professionalism within the
4 State of Pennsylvania. We currently have
5 50 municipal police departments accredited, as
6 well as the state police.

7 What we're trying to do -- And we've
8 done it on our own, I think we've been very
9 successful. There are 200 more departments
10 trying to get this. We're trying to operate
11 off the same play book; to try and give you no
12 matter where you go in the Commonwealth the
13 same quality law enforcement service. And I
14 think that all goes back to how do we impact
15 crime, drugs, gun violence.

16 Thank you very much.

17 CHAIRMAN CALTAGIRONE: Thank you,
18 Chief. Questions?

19 REPRESENTATIVE GABIG: It's still
20 before five and I'm on the clock here. I'm not
21 into my mandatory overtime.

22 I want to thank you, both chiefs, for
23 coming in here. I did have the opportunity in
24 the early '90's to serve in the district
25 attorney's, here, office and remember these

1 gentlemen in their little younger days. I
2 guess we all had a little more hair, and a
3 little less gray hair.

4 You know, the policing issue, you
5 really brought up something different than what
6 we've talked about here. We didn't bring it up
7 with some of the other police that were here,
8 but the court case rule I think last year that
9 the sheriffs are not law enforcement officers.
10 When you talked about these task forces they
11 have in Dauphin County, I know you know that we
12 have very similar task forces.

13 During that time our sheriffs'
14 department for both Dauphin and Cumberland
15 participated in those task forces. I'm pretty
16 sure they were on your SWAT -- Over in
17 Cumberland County they were on our SWAT team
18 drug task force, DUI enforcement, courthouse
19 enforcement for when we had the KKK coming to
20 town, sheriffs vitally involved in these task
21 forces, these regional and multi-police
22 jurisdiction task forces.

23 I forget who has the bill on that to
24 correct that court case to -- I think -- Is it
25 Craig Dally has that? We would -- Sometimes it

1 seems to me up here -- I came from the district
2 attorney's office and had a lot of engagement
3 with multiple police, municipal, state,
4 sheriffs, feds. And sometimes you came as
5 close as I've ever heard, talking about county
6 policing, which is, I'm sure you're not
7 speaking on behalf of the chiefs association,
8 more of a personal thing.

9 I approached that in the press,
10 anyway, and then I get pounded from the state
11 police and others that are totally
12 uninterested. I think that's something we do
13 need to look at.

14 It is very hard to do it at the
15 local level. I don't know if Dauphin County
16 has any regional, but over in Cumberland County
17 we have the West Shore Regional Police
18 Department, which has been existence for
19 20 years probably, something like that, right
20 across the river over here. And we had for a
21 while in Shippensburg, on the other end of the
22 county, which fell apart because of the local,
23 you know, between townships. They're very hard
24 to keep together.

25 So I think these task forces have

1 been a more successful approach, especially
2 with the Attorney General's involvement or the
3 state involvement, and the federal money that
4 can come in here to support some of these
5 incentives.

6 I think we need to keep the
7 sheriffs -- And I know you're not here on
8 behalf of the sheriffs, but we need to correct
9 that court ruling that basically has precluded
10 them from participating in all these very
11 effective task forces in terms of manpower.
12 They're not going to do it all the time, but
13 when something becomes very -- You know, when
14 you need 20 guys to respond to a specific
15 incident and you need it once a year, twice a
16 year, you don't need to have a full-time force
17 to do that, but you need to have trained
18 people, accredited or not, but trained people
19 that are used to doing that.

20 So, if you could take a look at that
21 with the chiefs association, we would
22 appreciate it. Sheriffs are, obviously,
23 pushing us on it, but I really think if the
24 police as a community could come together on
25 that with us, it would make it a lot easier for

1 us to get things moving in that direction.

2 Your comments are very well taken up
3 here, and I think many of us on this committee
4 are very supportive of your recommendations.
5 Thank you very much.

6 MR. MARTIN: You're welcome, sir.

7 CHAIRMAN CALTAGIRONE: Thank you.
8 Thank you very, very much for being so very
9 patient and staying with us. That was very
10 noble of you and I do appreciate it.

11 MR. SMITH: Thank you, sir.

12 REPRESENTATIVE MARSICO: Mr.
13 Chairman, thank you very much. Thank you, guys
14 for being here. Dauphin County is very
15 fortunate to have such professionally-trained
16 police in our county. I live by you guys and
17 dedicated, and it's unbelievable what you've
18 done for our county, and your leadership has
19 been fantastic.

20 One quick question. Is it possible
21 to have one of those firearm tracking units in
22 the county? Chief, I know that you're
23 responsible for a lot of the programs here in
24 the county. Is that possible at all to do that
25 with intermunicipal police county-tracking

1 unit? I'm just thinking off the top of my
2 head.

3 MR. MARTIN: It would seem to me that
4 just for Dauphin County in terms of the volume
5 that it might receive, it might be a bit
6 cost-prohibitive. Perhaps maybe address it
7 more on a regional basis. But that's just --

8 REPRESENTATIVE MARSICO: Okay.
9 Thanks.

10 MR. MARTIN: -- kind of spitballing.

11 REPRESENTATIVE MARSICO: I wanted to
12 get your thoughts on that and just to let you
13 know that I do support the regional police
14 effort that you're advocating as well. So
15 thanks again for being here. Thank for your
16 time.

17 MR. MARTIN: Thank you, sir.

18 MR. SMITH: Thank you very much.

19 CHAIRMAN CALTAGIRONE: We will
20 conclude this hearing in the series of
21 hearings. The hearing is now over. Thank you.

22 (At or about 5 o'clock p.m., the
23 hearing concluded.)

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C E R T I F I C A T E

I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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Dated this 6th day of May, 2007.

Karen J. Meister - Reporter
Notary Public

My commission
expires 10/19/10