

1 HOUSE OF REPRESENTATIVES
2 COMMONWEALTH OF PENNSYLVANIA

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3 House Bills 21, 41 and 1744

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5 House Judiciary Committee

6
7 Main Capitol Building
8 Majority Caucus Room, Room 140
9 Harrisburg, Pennsylvania

10 Wednesday, September 19, 2007 - 10:00 a.m.

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12 BEFORE:

13 Honorable Thomas Caltagirone, Majority Chairperson
14 Honorable Harold James
15 Honorable Deberah Kula
16 Honorable Daylin Leach
17 Honorable Kathy Manderino
18 Honorable John Pallone
19 Honorable Greg Vitali
20 Honorable Don Walko
21 Honorable Jewell Williams
22 Honorable Tom Creighton
23 Honorable John Evans
24 Honorable Will Gabig
25 Honorable Glen Grell
Honorable Carl Mantz
Honorable Todd Rock
Honorable Katie True

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1 ALSO PRESENT:

2

John Ryan

3 Majority Executive Director

4 William Andring, Esquire

5 Majority Counsel for Committee

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David McGlaughlin

7 Majority Senior Research Analyst

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Jetta Hartman

9 Majority Committee Sec./Leg. Asst.

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Dana Alwine

11 Minority Executive Director

12 Rod Corey, Esquire

13 Minority Counsel for Committee

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1 C O N T E N T S

2 WITNESSES PAGE

3 PA District Attorneys Association

4 Lynne Abraham, Legislative Chair..... 8

4 Kathy McDonnell, Legislative Liaison... 64

5 Pennsylvania State Police

6 Scott Snyder, Major..... 93

6 Paul Anderson, Trooper..... 93

7 The Honorable Mayor Tom McMahan..... 110

8 Mayor City of Reading

8 Kim Stolfer, Legislative Committee..... 124

9 Chairman, ACSL

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11 (Written testimony submitted by:

12 Andrew Paris, Legislative Liaison

13 Attorney General's Office)

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1 CHAIRMAN CALTAGIRONE: If we can get
2 started with the hearing? My very, very dear
3 friends from Philadelphia, the District Attorney
4 from the beautiful City of Philadelphia. And we
5 would -- If you want to come up.

6 MS. ABRAHAM: Yes. Thank you.

7 CHAIRMAN CALTAGIRONE: And what I would
8 like to do is, Harold wanted to make his statement.
9 Before I do that, just out of respect for the
10 members that are here, if we could just start on my
11 left and come over and just everybody introduce
12 themselves. That couple over at that table there,
13 just introduce yourselves and your county.

14 REPRESENTATIVE SAINATO: Representative
15 Chris Sainato from Lawrence County.

16 REPRESENTATIVE EVANS: Representative
17 John Evans from Erie County.

18 REPRESENTATIVE VITALI: Greg Vitali,
19 Delaware County.

20 REPRESENTATIVE GABIG: Will Gabig from
21 Cumberland County.

22 MR. ANDRING: Bill Andring, Legal
23 Counsel.

24 MR. McGLAUGHLIN: David McGlaughlin, the
25 Judiciary Committee staff.

0006

1 just like to always say this when I would get the
2 opportunity to have the District Attorney in front
3 of me in Philadelphia. It is just that she was also
4 a judge when I was shot in the line of duty. And
5 she was the judge in the case. And she took, you
6 know, took -- She did her duty and took good care of
7 the defendant.

8 So I just want to thank her for being
9 here, as we talk about, you know, guns and
10 shootings. It's just, you know, I think that the
11 shooting happened in 1979, when I was shot.

12 MS. ABRAHAM: I think he's still in
13 prison.

14 REPRESENTATIVE JAMES: Good. That's
15 good. I know at any time he was ready to come out.
16 But, that's great.

17 But, anyway, I just want to thank you,
18 Mr. Chairman, for bringing House Bill 21, and thank
19 the D.A. for being here.

20 Few images evoke the utter sense of fear
21 that a loaded weapon can, especially in the hands of
22 someone who at the time is looking to harm you. The
23 presence of a gun also heightens the intensity and
24 severity of nearly any crime: a simple robbery
25 becomes a life-threatening assault; mental

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1 victimization can become infinitely more physical.

2 And that is why I firmly believe and I
3 have introduced legislation to require that the
4 minimum bail amount for people who have committed an
5 offense while either using or merely displaying a
6 firearm be set at \$50,000.

7 If we up the ante on these criminals
8 using these reckless fear tactics of carrying and
9 showing their weapons and we make it more costly and
10 thereby less attractive for them to do so, we can
11 reduce the number of homicides and shootings.

12 Criminals may simply plan to commit a
13 crime like a burglary and have no intent on using a
14 weapon, which while still being morally and
15 criminally wrong, is less likely to result in a
16 shooting death.

17 But when a weapon is brought either as a
18 form of protection or a show of force, devastating
19 consequences can result. And when something in
20 their plan goes wrong, they get nervous and use the
21 weapon that they originally only brought to scare
22 their victim into submission.

23 And as we all know that Philadelphia is
24 experiencing a plague of gun violence that has
25 claimed hundreds of lives, many of which are young

0008

1 adults.

2 And it is my goal to chip away at this
3 plague. And this is a common sense proposal that
4 can mitigate gun violence, without the potential or
5 giving the appearance of infringing on anyone's
6 Second Amendment rights.

7 And in talking to many police officers,
8 when Representative Dwight Evans was going around,
9 throughout the city, to see how we can deal with the
10 violence, many police officers said that a lot of
11 people with -- a number of people was arrested
12 because of gun crimes and then they were left out
13 and then committed another gun crime. So I thought
14 this would be helpful, in terms of keeping those
15 people in jail--or have them pay a higher bail--a
16 long time.

17 And I would ask the committee to consider
18 this legislation and act upon it quickly. Thank
19 you, Mr. Chairman.

20 CHAIRMAN CALTAGIRONE: Thank you,
21 Representative James.

22 MS. ABRAHAM: Thank you, Chairman
23 Caltagirone. I am sorry that Chairman Marsico is
24 ill today. Send him my regards. But I thank the
25 committee for inviting me up here.

1 And I think that the general thought is
2 that whenever the District Attorney of Philadelphia
3 is coming up to the House, there is always going to
4 be a big fight. And while we may disagree, there
5 certainly is going to be no fight.

6 And I think that we can work productively
7 together to get some of the things that the
8 committee wants to do and the authors of these bills
9 through in forms that all prosecutors across the
10 state and even federal prosecutors can work with and
11 can use.

12 So I thank you for providing me with the
13 opportunity to come before you and express some
14 comments on the three bills before you.

15 You will note that I have provided to
16 every member a copy of my notes. I have annotated
17 my own notes because I want to be a little more
18 expansive, if I may, without infringing on the times
19 of other people who are here.

20 But just to give you a sense of or flavor
21 of Philadelphia: we had 280 homicides in 2002; last
22 year, we had 406; and for every fatal in
23 Philadelphia, we had a ratio of about 5 to 1
24 shootings. So we had about 2,004 to 2,006,
25 depending on who's counting, nonfatal shootings in

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1 Philadelphia. As of today, I think we are up at 300
2 homicides--your notes say 299--which is 25 or so
3 ahead of where we were last year at the same time.
4 So we have 24 more dead people in Philadelphia.

5 If this were only a Philadelphia problem,
6 which I know is a frequent mantra in Harrisburg--
7 well, it's a Philadelphia problem--we could talk of
8 perhaps in a different context; but smaller
9 communities around Pennsylvania started to see some
10 of the same things that we have spoken to in
11 Philadelphia for a long time.

12 And we don't have to debate the whys or
13 the wherefores. It is what it is. Lancaster,
14 Reading, York, and other counties not only east and
15 west of Harrisburg are experiencing the same
16 escalation of illegal gun violence. We are up to
17 about a 1266 shootings in Philadelphia, in addition
18 to the 300 murders.

19 We are really asking the General Assembly
20 for a couple of things today: additional effective
21 legislation, some of which is addressed by some of
22 these bills; plus resources, which is a fancy word
23 for saying money.

24 It really boils down to money. And I
25 think I can demonstrate, in the Gun Violence Task

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1 Force part of my notes, how money makes a difference
2 in combating intractable difficult problems, because
3 it allows prosecutors to be not only more creative
4 but to put more horses and more resources, in terms
5 of manpower and equipment, in a realistic fight
6 about crime.

7 Bill 1744, the first bill I am going to
8 address my remarks to this morning, has some very
9 good provisions about which I want to say a few
10 words.

11 The Executive Committee of the
12 Pennsylvania District Attorneys Association
13 supports, in concept, this bill, but with some
14 amendments. And I am speaking not only for
15 myself--and I will indicate when I am speaking for
16 myself alone--but in context of these bills, I am
17 speaking as the Legislative Chair of the
18 Pennsylvania District Attorneys Association.

19 We are very pleased that Chairman
20 Caltagirone, who sponsored this bill, as well as all
21 of the co-sponsors, for taking the initiative in
22 this important area.

23 I want to talk first about straw
24 purchases and talk about how resources helps address
25 one of the more difficult aspects of our crime

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1 fighting.

2 For years, it has been difficult to
3 prosecute straw purchases because we just didn't
4 have the money to put behind the effort, because the
5 effort of buying guns requires investigative
6 techniques, follow-through, access to records,
7 liaisioning with informants, information, and
8 sometimes even with legitimate gun dealers who don't
9 want to be in the position of selling guns to people
10 who are straw purchasers.

11 As you know, a straw purchaser is an
12 agent, if you will, of someone who cannot legally
13 buy a gun himself or herself. And usually, the
14 straw goes into a gun shop and buys a gun knowing at
15 the very minute the gun is purchased that they are
16 buying it for somebody else. This is the usual
17 course. Sometimes, they just buy it and then later
18 on sell it or give it away to somebody who can't
19 lawfully own a firearm.

20 But what we are seeing, so far in our
21 investigative efforts, are people who know when they
22 go into a gun shop that they are really buying a gun
23 for or on behalf of somebody else. And that
24 somebody else, disabled from purchasing the firearm,
25 is usually in the shop with them pointing out which

0013

1 one to buy and which one to avoid. And it is clear
2 to the gun shop owner that this person buying the
3 gun has not a clue about what the gun does, except
4 shoot, and knows that there is something amiss.

5 Occasionally, we have found, as I
6 mentioned, a few principals who just want to have a
7 gun in their possession without leaving a paper
8 trail. But more often than not, it's a girlfriend,
9 a former girlfriend, a drug client who is buying a
10 gun for their supplier or their present or former
11 paramour, spouse, or significant other.

12 We also find that when these straw
13 purchased guns are transferred illegally to the
14 person for whom they were really bought, we find
15 that through our investigation of this whole aspect
16 of gun trafficking that the gun is frequently
17 reported stolen but only after it's usually used in
18 the crime, so that it may be reported stolen months
19 after the police have recovered it at a crime scene.

20 When the straw finds out that the gun has
21 actually been used in a crime, almost the first
22 thing they do is call the police and report it
23 stolen. When in fact, we have had many cases where
24 the gun has been in the police department custody
25 because it was found at the crime scene when the

0014

1 crime was committed.

2 And we have really done, I think, a
3 tremendous service, not only to the Commonwealth but
4 to legitimate gun owners, in getting involved in the
5 straw purchased area, which I will explain more
6 fully in a moment.

7 The inspection of gun dealers' records
8 and the Attorney General's jurisdiction is my first
9 discussion. The current law requires dealers and
10 manufacturers and importers to make and maintain
11 records of sales, which are, as the law presently
12 stands, only the United States Department of Justice
13 is permitted to inspect for compliance of record
14 keeping, and state law enforcement officials can
15 only view these records with the use of a search
16 warrant pursuant to a criminal investigation.

17 What we are asking for the committee to
18 consider, favorably, is a mechanism that will give
19 prosecutors, and local police, as well as State
20 Police, the ability to examine these records, as
21 well as dealer's inventory, to ensure that they are
22 complying with the law, and to assist on
23 investigation of handgun crimes and illegal
24 trafficking of firearms.

25 Bill 1744 provides us with the beginnings

0015

1 of such a mechanism to examine these records by
2 empowering the state Attorney General to inspect
3 even without a search warrant.

4 The unfortunate truth, however, is that
5 some gun dealers' names show up time and time again
6 as the source of handguns used in violent crime.
7 Whenever something happens like this, we really need
8 fast access to these records, especially when
9 investigating unsolved homicides and violent crimes
10 in general.

11 The amendments that we are suggesting to
12 this bill would open the records to state law
13 enforcement officers that need to see them. As
14 currently drafted, the Attorney General only can see
15 them. We are asking for an expansion of the list to
16 include District Attorneys, State Police, and local
17 police departments. And we believe that this is a
18 mechanism which will not be unduly burdensome to the
19 gun dealer, and will help the law enforcement
20 community in general.

21 6127 of the bill, however, is problematic
22 because we believe that it does two things that we
23 think need a serious look. First of all, it tells
24 the courts who has standing to dismiss cases and who
25 has standing.

1 And I believe that's problematic because
2 the court is going to be very uncomfortable and
3 unhappy with legislative discussions about who has
4 standing. And you might have a fight, which I am
5 going to leave to the courts to fight, frankly,
6 about who has standing and who can have a case
7 dismissed.

8 But the courts, as you know and as we
9 know as well, have been very aggressive in
10 protecting their prerogatives with regard to rule
11 making and decision making on who does and who does
12 not have standing to complain about their ability to
13 go before a court.

14 The District Attorney Association also
15 thinks that 6127 is problematic because it confers
16 upon the Attorney General concurrent jurisdiction to
17 investigate all violations of the Uniform Firearms
18 Act. And we think this is unwise for a couple of
19 reasons. First and foremost, because we know and we
20 believe that the Attorney General's Office will
21 state this, because they have told it to us, that
22 they don't want this power; and, second of all,
23 because it is unwieldy and creates an enormous
24 number of problems between the Attorney General's
25 Office and all local prosecutors.

0017

1 In Philadelphia, for just as an example,
2 we prosecute thousands and I mean thousands of
3 cases. About 6,000 illegal guns, give or take a few
4 here and there, come into our system each year. And
5 as you have indicated previously to me, you are
6 concerned about the numbers of shootings and
7 killings. What we don't need or want is to have the
8 Attorney General sort of come into our jurisdiction
9 and tell us: oh, we are going to prosecute this
10 crime, we are going to prosecute that crime. Not
11 only is it problematic for us, but it is also
12 problematic for the Attorney General.

13 We have and have always had--and when I
14 speak of we, I am not talking about the royal we; I
15 mean the office, our office, me and the Attorneys
16 General, since I have been in office these past 16
17 years plus--have always had a felicitous
18 relationship with the Attorney General. Even when
19 we didn't always agree on things, we always worked
20 cooperatively. We have a 24-hour, 7-day-a-week
21 charging unit. We also have the capacity, because
22 we have over 300 lawyers, the extraordinary capacity
23 to deal with any crime.

24 Do we have enough? It's never enough.
25 But we believe that the Attorney General, always

0018

1 overburdened as he or they have been, don't need or
2 want the additional burdens of coming into a
3 particular jurisdiction and telling the local
4 prosecutor how to handle a case or that they are
5 taking it over. It's just fraught with all kinds of
6 peril.

7 What we have done in Philadelphia, we
8 think, is the kind of innovative thinking that we
9 think and encourage other jurisdictions to use: we
10 have specialized courts. And I am just going to
11 talk about one: the gun court.

12 When we find a first offender who has not
13 used a gun yet to commit a violent crime, what we
14 are looking to do is to see if that person is an
15 appropriate person to divert to this gun court.
16 This is a court which empowers the probation
17 department, pretrial, to interview the defendant--
18 even that person is known to have a presumption of
19 innocence--to see if that person has an anger
20 management problem, whether that person is involved
21 in a very tense domestic situation, to get that
22 person counseling.

23 If the judge believes that there is
24 something unusual that comes up in the pretrial
25 interview, the judge can ask and does ask the person

0019

1 to surrender any and all other guns in the house and
2 allows the probation department to enforce the fact
3 that there are no other guns in the house.

4 We believe that this will seriously
5 interrupt the possibility, but it never eliminates
6 it, of some person who has an anger problem or a
7 domestic violence situation from going home and
8 shooting his spouse or significant other because
9 they have, for example, filed a protection from
10 abuse order against the spouse. It won't eliminate
11 it, it doesn't, but it helps to address it. The
12 counseling aspect prior to trial, with the
13 presumption of innocence still fully in tact, helps
14 the person negotiate the idea of knowing the
15 lethality of guns and the fact that the person needs
16 help.

17 This gun court, which has handled several
18 thousand cases in just a couple of years that it has
19 been up and running in Philadelphia, has had really
20 remarkable results. It's not proof positive, it's
21 too soon to tell, but of the couple of thousand
22 cases that we have had, we have had a very
23 significant decrease in the number of repeat
24 offenders, rearrests, probation violations, new
25 arrests for gun possession and so forth.

1 And we believe that the strong deterrent
2 of dedicated probation officers who do nothing but
3 concentrate on these first-time gun possession
4 offenders, a single judge who handles every single
5 case in the gun court, and the enhanced supervision
6 and treatment and other options, and sometimes jail
7 if it's appropriate, or prison if that's
8 appropriate, is a good way to handle some of the
9 kinds of intractable problems that have been
10 plaguing the courts. So new kinds of courts and new
11 modalities are a way to attack this problem.

12 To have the Attorney General's Office
13 have concurrent jurisdiction over peculiarly local
14 crime would cause, I can guarantee you, arguments,
15 resentment, disruption, confusion, intrusion, and a
16 big mess.

17 And I can give you an instance where a
18 former Attorney General tried to engraft upon
19 himself these super powers, and it was a horrible
20 battle. And I fought that Attorney General, not
21 only to a standstill but until he backed down,
22 because I wasn't having it. And I think you don't
23 really want to have the Attorney General and the
24 local prosecutor fighting over who is doing what
25 case.

1 The better way to go is, I think, the way
2 that the Attorney General's Act works right now, we
3 frequently ask the Attorney General to come in and
4 take a case where there is multi-county
5 jurisdiction; and for some reason we can't handle
6 it, whether it's a resource issue, which is not
7 usually the case for Philadelphia, but we see it in
8 smaller counties who are just overwhelmed; or where
9 there is a conflict of interest. We have good
10 enough relationships with almost everybody in the
11 Attorney General's Office to do that.

12 And the Attorney General has been very,
13 very helpful to us. And we to him. And this
14 includes Mike Fisher, Tom Corbett, and every
15 Attorney General that I can think of; with a minor
16 exception for a former Attorney General, and I will
17 call his name, Ernie Preate, who thought he was
18 God's answer to everything, but he wasn't.

19 The jurisdictional scheme in the present
20 act allows the Attorney General to handle the
21 overarching problems that affect all jurisdictions
22 and the local prosecutors to do what the local
23 people empower them to do.

24 And you can argue about this or say what
25 you will. When somebody from outside tends to come

1 into the local jurisdiction to say, well, I am in
2 charge here--to use Alexander Haig's ill-fated
3 statement--it makes the local District Attorney look
4 like he or she is ineffective. Now, if that is the
5 case, that's one thing. But more often than not,
6 it's a little more than grandstanding, and it
7 creates tremendous fractures between the local and
8 the state prosecutor that's something to be avoided.

9 Here is, I think, a better mechanism and
10 one which we have willingly used. When State
11 Senator Vincent Fumo, Representative Evans, and
12 others, perhaps some on this committee, saw the need
13 particularly but not limited to Philadelphia to
14 create a Gun Violence Task Force, which we proposed,
15 what we needed was money. We had the ideas; we
16 didn't have the money.

17 So we got--when I say we, Tom Corbett,
18 Lynne Abraham, the police department--got \$5 million
19 to start a Gun Violence Task Force. And we signed,
20 amongst and between us, a memorandum of
21 understanding, which I have attached to my
22 testimony.

23 And it's very instructive. Because what
24 it does, it sort of sets the relationship. We, Tom
25 Corbett and I, work tremendously well together. We

0023

1 have cross-jurisdiction. We share intelligence.

2 The investigators that we have hired, and
3 are helping to supervise, work under a deputy who is
4 now on the payroll of the Attorney General. And we
5 have hired seasoned homicide prosecutors, and they
6 are in every police district in Philadelphia, they
7 are working with local police, they are working with
8 our office.

9 We have cross-designated attorneys, and
10 we are investigating and prosecuting straw
11 purchasers by the dozens. We have opened almost 300
12 investigations, we have made 73 arrests, we have
13 confiscated 131 firearms, and including several
14 AK-47s. Something as instructive about -- I brought
15 some photographs with me; I would be happy to give
16 to the committee.

17 This task force also worked cooperatively
18 with Montgomery County District Attorney Bruce
19 Castor. D.A. Castor started an investigation in his
20 jurisdiction with, I think, the local police and the
21 State Police about a burglary ring, such as the one
22 that Representative James may have been thinking of,
23 which specifically targeted lots of homes where they
24 thought firearms would be.

25 And the interesting thing is that they

1 broke into these homes, stole these firearms. And
2 you will notice in two of these photographs, two of
3 which I am holding before the committee right now,
4 had a number of long guns, and then dozens and
5 dozens of semi-automatic pistols, such as the ones I
6 am holding up for the committee now, and I will pass
7 around for you.

8 The idea was that these guys were
9 stealing these guns in Montgomery County, but they
10 took them into Philadelphia to try to sell them.
11 They sold almost all of their handguns before their
12 ring was interrupted. They couldn't give away the
13 long guns. Nobody in Philadelphia wanted a long
14 gun. I am holding up these two pictures of long
15 guns, hunting rifles, and other long guns.

16 The peculiar vicissitudes of Philadelphia
17 crime is that all of our crime is committed by
18 heavy-duty, easily concealable weapons, expensive.
19 Nobody would touch a long gun, so they were all
20 recovered in tact. Several of the other guns were
21 recovered in crimes committed.

22 And when we announced the arrest of these
23 people, it was Tom Corbett, Bruce Caster, Lynne
24 Abraham, the Pennsylvania State Police, the
25 Philadelphia Police Department, all standing around

1 the camp fire singing songs, instead of fighting
2 over who gets what, who does what.

3 And that's why I think this bill, which
4 confers this kind of jurisdiction on the Attorney
5 General, creates a rift where there isn't any, and
6 creates jealousies and potential for territorial
7 turf wars where there shouldn't be any.

8 This is something that benefits all of
9 the Commonwealth of Pennsylvania, and we ask that
10 you reconsider that part of the bill.

11 The additional money that this bill
12 provided, not only provided for the salary of these
13 law enforcement investigators, retired Philadelphia
14 and other investigators with an average of 25 years
15 experience to be members of the Attorney General's
16 investigative force, even though they are former
17 police officers like Representative James,
18 supervised in part by our Assistant District
19 Attorneys and working with our Assistant District
20 Attorneys and Attorneys General Assistants, this is
21 the way that really impacts on crime.

22 In addition to the \$5 million just
23 providing us with more investigators and better
24 intelligence-gathering capacity, we are also using
25 that money to train the Philadelphia Police

0026

1 Department firearms investigators to be trained,
2 certified firearms investigators. We are so
3 overwhelmed with firearms that our firearms
4 investigators can't even look at a gun, unless it's
5 a rush job, until many, many weeks after a crime has
6 been committed. With 6,000 or 7,000 guns coming in,
7 it's impossible for six firearms examiners to be in
8 court and to analyze guns.

9 This money is already well on its way to
10 quadrupling the number of licensed -- certified, I
11 should say, firearms examiners to go into court. So
12 by the end of this two-year cycle, which is about a
13 year from now, 24 firearms examiners will have been
14 trained by this money, and they are available to
15 anybody who needs them, and that is a good thing.

16 So the least meaningful way to handle
17 this issue is to create a rift between prosecutors.

18 I can tell you that I just love the
19 notion of the notification of firearms purchase. I
20 think that's just so intelligent. It was almost
21 like a no-brainer. What were we waiting for?
22 So, Representative Caltagirone discovered the
23 obvious.

24 So many people say, oh, I didn't know I
25 couldn't buy this gun for somebody else, even though

1 they did know all the long. But they can't claim
2 ignorance, or a lack of notice, if they are told and
3 given, for example, a notice. The firearms seller
4 says to the purchaser, listen, I want you to know
5 that when you are buying this gun or these guns, you
6 can't give them, sell them, trade them to anybody
7 else. And there are severe penalties. I am giving
8 you this notice.

9 If they want to, that he can make them
10 sign the notice that they have read it and
11 understand it. Because remember, with everything
12 else, it has to be a knowing and intelligent
13 understanding. Because that comes up in court when
14 they say, I didn't know. And you say, well, wait a
15 minute. The firearms dealer gave you this notice
16 and told you about it, didn't he or she... This is
17 a terrific way to put people on notice and give them
18 pause.

19 I don't know if it will deter, because if
20 you are on drugs and your boyfriend is waiting
21 outside, you are going to do what your boyfriend
22 wants. But when that person is arrested, as straw
23 purchasers have been arrested, they cannot claim
24 ignorance. And it will give pause to people who
25 should think better and might think better. So I

1 think, and we think, this is a great way to tell
2 people about the penalties, to warn them, and to
3 advise them. If they get it, though, then go ahead
4 and do it? Then it's, as they say, on them.

5 We have sort of an anomaly in
6 Pennsylvania law with regard to receiving stolen
7 firearms because our theft statute, as you well
8 know, punishes the theft of a firearm by grading it
9 as a felony of the second degree. However, if I
10 steal a firearm and give it to somebody else, or ask
11 somebody to hold it, or they are found in possession
12 of it, and it can't be proved that that person is
13 the thief and they are only charged with being the
14 receiver, unless we can establish that person is,
15 quote, in the business of buying and selling
16 firearms, it's only a misdemeanor.

17 So rather than deal with the language
18 that this committee and its sponsors have suggested,
19 we are suggesting a friendly amendment to the bill
20 by saying -- And it's in the back of my
21 presentation, and it just strikes out the language.
22 In the case of theft by receiving stolen property,
23 the property received, retained, or disposed of is a
24 firearm, and crossing out and the receiver is in the
25 business of buying or selling stolen property, so

1 that it makes it a felony of the second degree; the
2 same degree as the thief.

3 And it sort of eliminates the anomaly in
4 Pennsylvania law, and it relieves the prosecutor,
5 state or local, of having to prove that somebody is
6 in the business. And remember, business is a term
7 of art and that creates a high likelihood of the
8 inability of the prosecutor to prove anything,
9 because you have to prove business, that the
10 receiver is in the business of buying and selling
11 firearms, in order for it to be a felony. So I
12 think that will avoid, or correct, if I could say
13 that, the anomaly that is in Pennsylvania law.

14 The Joint State Government Commission, we
15 think, is a good idea. We think that how firearms
16 are bought, traded, sold, transferred, stolen,
17 acquired, is a good thing. Just as a caveat,
18 because we support the notion of this committee, it
19 could lead to amendatory statutes or it could lead
20 to new statutes or repeal of some other statutes, if
21 we find that these statutes don't serve the purpose.

22 We do believe, however, that there may be
23 the problem of accessing records. Even though
24 people say the law provides for a mechanism to get
25 the records, we think it's going to be problematic.

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1 But we support, certainly, the Joint State
2 Government Commission, and would be happy to
3 cooperate.

4 House Bill 41 really creates the same
5 kind of problems that I spoke to previously. I
6 believe the Attorney General, or his representative,
7 will say that he doesn't want this any more than
8 local prosecutors want it.

9 And as I have said in my testimony on
10 page nine, this decree is really a thinly veiled
11 attempt to co-opt and usurp the power of the local
12 prosecutors, not something you really want to do. I
13 would call the Attorney General who did that an
14 uber-governor.

15 And no disrespect intended, I don't need
16 an uber-governor. I think I and my fellow
17 prosecutors can handle this job well ourselves. So
18 I think that the local firearms trafficking should
19 be left where it's done the best and that is the
20 local prosecutors with just additional resources; we
21 can do an awful lot and be very creative with a
22 little bit of money.

23 I want to speak now to Harold James'
24 suggestion about the \$50,000 bail. And I believe
25 that's problematic for a couple of reasons, but I

0031

1 understand why he wants it. And I generally support
2 high bail for violent offenders myself, so we are
3 not differing; it's the approach that I am a little
4 bit concerned about, especially, but not limited to,
5 Philadelphia, because the problems we are seeing now
6 in Philadelphia are expanding throughout the
7 Commonwealth.

8 First of all, I think that the problem
9 would be that the courts on a challenge, which
10 would, I believe, come very early, say, well, wait a
11 minute, the whole idea of bail is to give a
12 defendant individual attention. Suppose you have
13 some old grand pop. You know, use the most absurd
14 example because that's really what's going to get
15 the public's attention. Look what they are doing,
16 they have the 75-year-old grand pop who has never
17 been arrested before and you got to give him \$50,000
18 bail. Or some kid. It will always be the worse
19 case scenario; it won't be the run-of-the-mill case.

20 But even if it were the run-of-the-mill
21 case, a defendant deserves to have the judge--and I
22 was one, so I can tell you this--consider him or her
23 individually. Setting a blanket bail request at
24 50,000, without thinking anything about it, creates
25 tremendous problems of not only separation of powers

0032

1 but treating a defendant as an individual.

2 More importantly than even that, if you
3 don't think that's important enough, and I am not
4 suggesting that you don't, we built a new prison in
5 Philadelphia, because we, in the District Attorney's
6 Office, were saddled with fighting a federal judge
7 for six or seven years on a federal prison cap
8 lawsuit for Holmesburg Prison.

9 And it was a mess. Where the judge was
10 releasing prisoners, every one of which we resented
11 and objected to because they shouldn't have been
12 released, because the prison was overcrowded. So
13 Governor/then Mayor Rendell had constructed the
14 Fromhold-Curran Correctional Facility -- or CFCE, as
15 it is known, Curran-Fromhold Correctional Facility.
16 That prison was touted wrongly as the answer to our
17 problems.

18 Holmesburg Prison was, I think, 3,000
19 maximum capacity, 3,000-3500. They had almost
20 5,000. The day CFCE opened, it had about 5,000
21 prisoners. Now it has 9,000. Okay? And we are
22 fighting, right now as I am sitting here looking at
23 all of you, another federal lawsuit about the
24 potential for a prison cap.

25 I don't want to get diverted into why so

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1 many people are there. We can talk about that some
2 other time, because there is plenty to talk.

3 But with 9,000 people, let's take
4 Representative James' bill and just use it for
5 Philadelphia. Never mind Lackawanna or anyplace
6 else. Tamaqua. You pick the place in Pennsylvania,
7 I don't care. And you have a small jail with some
8 crime, and you have a jail capacity of a small
9 amount and a large number of prisoners.

10 So, if we have 2000 shootings, 400
11 homicides with many multiple defendants, and untold
12 numbers of robberies and other crimes committed with
13 guns, that's another, what, 2,000, 3,000 defendants
14 who we're going to have sitting in custody, who
15 can't make bail, and then three celling and four
16 celling, and federal lawsuits pending, which we have
17 to fight. I say we, I mean the District Attorney's
18 Office. It's not only expensive for the
19 jurisdiction; the city winds up paying for prison
20 overcrowding. And it just forces judges to turn
21 people out on the street who shouldn't be out there.

22 So I think that you may want to rethink a
23 mandatory \$50,000 bottom line for any crime.

24 We would be happy to work with you to
25 come up with some workable solution, but I think the

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1 50,000 isn't going to work. And it will be
2 challenged universally across the Commonwealth, not
3 just in Philadelphia. And I think you will have a
4 bill that wants to do something, but is ineffective.
5 And I think the last thing that the legislature and
6 you want to do is do something that doesn't work.
7 And I don't want you to do something that doesn't
8 work either.

9 The last things I want to say about guns
10 is this: one of the things that I think, if you
11 really want to strike a blow for liberty while at
12 the same time protecting and balancing privacy
13 versus gun owners' rights, is that the big flaw in
14 our current system, both federally and locally, is
15 trusting the purchaser of a firearm with regard to
16 his or her mental health.

17 This may not be something that you are
18 prepared to grapple with today, but you are going to
19 have to grapple with it sooner or later.

20 It is, to me, the height of absurdity to
21 buy a gun -- And I have bought guns, so I can --

22 I am a gun owner, I have two guns and I
23 know how to shoot and kill, but the absurdity of
24 going into a gun shop and filling out a form, and
25 the form says, have you ever been involuntarily

0035

1 committed to a mental hospital, doesn't answer two
2 questions: number one, there is no way to find out
3 if I say no; and it also doesn't cover commitments
4 by families or myself.

5 So if I am mentally ill and I say I am
6 really crazy, I need to go into a mental hospital,
7 and I am dangerous and I recognize this, the bill,
8 the law doesn't cover either one of those scenarios.
9 There is no way to check.

10 If I say no, there is no way to check if
11 I am lying. And there is no way that anybody can
12 access records, if I have self-committed or my
13 family has had me committed, via civil as opposed to
14 a Criminal 302. But not a court commitment. It's a
15 voluntary. I just take my family member. She needs
16 help. I say, okay, I will go in for 30 days and
17 that's the end of it. But I am dangerous to myself
18 and to others.

19 So I think one of the things that we may
20 want to spend sometime on down the road, but soon
21 down the road, is how gun dealers, who do not want
22 to sell guns to mentally ill people, can access with
23 the help of the Pennsylvania State Police. And I
24 don't even know if they want this, because they also
25 may say, well, we don't want to do this.

1 But there has to be a mechanism to check
2 up, whether it's on the PICS, Instant Checks,
3 whether it's entering court commitments into the
4 PICS filing system. So if Lynne Abraham has been
5 committed by Judge X to a mental hospital, on the
6 Instant Checks System, it will come up yes when I
7 wrote no. It won't cover the voluntary commitment,
8 but at least it will cover the involuntary
9 commitment.

10 So it's going to take inputting of
11 records, it's going to take a balancing between my
12 right of privacy versus your children's right to
13 live, if I want to kill them. It's really as stark
14 as that. And that's something, I think, you can do.

15 And the other things that I have
16 discussed, but don't want to take a whole lot of
17 time about, are somewhat problematical. But one
18 thing is treating adult violations for convicted
19 felons who possess firearms the same, regardless of
20 whether the previous offense is adult or juvenile
21 conviction or adjudication.

22 Right now in Pennsylvania if I, as a
23 juvenile, rob people at gun point, or rape somebody
24 at gun point, I believe that that juvenile
25 adjudication is not a disabling offense, as the law

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1 stands now. So whether I'm adjudicated as a
2 juvenile for violent crime as an adult, that should
3 count as a disabling conviction for purposes of
4 being disabled from buying a firearm.

5 The other suggestions I make, I think are
6 fairly well self-evident. I thank you. And finally
7 want to say one last thing about this Gun Violence
8 Task Force, to show you how the right balance
9 between the local and the state Attorney General can
10 be struck.

11 I am holding up, and I will present to
12 the committee, a smaller version of this poster.
13 It shows a young Black girl, very beautiful,
14 smiling. It says, stop gun violence, under her
15 face. And there's a semi-automatic handgun next to
16 her. And it says, the gun you buy for a criminal
17 may kill my child. A message from Attorney General
18 Tom Corbett, Philadelphia District Attorney Lynne
19 Abraham, and Sylvester Johnson, Philadelphia Police
20 Commissioner.

21 This poster is on virtually every bus
22 stop, train stop, public transportation stop,
23 billboards. It's given out in churches and in
24 public places to show that the three of us, the
25 local police, the state Attorney General, and the

0038

1 local District Attorney--and any district attorney
2 who wants to do this--can and do work cooperatively
3 and for the mutual benefit of all Pennsylvanians.
4 And this is a really strong, powerful message.

5 There are also messages we have recorded
6 for television, for film, and for radio that does
7 the same thing. This is a good campaign which helps
8 to spread a good, positive message about gun
9 violence, and not buying guns for a criminal, being
10 a straw purchaser. This is a very powerful message.
11 And I will provide this to the court reporter and to
12 the committee. And I have another one, if you would
13 like to have that.

14 I thank the committee for its time.

15 CHAIRMAN CALTAGIRONE: Thank you, Lynne.
16 I really appreciate your testimony because I think
17 you have highlighted the problems that we're
18 confronted with as a legislature. And we would like
19 to --

20 (Cell phone rings.)

21 (Off-the-record discussion occurred.)

22 CHAIRMAN CALTAGIRONE: Can we open the
23 panel up for questions? Yes, Daylin.

24 REPRESENTATIVE LEACH: Thank you, Mr.
25 Chairman. And thank you District Attorney Abraham.

1 Very, very compelling and enlightening testimony.

2 A couple of quick things. On the
3 signing, on the notice that you can't relend the
4 guns, I think, because so many of -- You know, when
5 you buy things, you get so many forms that it often
6 becomes pro forma. You just grab it and don't look
7 at it. And one of the purposes, obviously, is the
8 courts preclude the defense that I didn't know I was
9 supposed to give that.

10 But, you know, another maybe aspirational
11 goal of this is to actually have people not give
12 people guns. So I think maybe actually putting
13 something in the statute requiring before they get
14 the gun for them to sign would be, would be -- well,
15 you know, a few more people might read it, and I
16 think that might be worthwhile.

17 MS. ABRAHAM: Well, even if they don't
18 read it, it's on them. It's kind of hard to, and
19 that's why I suggest it. It may give people pause.
20 If you are really determined to get a gun? You
21 don't care, you are going to do anything. But when
22 you are arrested, you cannot claim you didn't know.

23 And the notice requirement is terrific.
24 Having the person acknowledge it, by signing it, is
25 even better. It's an extra step, I know it's a drag

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1 on somebody's time, but it's a mechanism by which we
2 can say: and by the way, when the gun dealer sold
3 you this gun, remember signing this? Is that your
4 signature down there? Yeah. What does it say?
5 Read it to me.

6 REPRESENTATIVE LEACH: Yeah. Right.
7 Now, as opposed -- Because I, not in this context,
8 but I, you know, when I was practicing, you know,
9 frequently, and whether it was in the context of a
10 consumer fraud case or something, you give someone a
11 thing. You know, you were given this paper. I
12 don't know -- I never -- I -- You know. But the
13 signature would be -- it would be harder to say
14 that.

15 Regarding the jurisdiction of the
16 Attorney General, I agree with you about, you know,
17 creating unnecessary turf wars. I also agree with
18 you, you know, that Philadelphia has the resources.

19 Are you happy with the law as it
20 currently stands?

21 Is there any tweaking necessary, in terms
22 of smaller counties that may not have the resources
23 Philadelphia has and may need the help of the
24 Attorney General's Office?

25 Do they just have to send a letter to the

0041

1 Attorney General requesting help? Is the Attorney
2 General required to give that help?

3 MS. ABRAHAM: Well, I mean, I can't speak
4 for the smaller counties because I have never been
5 there and I am not intimately appointed.

6 But if the example in Philadelphia is the
7 way it works in the rest of Pennsylvania -- And you
8 certainly should check with local prosecutors. But
9 whether the prosecutor is a Republican or a
10 Democrat -- I am a Democrat. Don't hold that
11 against me, some of you.

12 REPRESENTATIVE LEACH: Oh, I won't.

13 MS. ABRAHAM: Every Republican Attorney
14 General has been a friend of mine. We have worked
15 cooperatively, even when I didn't agree with that
16 Attorney General.

17 I just pick up the phone. I usually call
18 Bill Ryan. I say, Bill, here is the problem. Can
19 you help us? I'll get back to you. That's usually
20 the word. Or he comes to me and says, hey, listen,
21 we have a case. Can you assist Tom Corbett on this?
22 So it just works with a phone call. Usually, there
23 is nothing formal that is required.

24 Sometimes, here's what we do: if they
25 are willing, what we'll do is follow it up with a

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1 letter regarding, for example, if we are recusing
2 ourself because we have a conflict. We want that in
3 writing because we want to put the defense on notice
4 that we have a conflict of interest. We cite the
5 Commonwealth's Attorneys Act. We ask them to take
6 jurisdiction so that it's available to the court, to
7 the defense, to any other counsel, and they have a
8 record that we have requested the Attorney General
9 to assume jurisdiction. And they write us back and
10 say, yes, we'll do this. But, for example, we may
11 have to pay some costs or something of that sort.
12 But they have been very, very helpful.

13 And when we have, conversely, helped the
14 Attorney General, if they don't have a prosecutor,
15 for example, to go to a county, we'll lend a
16 prosecutor to assist the Attorney General in going
17 to some smaller county that doesn't have the
18 experience or the resources to help prosecute or
19 investigate cases.

20 REPRESENTATIVE LEACH: My final question
21 is on the interview that you described, with the
22 pretrial interview, to see if there's a problem.

23 MS. ABRAHAM: Is this in gun court, you
24 mean?

25 REPRESENTATIVE LEACH: Yeah.

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1 MS. ABRAHAM: Yes.

2 REPRESENTATIVE LEACH: Just walk me
3 through, really briefly, the, the -- I assume that
4 this isn't mandatory for the defendant. Is it?

5 You know. And then looking at your Fifth
6 Amendment rights is the conversation that they have
7 during the interview privileged? I assume it cannot
8 be used at any -- Can anything they say be used at
9 trial against them? And do you find most people
10 willing to submit to the interview, pretrial?

11 MS. ABRAHAM: The answer to that question
12 is really quite simple. It is not designed to
13 elicit an incriminating statement because that would
14 mean that the probation department is an arm of the
15 prosecution of police. That's not the problem at
16 all.

17 The purpose of the probation officer
18 interviewing the defendant is to assist the judge in
19 crafting bail guidelines and bail for that offense,
20 so that the probation officer asks the person a
21 certain question. Having any problems with your
22 wife? Are you having anger problems? Do you need
23 any help that we can offer you? Do you need any
24 drug and alcohol treatment? Do you need any mental
25 health interventions?

1 And by a series of questions not about
2 the offense but about the potential offender who is
3 in custody, or on bail, most likely, the judge is
4 trying to craft pretrial conditions of bail. Let's
5 say, giving up any extra guns, getting them
6 interventions, treatments, fixing bail that is
7 appropriate to the offense.

8 So what the idea is, is not to punish,
9 but to set the appropriate framework for the person
10 to remain arrest free, complying with the bail
11 requirements, showing up in court, and having the
12 court address whatever the crime is without
13 interference from the probation department. So they
14 are really working for the court, not for the
15 prosecution.

16 REPRESENTATIVE LEACH: Thank you.

17 CHAIRMAN CALTAGIRONE: John.

18 REPRESENTATIVE PALLONE: Thank you, Mr.
19 Chairman. I guess before I ask my question, I have
20 to relay just a quick story to you.

21 When I ran for office about seven years
22 ago, eight years ago, I was circulating my
23 petitions, and the guy said to me, I will sign your
24 petition and I will support you and vote for you if
25 you promise me one thing when you get to Harrisburg.

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1 And I says, what's that?

2 And he says, you promise me that you
3 won't do anything. He says, you won't pass any new
4 laws, you won't do anything.

5 And I thought, well, it would be easy to
6 do, but why would you want me to do that?

7 And he said, because every time
8 Harrisburg passes a new law or Washington passes a
9 new law, he says, I get screwed.

10 And I think sometimes that's what
11 happens. Here we are now, perhaps putting another
12 layer of law on top of the already law-abiding
13 citizens.

14 And I am concerned, because we talk about
15 straw purchases, we talk about all the illegal gun
16 activity and so forth, do we have any hard and fast
17 statistics that tell us whether or not how many
18 straw purchases really are there in a given year,
19 and how many crimes are committed with legally
20 purchased weapons?

21 You know, I own several handguns and long
22 rifles and none of them have ever been involved in a
23 crime, and I have signed every form I was supposed
24 to sign, and I have registered with every
25 registration that I am supposed to do and all that

0046

1 it goes with it. What --

2 And I have said this, and I have
3 communicated this with my constituency, that we keep
4 just putting layer on layer on layer on top of the
5 already law-abiding citizen; and gun owners, whether
6 they be sportsmen, marksmen, hunters, fishermen,
7 whatever the case may be.

8 But the illegal activity is going to
9 always be illegal. You are going to have law
10 breakers. I mean, how can you tell me, or can you
11 convince me, that any of these new layers of law
12 that we are putting in place, and more burden that
13 we are going to put on PSP because they are going to
14 have to do more checks, how are we going to stop
15 illegal activity by creating more laws that nobody
16 is following anyhow, or some people aren't
17 following?

18 MS. ABRAHAM: Well, let me make a couple
19 of observations. First of all, you know, I just
20 told you, I am a gun owner myself. I didn't find
21 the requirements of going into a gun shop, a
22 licensed gun dealer, and signing and filling out
23 forms burdensome.

24 I wouldn't have found if the gun dealer
25 said to me, hey, listen, Lynne, you are not allowed

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1 to give, sell, transfer this gun to anybody else.
2 And sign that, too. I would have just signed it and
3 walked out. What's the big whoops?

4 I don't think the issue, and I think that
5 we all have to stand back and take a deep breath, I
6 don't believe that what I am suggesting that the
7 committee consider, even what the committee has
8 proposed in the form of its bills, is going to
9 burden lawful firearms purchasers and gun owners
10 like yourself and hunters and fishermen and gun and
11 rod club people.

12 I think what we did was, and I think you
13 have to take this in the proper context, when we
14 went through the Pennsylvania Instant Checks System,
15 everybody was tearing their hair out. Oh, this
16 won't work, it's horrible, it's burdensome, it's a
17 pain in the patoot.

18 Well, you know what? It works. I mean,
19 almost never is there a glitch. And I am not going
20 to get into the Labor Day business. That's like
21 some other story for another day.

22 But it really does work. If I go into a
23 gun shop and I have to go through the PIC System--
24 and I didn't because I got my guns prior to PICS--I
25 just waited. I didn't need the gun right away. I

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1 waited for my gun and I got it.

2 Now if I went there, I would go through
3 the PIC System, they would let me know in, what, 20
4 seconds whether any of my information turned out to
5 be false. I would either get the gun or not get the
6 gun, or go to the police department or the sheriff
7 and find out what the problem was with my firearm.

8 The problem never really is, or almost
9 never really is, the lawful gun owners, except with
10 a few circumstances. Lawful gun owners whose kids--
11 or they themselves shoot their wives--the kid takes
12 a gun out of the cabinet, goes to school and kills
13 his classmates. You know, we could discuss this ad
14 nauseam.

15 The real problem is, what do we do with
16 the thousands of people who are breaking into your
17 house and stealing your guns from your cabinet, if,
18 for example, although you signed all the paper? And
19 I haven't discussed, although it's in my notes, the
20 fact that you really ought to call the police and
21 report your gun stolen, because I have them now and
22 I am going to sell them.

23 But that aside, I want those guns for a
24 reason. I want to take them some place and sell
25 them. I want to trade them for drugs. And when I

0049

1 am caught or my cohorts are caught using them to
2 commit homicides, robberies, et cetera, at least I
3 ought to know where they come from, and that I have
4 broken into your house, so I can be prosecuted for
5 it.

6 This is not, and I repeat, not an assault
7 or an attack on gun dealers or gun owners. And the
8 interesting thing with this Gun Violence Task Force
9 is that the gun dealers frequently call us up and
10 say, I got a straw purchaser here. Sure as shooten,
11 no pun intended, go look at this person. So I think
12 that we are not imposing burden so much on the
13 lawful gun owner or rod and gun club person.

14 We are never really going to get a total
15 handle on illegal guns because we manufacture and
16 import too many, and there are 300 million of them.
17 So I am not going to lie to you and say, oh, if you
18 pass these bills, all of our problems will be over.
19 It's just another mechanism for law enforcement to
20 try to intervene in the illegal trafficking of
21 firearms that are put in the hands of people who
22 murder each other and murder us on the streets of
23 Pennsylvania.

24 And anything we can do to help do that is
25 beneficial.

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1 And finally with regard to the Gun Task
2 Force, this commission that you--you collectively--
3 are suggesting, if part of the commission's findings
4 are that we have gun laws that don't work anymore,
5 that are ineffective, that are old, that are
6 outmoded, it can be a mechanism for the legislature
7 to repeal or amend those laws out of existence.

8 So I don't view it with the same kind of
9 immediacy because my constituency is different from
10 yours. All I see is dead bodies and people who are
11 quadriplegic. Maybe you don't see that. But this
12 is the constituency that I am trying to address in
13 the greater context of the Commonwealth of
14 Pennsylvania, not just Philadelphia.

15 REPRESENTATIVE PALLONE: You have to
16 understand, too: right, I come from a different
17 constituency that gun ownership and gun ownership
18 rights are probably one of the top five priorities
19 for the people who live in my suburban and rural
20 areas of southwestern Pennsylvania.

21 MS. ABRAHAM: Um-hum.

22 REPRESENTATIVE PALLONE: But that's not
23 my issue.

24 As I believe, you almost, in your remarks
25 just now, almost support. What I am saying is, in

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1 your experience as a prosecutor, isn't it safe to
2 say that most law-abiding citizens, if their house
3 is broken into and their guns are stolen, they
4 report them stolen?

5 MS. ABRAHAM: I don't know if that's
6 true. Sometimes they do and sometimes they don't.

7 REPRESENTATIVE PALLONE: Again, I just --
8 I think the presumption is that most law-abiding
9 citizens would. You know, something of value is
10 being removed, you need to file a police report for
11 insurance protection, so on and so forth. So I
12 think the presumption is that law-abiding would.
13 That the failure to report the stolen guns and
14 weapons goes hand in glove with the straw purchaser,
15 the illegal gun trafficking, and so on and so forth.

16 So I think -- Again, I think we are
17 throwing the baby out with the bath water,
18 sometimes, by just putting additional layers on top
19 of already law-abiding citizens, and I am concerned.

20 And I am not saying that I don't respect
21 and understand the illegal gun trafficking problem,
22 particularly the extremes that may be experienced in
23 Philadelphia or southeastern Pennsylvania and maybe
24 the City of Pittsburgh or Allegheny County, that
25 part of southwestern PA. I am very sensitive to

0052

1 that, and I certainly don't condone or endorse
2 illegal gun trafficking.

3 My issue is, is we need to look at the
4 criminal, not the law-abiding citizen, and find a
5 way to resolve that, without just putting another
6 layer of paperwork in place that I am going to
7 follow anyway.

8 If I have to report my gun stolen, if
9 they are stolen, I am going to do it. If I have to
10 sign the yellow notice that says I can't lend my gun
11 or transfer my gun or whatever, I am going to sign
12 it.

13 I am going to do those things. The
14 law-abiding citizen in my district is going to do
15 that, the hunters, the sportsmen, the marksmen. You
16 know, those guys, they are going to do it. The
17 illegal gun trafficker isn't. No matter how many
18 layers you put there, they are not going to do it.

19 MS. ABRAHAM: But these laws -- You are
20 right, but the --

21 I don't look at any law-abiding citizens,
22 who come into our courts, as gun sellers or
23 traffickers, so I don't even deal with the hunter,
24 the sportsmen, the rod and gun club people, the
25 marksmen. I don't even see those people.

0053

1 The constituency that I am dealing with
2 are two kinds: victims, dead people or alive; and
3 offenders.

4 REPRESENTATIVE PALLONE: Right.

5 MS. ABRAHAM: So the legitimate gun
6 owner, hunter, et cetera, is not even in my orbit.

7 I only deal with the two kinds of people
8 I am talking: victims and offenders. And the
9 offenders are virtually never--not never--but
10 virtually never the lawful possessor and owner of a
11 firearm. It's the burglar, the thief, the son or
12 daughter who steals it, the straw purchaser, the
13 robber, the felon. It's not your constituency.

14 REPRESENTATIVE PALLONE: I mean, a
15 perfect example of that is the heinous accident that
16 occurred in Westmoreland County with one of our own
17 Senator's families, a law-abiding gun owner,
18 resulting in death of a young man. I mean, that's a
19 heinous, terrible accident that occurred in
20 Westmoreland County, and I think everybody is
21 sensitive to that and hopeful that it all works its
22 way out.

23 But there was a perfect example of an
24 accident that resulted in death of a young man
25 because of the lawful gun owner and maybe some

0054

1 mix-up with whether it was secured properly or not,
2 whatever the case may be. And those kinds of things
3 happen, and I am sensitive to that as well.

4 But I agree with you, and I appreciate
5 your remarks, that it isn't the law-abiding citizen
6 that you are after; that it's the law breaker. And
7 I appreciate that. And thank you for your remarks.
8 And thank you, Mr. Chairman.

9 MS. ABRAHAM: Thank you, sir.

10 CHAIRMAN CALTAGIRONE: Representative
11 Williams.

12 REPRESENTATIVE WILLIAMS: Thank you very
13 much. And thank you Lynne Abraham.

14 I believe you said that there is times
15 that when the City of Philadelphia District
16 Attorney's Office will lend help to another county
17 in the event that they may need some assistance.
18 And I commend you for that. Because so many of
19 these gun laws that we try to get passed around
20 here, other counties and other -- well, my
21 colleagues, don't believe in that same Philadelphia
22 love that the District Attorney's Office is giving
23 the other counties, particularly when you deal with
24 these different gun laws. There are a lot of lost
25 or stolen guns that we think the City of

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1 Philadelphia will assist us and help us get a lot of
2 things resolved.

3 So I just want to commend you and make
4 sure that my colleagues understand how the City of
5 Philadelphia reaches out to help other counties
6 across Pennsylvania, because some of these issues
7 that we have in the City of Philadelphia only deals
8 with the City of Philadelphia.

9 But you can see, firsthand, from my
10 District Attorney, who happens to care about all
11 Pennsylvanians, and who are lending the support to
12 other counties, I would only ask that my colleagues
13 think about that when we are passing gun laws. And
14 we need to pass gun legislation for the City of
15 Philadelphia. Remember what our District Attorney
16 is doing for Pennsylvania. Thank you.

17 MS. ABRAHAM: Thank you, Representative.

18 CHAIRMAN CALTAGIRONE: Representative
19 True.

20 REPRESENTATIVE TRUE: Thank you, Mr.
21 Chairman. Good morning.

22 MS. ABRAHAM: Good morning.

23 REPRESENTATIVE TRUE: I just really,
24 probably, mostly have a comment. Sitting here,
25 listening to your testimony, you touched on some

0056

1 words that I just would like to put forth at this
2 hearing today, when we are talking about gun
3 violence.

4 I am from Lancaster County. A lot of
5 people think Lancaster County is all our wonderful
6 farms and our countryside and the Amish, and that we
7 don't have problems in Lancaster County, and we do.

8 And my comment would be, I would take the
9 opportunity here at this hearing, is that there is
10 something that, since I have been elected since
11 1992, that I talk about constantly, it's very linked
12 to the gun problem, and that's the drug problem.

13 And we in this General Assembly have not
14 done anything, in my mind, other than we have passed
15 some legislation, we talk about it. And we talk
16 about treatment, and we try to get funding for
17 treatment.

18 But the bottom line: our Commonwealth
19 has not done nearly enough. I put that on us, more
20 than municipalities, about the drug problem. I
21 don't think we support it enough, but I do think
22 that's the big link with so much of Philadelphia's
23 problem, Lancaster City's problem, and the
24 outskirts.

25 And just from: I know your experience, I

0057

1 have followed your career for a long time, I know
2 how tough you are about it, and I am wondering if we
3 could just all think collectively of what are we
4 going to do about the drug problem?

5 Because in Lancaster City, we have trunk
6 loads of Chinese weapons. And I personally -- And I
7 don't mean to upset anybody, but I am a city -- my
8 background is city. I was raised in inner-city
9 Baltimore, so I have an affinity for cities and
10 urban areas, which maybe some of my colleagues do
11 not, but I do, and I do understand the difference.

12 When we can drive downtown and a car can
13 pull up and has a trunk load full of Chinese
14 weapons, and we have some top-tier drug dealers, not
15 just your, you know, your kid trying to score some
16 marijuana, you know, what do we do about that?

17 And that's where I would like to see,
18 some day, some Governor, some General Assembly that
19 will say, we are going to put all of our efforts
20 into finding a way to deal with the drugs that are
21 coming in; a lot come down from New York into
22 Lancaster.

23 And I just, as I said, don't mean to
24 lecture anybody, but while we are talking about
25 dealing with drugs, the biggest connection to the

0058

1 problems--and I would challenge those of us, I am an
2 NRA member, I own a gun, I know how to shoot a gun,
3 I am a legal gun owner--but the bottom line is, what
4 are we going to do about why we have all of these
5 guns in Philadelphia?

6 Because I liken it to the domestic
7 violence, to the child abuse. So much of the things
8 we deal with in the General Assembly is because of
9 drugs and alcohol and the abuse. So that's my
10 challenge for all of us, as we talk about this
11 important issue.

12 And I do know how important it is, just
13 to throw that into the mix. And wonder, with what
14 you have seen in your experience, if you have any
15 pearls of wisdom of how we could go about starting
16 that. And I don't mean to, you know, get you to
17 solve the problem, but.

18 MS. ABRAHAM: Well, if I had the solution
19 to the problem, I would be the Empress of the
20 Americas --

21 REPRESENTATIVE TRUE: Yes, and we'd all
22 want to support you. Yes, we'd all support you.

23 MS. ABRAHAM: -- as opposed to the local
24 D.A.

25 But I think what's happened is that, I

0059

1 think because the dialogue gets diverted into this
2 business about the lawful gun owner, we sort of tend
3 to lose our focus.

4 And I think there has also been a
5 decidedly uneven approach by our federal government,
6 giving funds, taking funds away, putting things in
7 place, removing them, doing it here and then doing
8 it some place else. For example, giving grants and
9 then you have to go figure out where to get the
10 grant in three years to make up for the money that
11 they have pulled.

12 It is really a lack of will, a national
13 will. This is the same thing I see in our national
14 defense. I mean, we are a huge, big country. There
15 isn't any problem that we, I think, can't solve--
16 not globally, perhaps, but nationally--if we put our
17 collective will together and the good thoughts of
18 people.

19 You are going to be seeing lots more guns
20 and drugs, especially counterfeit drugs like big
21 pharma. look-a-likes. You are not only going to
22 have the Meth. and the precursors coming up from
23 Mexico and the south Texas and the Caribbean area,
24 but you are going to see hoards of counterfeit drugs
25 coming in, whether through Canada or any one of our

0060

1 ports, from these counterfeiters in Eastern, Western
2 Europe, as well as in Asia, that is going to flood
3 the market.

4 And kids are going to get them, they are
5 going to overdose on them. I mean, this is
6 something that is so huge that it is so tricked up
7 with rhetoric and politics. And there is, on the
8 part of some people, the fear that if one group or
9 another, some lobbyist or some company or concern,
10 says, well, you are not going to be elected next
11 time. Go, oop, I better get in line. Because,
12 after all, as elected officials, we would like to be
13 elected.

14 Sometimes, somebody, several somebodies,
15 get the political will--and it has happened in the
16 past--where we collectively say, this is it, we are
17 not going any further. If you want to vote us all
18 out of office, you're not just going to vote me; you
19 have got to vote everybody out of office. And they
20 go, oh, I guess they are going to stand up and do
21 the right thing.

22 We reach accommodations, and I am
23 convinced that we can look at some problems and
24 address them. If you want my assistance, I will
25 come to Lancaster City. I have been throughout

0061

1 Lancaster County. And I will be happy to chat with
2 you.

3 But again, it starts and ends with, not
4 only the laws that the General Assembly passes and
5 the Governor signs but the where-with-all and the
6 dedication over the long-term to get the job done.
7 This is not a problem that came to Lancaster
8 yesterday, and it's notta gonna go away tomorrow.
9 It's long-term, deeply seated, and firmly rooted in
10 our society, and it's going to take a tremendous
11 effort to counteract.

12 One thing that is good, however, is a
13 recent court decision that says that insurance has
14 to cover drug treatment. I think that's a winner.
15 Something that I have pushed for, what, how long
16 now? 20 years?

17 MS. MCDONNELL: I was going to say 18.

18 MS. ABRAHAM: Almost 20. I have been
19 here 16, 17 years. The Offices have been pushing it
20 for as long as I have been the D.A., and I have
21 supported it. That's a start. It's not "the"
22 start; it's "a" start.

23 So if you would like me to come to
24 Lancaster, I will drive up one day and bring some
25 people, and we will sit and kick it around. Or you

0062

1 can come down, if you want, or I will meet you in
2 between, and we will talk about some things that we
3 think might be a good place to begin.

4 REPRESENTATIVE TRUE: And I appreciate
5 that. Because I did not mean to leave out the
6 federal government. Because they ultimately are the
7 most responsible. And we could take a lead from
8 them. And for many years we have not been able to,
9 regardless of politics.

10 I tend to think it's just so hard. It's
11 like the gun issue. It is so difficult to wrap your
12 hands around and get everybody on board. But I
13 think it's worthwhile to keep talking about it, and
14 I will take you up on that.

15 MS. ABRAHAM: I think that's --

16 REPRESENTATIVE TRUE: I have been doing
17 this since 1978, and it's only getting worse, so.

18 MS. ABRAHAM: I think the real issue is
19 that people think that you can solve the problem
20 with a snap of the finger, pass a law.

21 REPRESENTATIVE TRUE: Or we'll go to
22 court.

23 MS. ABRAHAM: You know, check. I mean,
24 if that were so, we'd all be out of business right
25 now.

1 REPRESENTATIVE TRUE: Well, I thank you.

2 I thank you for your time, Mr. Chairman.

3 CHAIRMAN CALTAGIRONE: Thank you.

4 Counsel Andring.

5 MR. ANDRING: I thank you. Just a couple
6 of questions. On page two of your testimony, you
7 talk about straw purchases being one of the main
8 sources of illegal firearms.

9 MS. ABRAHAM: Um-hum.

10 MR. ANDRING: When we had a series of
11 hearings around this state on firearm violence, we
12 had quite a number of law enforcement personnel who
13 testified before the committee as to their belief
14 that a law mandating the reporting of lost or stolen
15 firearms would severely impact -- or at least have a
16 substantial impact on limiting straw purchases.

17 What's the position of the District
18 Attorneys Association on that?

19 MS. ABRAHAM: I believe my end notes
20 suggest that a requirement that you report your gun
21 stolen within a reasonable amount of time, because
22 you have to discover it. For example, if I broke
23 into your house but didn't break your window or
24 door, just got in and took your firearm, and you
25 didn't check or look, because there was no reason,

0064

1 you always thought it was in the dresser next to
2 your bed, and you didn't look for it for three or
3 four weeks, you would never know.

4 It is extremely helpful to law
5 enforcement, in reporting a firearm stolen, that it
6 can then go into the system so it can be put on a
7 computer and be accessible to law enforcement
8 everywhere.

9 MR. ANDRING: Okay. And that's the
10 testimony that we received from quite a number of
11 other people, that it would be very helpful. My
12 question is: has the District Attorneys Association
13 taken a position on that type of legislation? And
14 if so, what is it?

15 MS. MCDONNELL: If I could clarify Mr.
16 Andring's question?

17 MS. ABRAHAM: I am going to ask Kathy
18 McDonnell, my legislative liaison.

19 (Off-the-record discussion occurred.)

20 MS. MCDONNELL: My name is Kathy
21 McDonnell. I am Chief of the Legislation Unit in
22 the Philadelphia District Attorney's Office, and
23 also serve as Legislative Liaison for the
24 Pennsylvania District Attorneys Association.

25 Our office did testify in support of a

1 statute that would punish a person for failure to
2 report a lost or stolen firearm. We brought that
3 similar statute -- or that recommendation to the
4 District Attorneys Executive Committee, and could
5 not reach it. They supported the concept of a lost
6 or stolen requirement; we could not reach a
7 consensus on whether or not it should be a
8 punishable offense.

9 So, at this point, you have support for
10 the concept, and from the Office of the Philadelphia
11 District Attorneys, support for a criminal statute.

12 And I think the suggestion was a summary
13 offense. I can't remember what the actual statute
14 said.

15 MR. ANDRING: There were some pieces of
16 legislation that had summary offenses, and I believe
17 some that had more severe offenses.

18 MS. MCDONNELL: I believe this is an
19 important issue. And we are meeting again in the
20 fall. And I intend on bringing it up again, if you
21 think that would prove helpful.

22 MR. ANDRING: Well, I simply raise it in
23 the context, not, frankly, as to whether it would or
24 wouldn't be helpful in passing the bill, but there
25 has been a considerable amount of criticism of many

0066

1 members of this legislature for not passing that
2 type of legislation.

3 MS. MCDONNELL: Um-hum.

4 MR. ANDRING: And frankly, I don't
5 understand how you criticize members of the
6 legislature for not passing something that the
7 District Attorneys Association won't even endorse.

8 MS. MCDONNELL: Um-hum. I think --

9 MR. ANDRING: So, you know, that's the
10 context I would go by.

11 MS. ABRAHAM: I think what the problem
12 is, quite honestly, and you know I speak very
13 frankly about these things, I think that some
14 D.A.s--I don't speak for any of them; this is my
15 impression--that some D.A.s really don't want a
16 problem with a very powerful lobby that they don't
17 need to get involved in; and if they don't want to
18 provoke, let's say, the NRA into voting them out of
19 office by, you know, imposing another requirement on
20 the, quote, legitimate gun owner.

21 It gets to be so tricked up with
22 electoral and local politics. They understand the
23 idea, but it's not the field they want to die on.
24 They would much rather, either let the legislature
25 do it or not do it. They will handle it their way

0067

1 and that's the end of it.

2 I am of the opposite view. As a gun
3 owner, licensed, registered, legal, I am going to,
4 like the gentleman who -- I am sorry. The gentleman
5 who asked me the question before, who was behind the
6 lectern. Oh, there he is. I am sorry.

7 REPRESENTATIVE PALLONE: John Pallone.

8 MS. ABRAHAM: Pallone. I would report my
9 gun stolen if I was aware of it was stolen, or as
10 soon as I became aware of it. And I don't want to
11 make it so that, oh, you are a lawful firearm owner,
12 and you didn't report it, off to the hoosegow with
13 you.

14 I think there's an immediacy about
15 reporting a gun stolen for only one reason: most
16 people will; some people won't. For whatever
17 reasons, maybe it was lawfully in their home, but
18 not lawfully acquired, or was acquired in some kind
19 of way that they don't want to get involved with law
20 enforcement for whatever reason, so.

21 But it is important that law enforcement
22 know that this weapon is out there in circulation.
23 So if it has a serial number, it has a description,
24 it can be put into a computer. So if it turns up at
25 a crime scene, at least they know where it came

0068

1 from.

2 And that's a starting point for an
3 investigation. It doesn't mean you are going to be
4 prosecuted for having a gun that you shouldn't have.
5 If anything, if we needed you as a witness, I would
6 grant you immunity to tell me that you had this gun
7 that was next to your bed, but it was stolen from
8 you, just to get the guy who robbed the bank with
9 it.

10 I am not after you. I am after the
11 person who used it to commit a violent crime with.
12 And again, it's a balancing act. You know, we
13 prosecutors are practical. We are not sitting here
14 trying to create problems for us or our
15 constituents.

16 MR. ANDRING: On page four of your
17 testimony, again you talk about the power to inspect
18 records --

19 MS. ABRAHAM: Um-hum.

20 MR. ANDRING: -- from gun retailers.

21 MS. ABRAHAM: Um-hum.

22 MR. ANDRING: Right now, the United
23 States Attorney has certain powers to inspect the
24 records, and also inspecting cases for regulatory
25 compliance, and also in cases where crimes are being

0069

1 investigated; and what the bill under consideration,
2 1744 does, is take virtually that identical language
3 and confer those powers on the state Attorney
4 General.

5 I guess my question: do you really think
6 it's realistic to expect people who operate retail
7 gun shops and are subject to inspection by the U.S.
8 Attorney, and under this bill would for the first
9 time be subject to the same inspections by state
10 officials, to also be subject to inspections by the
11 District Attorney and the State Police and the local
12 police departments?

13 I mean, aren't we going to reach a point
14 where there are so many people traipsing through
15 these gun shops? And then I say that in the context
16 the bill was drafted and this authority was given to
17 the Attorney General, along with the other powers in
18 the bill, so that there would be one person in the
19 state who could do this efficiently at the request
20 of local law enforcement and not overly burden the
21 gun retailers.

22 MS. ABRAHAM: Let's look at the system as
23 it is. We all know that there has been tremendous
24 reluctance on the part of certain interest groups
25 not to allow anybody to inspect anything for any

0070

1 reason, because it's all secret, nobody has a right
2 to know.

3 And many of the records of firearms
4 dealers are kept on paper, not entered in a
5 computer, for the very reason that they want to
6 thwart or hinder research as opposed to help it.

7 As a practical matter, however, I don't
8 believe--and I may be mistaken in this, so I am
9 saying that right up front--I don't believe that the
10 federal government has the manpower or the interest
11 in going through all of those thousands of licensed
12 gun dealers, and just for a random walk in the park
13 check your gun records to see how many guns you have
14 sold, did you fill in the proper form.

15 I don't believe that happens at all.
16 First of all, they don't have the manpower, they
17 don't have the money, and I don't think they have
18 the interest.

19 I think what happens most times, most
20 times, is that there is a crime, or a variety of
21 crimes, terrorist activity, where they find a gun or
22 they find weapons or they find -- whatever it is
23 they find, and they try to trace back. And I don't
24 care whether it's explosives, ammonium nitrate with
25 markers now put in it so it can be traced to the

0071

1 persons who manufactured it, or guns. Then, and
2 only then, is it the general rule that the federal
3 government will step in.

4 I am telling you, as a statement of fact,
5 as the local prosecutor, I don't give a tinker's
6 damn about whether a gun owner like Colosimo's, a
7 gun shop, is filling out their paperwork.

8 I am only interested in one thing. If I
9 find there's a gun that is the subject of a homicide
10 investigation, and I have reason to believe from the
11 information I have gathered it was purchased, or
12 stolen from, or obtained somehow, I might go back to
13 Mr. Colosimo, and say, Dom, do me a favor. Could
14 you find this for me?

15 Nobody, I think--and certainly not the
16 State Police, who are stretched, I think, to
17 limits--is going to just, in a frolic of their own,
18 say, I wonder what gun dealer in, I don't know,
19 Hazelton I am going to go look at today to check to
20 see that their records are okay? I don't believe
21 that's the intent or the purpose.

22 Now, if you are asking me: is it
23 possible, in my wildest dreams? Yeah, I can see a
24 renegade officer doing something stupid. But that's
25 not the purpose of why I am asking you to do this.

0072

1 This is only to help law enforcement to investigate
2 crime. This is not to go burden you, if you are a
3 gun shop owner, to making sure that your paperwork
4 is done right. So I think there is a lot of worry,
5 but not very much realistic substance or reason to
6 worry about it. But I understand your point of
7 view.

8 MR. ANDRING: Okay. And on the issue of
9 the concurrent jurisdiction, again going back to
10 your testimony, you indicated that if we had
11 concurrent jurisdiction of the Attorney General for
12 firearms offenses that this would lead to
13 grandstanding, telling local prosecutors what to do,
14 taking over cases, resentment, arguments --

15 MS. ABRAHAM: That's right.

16 MR. ANDRING: -- confusion, intrusion,
17 and disruption.

18 MS. ABRAHAM: You bet.

19 MR. ANDRING: Well, then my question is:
20 do all of these problems currently plague the drug
21 task forces?

22 MS. ABRAHAM: No. And I will tell you
23 why.

24 MR. ANDRING: Fine.

25 MS. ABRAHAM: When we work with the

0073

1 Attorney General on anything, whether it's Violent
2 Traffickers Project, we're all a member of what's
3 called a Height of the High-Intensity Drug
4 Trafficking Area which investigates on a local,
5 state and federal level guns and drugs. And local
6 task forces --

7 MR. ANDRING: Right.

8 MS. ABRAHAM: -- it is our mutual desire
9 to work together.

10 MR. ANDRING: Well, why wouldn't there be
11 a mutual desire to work on, together, in the same
12 way, on issues involving gun violence which is
13 happening --

14 MS. ABRAHAM: Because the way the bill is
15 written, the Attorney General doesn't come in at my
16 invitation to my jurisdiction. He just marches in
17 and tells me what he, or if it's a woman, what she
18 is going to do.

19 MR. ANDRING: I am terribly sorry, but I
20 don't see anything in the bill that says that.

21 What I see is giving concurrent
22 jurisdiction to the Attorney General to enforce the
23 Firearms Act, which, as I understand it, is
24 basically what we have right now in the way of drug
25 enforcement in the drug task forces.

1 MS. ABRAHAM: Well, again, but it's a
2 mutually agreed upon task force that we have entered
3 into with a memorandum of understanding; it's not
4 just the Attorney General coming in.

5 When usually these drug task forces came
6 up -- And I remember this one. General Preate
7 started this. He didn't just walk into a
8 jurisdiction and say, I am going to do this.

9 The way he did it was with little gifts
10 to the police department: extra manpower, extra
11 weapons, body armor. And the local prosecutor was
12 happy to have the -- or satisfied with, I don't know
13 about happy, but satisfied to have the help of the
14 Attorney General, because it was a mutually agreed
15 upon arrangement.

16 This statute just says, to the Attorney
17 General, you can go into any jurisdiction you want,
18 whether you're wanted, whether you're needed, or
19 whether it's appropriate, and just usurp the power
20 of the local prosecutor who is elected by local
21 people to either --

22 And this could be for good or evil. And
23 I am worried about the evil, because I always think
24 about the potential for evil. I don't want the
25 Attorney General coming into Philadelphia and

0075

1 telling me, hey, Lynne, I am taking over this case,
2 whether it's a drug case, a drug murder, or anything
3 else. If we invite him in, not a problem.

4 CHAIRMAN CALTAGIRONE: Could I just? I
5 am just curious--you know, to try to cut to the
6 chase on this--if we were to incorporate language,
7 where we would address the memorandum of
8 understanding, that we could put into the
9 legislation so that they --

10 And I understand what you are saying,
11 Lynne. And I was around, as I was Chairman during
12 those years with the Judiciary, when that whole
13 scenario had taken place. And you are right, there
14 were some cutting edges on that.

15 MS. ABRAHAM: I didn't want them.

16 CHAIRMAN CALTAGIRONE: I know. Oh, I
17 remember.

18 But I am just thinking, in order to try
19 to get the support of the District Attorneys
20 Association and yourself, if we were to incorporate
21 that kind of verbiage into the legislation, that
22 there would have to be a memorandum of
23 understanding, would that suffice?

24 MS. ABRAHAM: I think the Commonwealth
25 Attorneys Act already provides that. So, I mean,

0076

1 it's already there. That's why we are doing it.

2 But I would be willing, if you are interested, Mr.

3 Chairman, that Kathy and Chris and I, if you want,

4 can look at the Attorney General's Act --

5 CHAIRMAN CALTAGIRONE: Sure.

6 MS. ABRAHAM: -- and see if we can fiddle

7 around with it to make it somewhat --

8 CHAIRMAN CALTAGIRONE: You know, I am

9 never opposed to trying to get the issue resolved,

10 because we are all in this soup together, trying to

11 figure out how we can get the appropriate support of

12 the right group so that we have the good balance,

13 getting the votes of the members of this committee,

14 and then hopefully winning that battle on the Floor

15 of the House.

16 And I think that that's where, hopefully,

17 we are headed with the legislation. Because it's

18 been very, very difficult to get a consensus of

19 opinion, let alone--in this committee--sharing it

20 then with the rest of the House, to try to get

21 something meaningful passed, without running into

22 all the different road blocks that we have run into.

23 And, God knows, we have run into a number of them.

24 It has not been easy to get to this point.

25 MR. ANDRING: To clarify this point, we

1 have drug task forces that operate all over this
2 state. The Attorney General's Office has concurrent
3 jurisdiction to prosecute drug crimes. There is
4 absolutely nothing in the statute that limits that
5 jurisdiction. There is nothing in statute that
6 requires the memorandum of understanding.

7 What has occurred is that the D.A.s and
8 the Attorney General have worked these things out
9 over the years, and they do have understandings in
10 every county in the state at this point for the
11 operation of the drug task forces.

12 MS. ABRAHAM: Um-hum.

13 MR. ANDRING: This bill does not, as it
14 was described, is not a thinly veiled attempt to
15 co-opt and usurp the power of the D.A.s. It is an
16 attempt to model, on the drug task forces, what we
17 currently have and use that same model to approach
18 issues of gun violence; it provides for the
19 inspection of gun shops by the Attorney General,
20 that information could then be provided to the local
21 task forces or to the local law enforcement;
22 provides for the gathering of information on
23 multiple purchases of handguns for the purpose of
24 determining where the problems there are occurring.

25 Again, I just want to make the point, the

0078

1 idea, again, that this is a thinly veiled attempt to
2 co-opt and usurp the power of the D.A.s, is
3 nonsense.

4 This language will give the Attorney
5 General the exact same power in respect to enforcing
6 gun laws that they currently have with respect to
7 the drug laws; and hopefully it would encourage
8 statewide, not just in Philadelphia, the same sort
9 of task forces and cooperation.

10 MS. ABRAHAM: Well, I disagree. Because
11 in this case, you are conferring upon the Attorney
12 General something that he doesn't have now, which is
13 original jurisdiction to investigate and prosecute
14 crimes that are purely local and are vested in the
15 locally elected district attorney. It's not the
16 same as the Gun Task Force, not at all.

17 MR. ANDRING: Why? What's the
18 difference?

19 MS. ABRAHAM: Because what you are
20 doing -- And, Kathy, do you want to amplify? I
21 mean, we think that the act and the task forces are
22 totally different.

23 MR. ANDRING: Does the Attorney General
24 have the power to enforce drug law violations?

25 MS. ABRAHAM: Of course.

0079

1 MS. MCDONNELL: Yes.

2 MR. ANDRING: So he has concurrent
3 jurisdiction to enforce drug law violations, and
4 this would give him concurrent jurisdiction to
5 enforce gun law violations?

6 MS. MCDONNELL: Look, it's jurisdiction
7 that the Attorney General now does not have to go
8 into a local community and do uniform firearms acts,
9 which has always been viewed as peculiarly local
10 crime, okay?

11 The Attorney General, to my knowledge,
12 has never come into a local jurisdiction, and said,
13 I am going to prosecute gun crime without the
14 permission, without the agreement, without the
15 understanding of the D.A. I don't see the absolute
16 necessity when we have a system that works here so
17 well. The Commonwealth Attorneys Act will take care
18 of multi county, it will take care of --

19 MS. ABRAHAM: Conflicts.

20 MS. MCDONNELL: -- conflicts interstate,
21 and when the D.A.'s Office doesn't have the
22 resources.

23 You have an elected D.A. who handles the
24 local crime, why you would want to create a
25 centralized authority that would have the option --

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1 Suppose the D.A. doesn't want to charge,
2 for whatever reason it may be, and the A.G. does?
3 Then you have a political fight, you have a local
4 fight. And why fight? We should be on the same
5 team. And right now, as it stands, we are on the
6 same team, with a memorandum of understanding. And
7 the Attorney General's Office, in their statement,
8 says they are not interested in this.

9 MS. ABRAHAM: They don't want it.

10 MR. ANDRING: But again, you say, you
11 don't have these problems in the drug task forces
12 where you have concurrent jurisdiction.

13 MS. MCDONNELL: We don't have a drug task
14 force in Philadelphia, so I don't know --

15 MS. ABRAHAM: We have our own --

16 MS. MCDONNELL: We don't -- we don't --

17 MS. ABRAHAM: We can't talk at the same
18 time. One at a time.

19 (Off-the-record discussion occurred.)

20 CHAIRMAN CALTAGIRONE: Are you saying
21 that the Attorney General's Office doesn't do drug
22 law enforcement in Philadelphia?

23 MS. ABRAHAM: I believe that the Attorney
24 General may not have original jurisdiction in drugs.
25 Kathy says -- I thought we did. But I am being

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1 tapped on my back, and saying, maybe not.

2 So I am going to amend my answer by
3 saying, I think they have some jurisdiction to
4 investigate drugs statewide. But I don't think the
5 Attorney General can come into Philadelphia without
6 my permission and investigate local drug
7 trafficking. And I don't believe he also has the
8 authority to come in and investigate gun trafficking
9 or gun crimes either, unless I invite him in.

10 And these task forces are cooperative
11 agreements that are entered into between the
12 prosecutor locally and the prosecutor statewide.
13 It's because the local person wants to partner with
14 the A.G., and others, to investigate and prosecute
15 gun or drug traf -- And we don't have the Attorney
16 General's Drug Task Force in Philadelphia, never did
17 and don't have. If I want him, Tom Corbett will
18 help me. But if I don't want him, he doesn't have
19 the uber-authority to come in and say, I am in
20 charge here. That's why I'm elected.

21 CHAIRMAN CALTAGIRONE: I do remember that
22 we had a meeting in my office with the District --

23 MS. MCDONNELL: Um-hum.

24 CHAIRMAN CALTAGIRONE: And I think,
25 Kathy, you were there?

0082

1 MS. MCDONNELL: Oh, yes. Um-hum.

2 CHAIRMAN CALTAGIRONE: And bringing in
3 the Attorney General's Office, to try to get that
4 cooperative agreement, way back, many years ago.

5 MS. MCDONNELL: Yes, and it was very
6 difficult.

7 CHAIRMAN CALTAGIRONE: Exactly. Trying
8 to get this whole thing resolved, because it was a
9 jurisdiction. Who has primary? Is it you? Is it
10 me? You know.

11 MS. MCDONNELL: Um-hum.

12 CHAIRMAN CALTAGIRONE: And I will tell
13 you, we are in this war together. We have got to be
14 getting this work done. We brought everybody into
15 the office and we sat down and we did get that
16 memorandum of understanding and the agreement set
17 that we are talking about here today.

18 MS. MCDONNELL: Um-hum.

19 CHAIRMAN CALTAGIRONE: And I know you and
20 I were both involved in that with the Attorney
21 General's Office participating in those discussions.
22 And I absolutely remember that this was being kicked
23 around hot and heavy at that time.

24 MS. ABRAHAM: You know, Representative
25 Caltagirone, this is really no different than a

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1 state legislator, such as yourselves, protecting
2 your own prerogatives. You wouldn't want the local
3 prosecutor to come into your jurisdiction and say,
4 well, listen, I don't like the way Chairman
5 Caltagirone is doing his job so I'll come in and I
6 will propose legislation for him. You'd say, wait a
7 second, wait a second. This is not only
8 embarrassing, but she is trying to put me up to the
9 voters as being incapable of handling my own job.

10 Look, this is no different, it doesn't
11 work, and the relationship that we have and have had
12 with the Attorney's General, federal and state, have
13 always been really very good, with the one exception
14 that I mention; and even that, we worked it out.

15 But the whole idea of the Attorney
16 General coming in and saying, I am picking this
17 case; and I say, well, wait a minute, that looks
18 like I can't do my job; I will fight him tooth and
19 nail whether I can or I can't.

20 And that's the whole idea. If we don't
21 need this, the Attorney General, I think, will say,
22 I don't want it. Why do it, if we have something
23 that we can work through? We have the mechanism in
24 place, and it is not hurting anybody. It is what it
25 is: a thinly veiled attempt to have the Attorney

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1 General usurp the power of the locally elected
2 prosecutor, period.

3 CHAIRMAN CALTAGIRONE: And we don't want
4 to go there.

5 MS. ABRAHAM: Okay.

6 CHAIRMAN CALTAGIRONE: I know that's not
7 what we want to do. We have three more that --
8 Rod, Representative Kula, and my dear friend, Will.
9 Do you want to go first, sir?

10 MR. COREY: Just a follow-up question on
11 something that was discussed earlier, and it was
12 something that Kathy had discussed with regard to a
13 particular bill. And just to make it easy, House
14 Bill 29 and the discussion of lost and stolen
15 property --

16 MS. MCDONNELL: Oh, um-hum.

17 MR. COREY: -- its mandatory reporting,
18 in the context of the Executive Committee and the
19 D.A.'s Association. And I realize I am off on a
20 tangent here.

21 But my understanding was, from our
22 communication, that the Executive Committee
23 supported the creation of a database--and I am
24 specifically not using the term registry--but a
25 database of lost or stolen firearms that had been

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1 reported, but was not in support of the mandatory
2 reporting element?

3 MS. MCDONNELL: That is not my
4 understanding.

5 MR. COREY: Thank you.

6 MS. MCDONNELL: My understanding is that
7 they are in favor of a requirement, mandatory, to
8 report lost or stolen. They were not in favor of--
9 at least we couldn't reach a consensus as of yet--on
10 criminalizing the firearm report.

11 MR. COREY: Okay.

12 MS. MCDONNELL: And our office is in
13 favor of that, as a matter of fact.

14 MR. COREY: Sure.

15 CHAIRMAN CALTAGIRONE: Representative
16 Kula.

17 REPRESENTATIVE KULA: Thank you, Mr.
18 Chairman. I guess I have more of a statement than a
19 question.

20 I can tell you--you have talked about the
21 City of Philadelphia--I come from a rural county.
22 And the State Police sitting here can probably
23 attest to the fact that Fayette County is probably
24 one of the busiest and highest crime rates, as far
25 as the barracks, your barracks in -- located in

1 Fayette County.

2 And as a former District Judge, I can
3 tell you, I heard my fair share of preliminary
4 hearings dealing with homicides and guns. And I
5 guess touching upon what Representative True
6 indicated here: in most of those instances, those
7 crimes involved drugs, alcohol, and other crimes
8 being committed.

9 I probably did not see a defendant in
10 those cases that was in possession of a legal gun,
11 nor did they care if that gun was registered or who
12 bought it or how they received it.

13 And I believe until we deal -- We could
14 probably bring in 50 guns and sit them across that
15 table, not one of us would be killed until one of us
16 walked over and picked it up; then it becomes a
17 weapon and an instrument of crime because of the
18 person that is holding that gun. Until we deal with
19 the actions of people, guns are going to kill
20 people, because of the people using those guns.

21 But we have to look at the drug problem,
22 we have to look at the alcohol problem, we have to
23 look at, in a way, the lack of education; and then
24 maybe the gun violence will somewhat be lessened.
25 But until we deal with that, we are probably going

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1 to be here, ten years from now, arguing about the
2 same problem.

3 I thank you, Mr. Chairman.

4 CHAIRMAN CALTAGIRONE: Thank you. Will.

5 REPRESENTATIVE GABIG: Thank you,
6 Chairman Caltagirone. Thank you, Madam D.A., for
7 being here and sharing your thoughts.

8 We did have a series of hearings, earlier
9 this year, that Chairman Caltagirone had organized
10 all over the state, and I was able to attend the one
11 here in my area, central Pennsylvania, in
12 Harrisburg. And I thought those were very
13 informative. And we are sort of getting narrowed
14 down, hopefully, to some areas of consensus on this
15 committee.

16 And I just want to make a brief comment.
17 It seemed to be that there was these bills, the
18 committee and bills. There are certain members of
19 the committee that have bills and there are certain
20 sponsors of those bills so that's bills that are
21 still pending before this committee. For example,
22 the one about the mandatory report, HB 29, we had a
23 vote, went down on a bipartisan basis because of
24 concerns about victimizing the victim, criminalizing
25 victims on it; and so we wanted to address those.

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1 And I think it sounds like, since the
2 D.A.s Association has since met, after our committee
3 meeting that voted that down, some of those same
4 concerns must have been expressed there --

5 MS. MCDONNELL: Um-hum.

6 REPRESENTATIVE GABIG: -- and they are
7 still working on it. So we are going to wait to
8 hear, I think. Some of us are going to wait to hear
9 from the D.A.s Association. And I think you heard
10 that from a couple of members --

11 MS. MCDONNELL: (Nods affirmatively.)

12 REPRESENTATIVE GABIG: -- that really
13 listened very closely.

14 As a former member of the D.A.s
15 Association, as an A.D.A. for a long time, we hope
16 that they can look at this issue and help us craft
17 some detailed legislation. I mean, just as an
18 example: when I was an A.D.A., the stolen gun
19 issue, it was an F three, to be in possession of a
20 stolen gun or to steal a stolen gun. It was a
21 felony.

22 The other theft--and I know you know
23 this; it is something that I am just speaking to
24 those to put it into context--is other stolen items
25 were graded based on their value. And so, if it is

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1 a stolen gun, say it was \$25, you know, one of these
2 Saturday night specials and whatever they call them
3 now-a-days, it might have been a cheap gun, but it
4 was still a felony, it was the most serious theft
5 offense there could.

6 And when I got up here, there was a group
7 of us that wanted to make it: well, if you are just
8 in receipt of a stolen gun or you steal one, that's
9 bad and it should be a felony. But if you are doing
10 it routinely, if it's you are sort of in the course
11 of business doing it, it should be worse, it should
12 be more serious. And we got passed, that F two.
13 Made it an F two, if it is in a course of business
14 kind of thing.

15 We still expected the firearm to be the F
16 three. We weren't trying to minimize it. We wanted
17 that to be the F three, but we were trying to make
18 it more serious.

19 MS. MCDONNELL: Right.

20 REPRESENTATIVE GABIG: There was various
21 court cases that interpreted that legislation, that
22 created this anomaly, Madam D.A., that you mentioned
23 in your testimony --

24 MS. ABRAHAM: Um-hum.

25 REPRESENTATIVE GABIG: -- that now it's

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1 being downgraded as a misdemeanor in some cases.

2 Doug Reichley, on this committee, has
3 done a lot of work. And I think there is another
4 member. I don't know if it was -- I think Chairman
5 James has been involved with this, also, trying to
6 correct this.

7 And I think that is something that we can
8 come to a consensus, too. You have offered a
9 suggestion, Madam D.A., that we hadn't considered
10 yet.

11 But we are really looking to get that
12 fixed. We want to get that fixed and get it fixed
13 quickly. I think the Governor mentioned that in his
14 annual budget thing, that that is something to be
15 fixed. And I think everyone here would vote on it,
16 if we can. You know, everybody can come to a
17 consensus to agree to that, for example. You know,
18 some common ground on this issue.

19 I can't tell you how strongly encouraged
20 that I am that I didn't hear some rhetorical things
21 that might sound real good back in Philadelphia or
22 sound real good back in somebody's seat that is
23 facing this issue, and they know it's going nowhere
24 here in the House, for various reasons.

25 If the people want to continue to have

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1 good sound bites back home and not get anything
2 passed in Harrisburg, that's good and that might get
3 them re-elected back home, but that's not going to
4 save one person in Philadelphia or one person in
5 Carlisle, though. So I was very encouraged with
6 your testimony that's dealing with things that are
7 going to impact the enforcement of the law, the
8 criminal law that we have.

9 And I appreciated Representative
10 Pallone's comments in some of these administrative
11 areas. But you gave us some meat here now that I
12 appreciate. And you also start off the idea of
13 resources. And I would also encourage the D.A.s
14 Association, because I know you speak -- You say I
15 am only speaking for me, but Philadelphia is very
16 involved with the D.A.s Association, and for many,
17 many years since I have been there.

18 Resources are huge. And we had to fight,
19 many of us on this -- Chairman Caltagirone, Chairman
20 Marsico, and many of us on this committee fought to
21 get the Gun Task Force money, for example, back in
22 the budget; it was cut. The A.G.'s Office was cut,
23 the State Police budget was cut in the budget, and I
24 hear these people yelling with loud voices that we
25 need to do something about gun violence and they are

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1 cutting the resources that deal specifically and
2 directly with those.

3 That was a little hard for some of us to
4 take. We spoke up on the Floor. And I think Jewel
5 Williams came along on that issue. Once he started
6 looking at some of the line items--he was unaware of
7 it at the time--and he did support us on getting
8 some of those reinstated, and those are statewide
9 programs, obviously.

10 So I want to encourage the D.A.s
11 Association to help us, as we go through our budget
12 fights, to make sure that the programs, you think
13 are working locally. Because as we come up here in
14 Harrisburg, you do sort of lose touch. And it is
15 good to hear from the local, what's working and
16 what's not working. It might sound good, you know,
17 in a memorandum or on paper, but you are on the
18 front lines with the police and the law enforcement
19 and you can tell us what's working and not working.

20 So I just want to thank you for coming
21 here. And I guess, you know, not to be preachy, as
22 Katie True mentioned, we don't want to come here and
23 preach, but if the D.A.s Association really could
24 come to a consensus on some of these issues, that
25 would help move things out of this committee from

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1 the discussion stage, from the philosophical stage,
2 to some real tools that would help local
3 prosecutors, the State Police, and the local police,
4 to make our cities, counties, and small-town rural
5 areas safer here in Pennsylvania. So, thank you.

6 MS. ABRAHAM: Thank you, Representative.

7 CHAIRMAN CALTAGIRONE: Thank you very,
8 very much. And, Kathy, I am sure we will be working
9 together --

10 MS. MCDONNELL: Okay. My pleasure.

11 CHAIRMAN CALTAGIRONE: -- on these
12 problems, and Martin (phonetic). Thank you very
13 much for your testimony.

14 (Off-the-record discussion occurred.)

15 CHAIRMAN CALTAGIRONE: We will next hear
16 from Scott Snyder, who is a Major of the
17 Pennsylvania State Police. And anybody else you
18 want to bring up with you, Scott. And then, I would
19 assume you want their names for the official record.

20 (Off-the-record discussion occurred.)

21 MR. SNYDER: Good morning, Chairman
22 Caltagirone, and members of the committee. I am
23 Major Scott Snyder, Director of the Pennsylvania
24 State Police Bureau of Records and Identification.
25 With me, this morning, is Trooper Paul Anderson of

0094

1 the Pennsylvania State Police Firearms Division.
2 On behalf of Colonel Jeffrey B. Miller, Commissioner
3 of the Pennsylvania State Police, I want to thank
4 you for the opportunity to talk to you about various
5 legislative proposals related to firearms.

6 As the Governor and Colonel Miller have
7 frequently said, the Pennsylvania State Police
8 recognize the devastating impact gun violence has on
9 our communities and the critical need to keep guns
10 out of the hands of criminals. Although much of the
11 violence occurs in urban areas, recent events at
12 West Nickel Mines in Lancaster County and the
13 Virginia Tech University demonstrate that gun
14 violence has no boundaries.

15 On the front lines, the Pennsylvania
16 State Police operates the Pennsylvania Instant Check
17 System, or PICS. Every day of the year, including
18 holidays, firearms dealers and county sheriffs can
19 call our PICS' hotline toll-free number to determine
20 whether a potential purchaser can legally obtain a
21 firearm. Through PICS, the State Police has
22 prevented literally thousands of convicts and other
23 prohibited persons from illegally obtaining a
24 firearm and effected the arrests of hundreds of
25 fugitives.

1 Operation Triggerlock is another
2 successful State Police program designed to remove
3 violent felons, illegal firearms, and narcotics
4 trafficking from crime-ridden communities.
5 Triggerlock includes undercover officers as well as
6 uniformed officers working high-intensity,
7 saturation patrols in neighborhoods designated by
8 the Commonwealth's Weed and Seed program. During
9 2006, Triggerlock enforcement details across the
10 Commonwealth resulted in 1,297 felony and
11 misdemeanor arrests, and the seizure of 87 firearms.

12 The State Police is also collaborating
13 with the Federal Bureau of Alcohol, Tobacco,
14 Firearms, and Explosives, or ATF. Nine State Police
15 Troopers are assigned to ATF offices across the
16 state: two Troopers each in Philadelphia, Reading,
17 Harrisburg, and Pittsburgh; and one Trooper in Erie.
18 These investigators concentrate solely on
19 investigations related to gun violence and firearms
20 violations. During 2006, Troopers assigned to the
21 ATF Task Force made 70 arrests and recovered 242
22 guns.

23 Getting these weapons off the streets is
24 critical, because illegal firearms pose an
25 undeniable threat to law enforcement and the public.

1 Gun violence is not just a Philadelphia problem.
2 For example, in 2005 and 2006, robberies with
3 firearms were up 77 percent in Erie, 57 percent in
4 Allentown, 36 percent in Williamsport, and 28
5 percent in Reading.

6 In addition to the Firearms Investigation
7 Task Forces, 15 other Troopers are designated
8 participants in ATF's eTrace program, an
9 internet-based system that allows police to trace
10 crime guns, and analysts to develop statistics
11 concerning their illegal movement within our
12 communities. Through our continued use of the
13 eTrace system, the State Police will build a
14 database that will show where the crime guns are
15 being recovered and the location of the original
16 retail purchase of these guns.

17 As many of you know, the Governor of New
18 Jersey recently announced that all police
19 departments in New Jersey would be required to use
20 eTrace to investigate gun crimes and to lawfully
21 share the trace data with each other in order to
22 improve law enforcement communications and crime
23 fighting.

24 It is important to note, however, that,
25 unlike Pennsylvania, the Attorney General of New

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1 Jersey, who is a gubernatorial appointee, has direct
2 authority over every local police department. In
3 Pennsylvania, the State Police and approximately 80
4 local police departments already use the eTrace
5 system.

6 Together, the State Police and the local
7 departments already using eTrace cover the majority
8 of Pennsylvania's population, including all of the
9 major metropolitan areas. We continue to encourage
10 every local department to use eTrace as it provides
11 invaluable firearms tracing information that is
12 critical to solving gun crimes.

13 We are mindful of particular restrictions
14 on such information sharing. Consequently, Governor
15 Rendell recently tasked Colonel Miller to work with
16 the Bureau of Alcohol, Tobacco, and Firearms as well
17 as the Pennsylvania Chiefs of Police to design a
18 system to permit lawful sharing of specific gun
19 tracing information.

20 As the Governor and Colonel Miller have
21 said, however, it is imperative that the General
22 Assembly help law enforcement in our efforts to
23 combat gun violence and prosecute straw purchasers.
24 We need you to enact legislation mandating the
25 reporting of lost and stolen guns; increasing the

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1 penalty for receiving a stolen firearm; limiting
2 handgun purchases to one a month; and allowing local
3 municipalities to enact their own handgun related
4 laws.

5 Mr. Chairman, on behalf of Colonel
6 Miller, I want to thank you for your efforts to
7 meaningfully address gun violence. You have
8 listened carefully to all interested stakeholders,
9 held numerous hearings across the state, and thought
10 critically about how to bring consensus among those
11 who disagree on solutions to the problem.

12 To that end, we are pleased to see that
13 House Bill 1744 would make any theft of a firearm,
14 including receiving stolen property, a second-degree
15 felony, regardless of whether the recipient is in
16 the business of buying or selling stolen property.
17 However, I want to offer some comments on other
18 portions of your proposed legislation.

19 The amendments to section 6111 and 6111.6
20 would require gun sellers to provide purchasers with
21 a written notice about the limits on lending or
22 transferring a handgun. In order to avoid any
23 ambiguity, I would recommend that the term handgun
24 be specifically defined in the legislation. The
25 Administration would welcome the opportunity to

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1 assist in drafting language to address this concern.

2 Finally, 6111.7 of House Bill 1744 would
3 provide \$300,000 to the Joint State Government
4 Commission to conduct a three-year study to
5 determine whether an individual's multiple firearms
6 purchases are a contributing factor to the use of
7 firearms in criminal activity. The bill would
8 further require the Pennsylvania State Police to
9 provide information necessary to conduct the study.

10 Unfortunately, we currently have no way
11 of connecting multiple purchases to crimes
12 committed. We are statutorily restricted from
13 creating, maintaining or operating any registry of
14 firearms ownership in this Commonwealth. We are
15 also statutorily restricted from disclosing any
16 information from the record of sale. However, every
17 handgun requires a separate record of sale. And in
18 2006 alone, we received 165,260 records of sale.
19 Without hand searching each one of those records, we
20 could not say how many guns were purchased at the
21 same time.

22 Through the ATF's eTrace system, we are
23 able to trace firearms seized by the State Police
24 back to the original purchaser. However, federal
25 law prohibits the State Police from disclosing

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1 firearms trace information to anyone outside of law
2 enforcement.

3 Significantly, the State Police is not
4 notified of firearm seizures or firearm related
5 crimes investigated by local police departments.

6 Moreover, we cannot access information
7 about firearms seized by other law enforcement
8 agencies who also use eTrace, such as the
9 Philadelphia and Pittsburgh Police Departments, the
10 Allegheny County Sheriff's Office, et cetera. This
11 is because the federal appropriation that funds the
12 eTrace system specifies that the information can be
13 used solely in connection with a bona fide criminal
14 investigation or prosecution and only as it pertains
15 to the specific geographic jurisdiction of the law
16 enforcement agency requesting the disclosure.

17 Unfortunately, this restriction, which
18 was inserted into the federal law at the NRA's
19 behest, has prevented meaningful studies on remedial
20 measures such as limiting handgun sales to one gun a
21 month.

22 Consequently, Colonel Miller has joined
23 with other local law enforcement officials in asking
24 Congress to eliminate the restriction and allow law
25 enforcement agencies to share eTrace data with each

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1 other.

2 Congress has not listened. On behalf of
3 Colonel Miller, I want to express our firm belief
4 that limiting the number of handgun purchases to one
5 per month will reduce the number of illegal handguns
6 on the street. It is not the only thing that we
7 need to do, but it is an important component to
8 successfully addressing gun violence.

9 According to a recent survey by Lake
10 Research Partners, Pennsylvanians overwhelmingly
11 support tougher laws to control the availability of
12 guns. According to the survey:

13 71 percent of Pennsylvania voters support
14 a statewide limit on handgun purchases to one
15 handgun a month. Even 61 percent of handgun owners
16 support this limit.

17 81 percent support legislation requiring
18 gun owners to report lost or stolen guns.

19 In conclusion, on behalf of Colonel
20 Miller and the entire Pennsylvania State Police, I
21 want to again thank you for the opportunity to
22 address your committee. We are always available to
23 work with you. And again, thank you for your
24 continued leadership, and I would be happy to answer
25 any questions that you may have.

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1 CHAIRMAN CALTAGIRONE: Thank you, Major.
2 Questions?

3 REPRESENTATIVE GABIG: Thank you, Major,
4 for your testimony. Thank you for your service and
5 to all the State Police officers that serve and
6 protect us on a daily basis.

7 The issue of the one gun a month, I am
8 not going to spend a lot of time on. I don't think
9 there is support to get that out of this committee
10 or the House. So I would just encourage the
11 administration to focus on some of the things that,
12 for example, the District Attorney of Philadelphia
13 was bringing up, which might have some real impact.

14 I would be interested, though -- And I
15 have not supported that. But I would be interested
16 in any studies, scientific, empirical studies that
17 support the assertion that a passage of that law
18 would in any way reduce criminal activity with guns,
19 because I have yet to see it.

20 I know there has been other states that
21 have tried that. In fact, I think one of the states
22 has repealed it. That they had it for a while and
23 then repealed it, because it didn't do anything.

24 But the other concern I have is, it seems
25 to me that gun violence, on a statewide basis,

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1 certainly in my area, the predominant falls into two
2 areas, what Katie True talked about with the
3 drug-related activity.

4 And I hate when I hear people say, drug
5 activity, DWIs, possession with intent to deliver
6 drugs, is a nonviolent crime, you know. A delivery
7 of drugs, there is people in the prison and they're
8 categorized nonviolent criminals. You have got to
9 be kidding me. But, though, that type of activity
10 and then domestic violence.

11 And it seems like the drug and the drug
12 related, for example, these robberies that you are
13 talking about, I bet you 80 percent of those are
14 somehow involved with the drug culture. They are
15 dealers, they are users, they are involved with the
16 drug culture, but it doesn't get categorized that
17 way. You will just say, a robbery? Oh, that's a
18 crime of violence, it has nothing to do with, even
19 though they have a history of drug use.

20 It seems like a lot of that, people using
21 guns for violent purposes have a record, and a long
22 record, going back to, as the District Attorney from
23 Philadelphia mentioned, juvenile records. And there
24 is people out on the streets of Philadelphia and
25 throughout this Commonwealth that have records, that

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1 have been arrested by your troopers and other law
2 enforcement agencies, that have been to a court,
3 that had bail put on them. They are out on bail,
4 don't show up, all of these warrants out there that
5 have been unenforced.

6 It seems like all of those warrants, with
7 people with records, we would be safer as a
8 community if we could go get them and try them and
9 convict them and put them in jail. We would be
10 safer, rather than having them out there getting
11 more guns from China, or wherever they are getting
12 them, and holding up more places.

13 And it doesn't seem like we are putting
14 the resources into getting these people that are
15 already -- There has been immense resources expended
16 by you and other law enforcement agencies that catch
17 them, that prosecute them, or, you know, to charge
18 them. And now they are running the streets; they
19 are going to New York, they are going to Baltimore;
20 they are showing up, not showing up.

21 And we heard from, I think it was, the
22 Chief of Police in Philadelphia said, we don't need
23 any more resources. I think he had 2000 felony
24 warrants running the streets. We don't need any
25 more resources. Am I correct on that testimony?

0105

1 CHAIRMAN CALTAGIRONE: Yes.

2 REPRESENTATIVE WILLIAMS: He never said
3 that. He never said, we don't need any.

4 REPRESENTATIVE GABIG: Well, the Chairman
5 just said he did. Maybe I misspoke. We can go back
6 and get the --

7 REPRESENTATIVE WILLIAMS: I am from
8 Philadelphia.

9 REPRESENTATIVE GABIG: Well, I think we
10 need more resources, is what I am saying, to get
11 these people that are already in the criminal
12 justice system, that are running around just
13 thumbing their nose at the criminal justice system,
14 and we need to go get them.

15 And so, I asked the State Police to look
16 at that. Because it seems like they leave
17 Philadelphia and they might go to Erie and hold that
18 place up. And they already had a warrant on them
19 from something -- You do a warrant check. Oh, yeah,
20 they are wanted in Philly, they are wanted in
21 Carlisle, they have these two or three other when
22 you catch them.

23 And now, so we will go charge them again
24 for drugs or robbery, put bail on them. They will
25 be going some place else. They'll get pulled over

0106

1 on the Turnpike, by one of your Turnpike officers,
2 for speeding. Oh, yeah, they got two or three
3 different warrants from all over the state.

4 I can see a issue there of a lack of will
5 and a lack of resources being applied to people that
6 we know are high-risk, criminal potential. And so,
7 if some of your very bright, young people over
8 there, planners or resource allocators, whatever
9 they call them in today's world, could come up with
10 a system where we could get these warrants for
11 felony offenses, or maybe if you just want to do it
12 for gun offenses. I don't care. Get them off the
13 street and get them back in the criminal justice
14 system, I think that would help make Pennsylvania a
15 safer place.

16 Thank you, Mr. Chairman.

17 CHAIRMAN CALTAGIRONE: Yes, do you want
18 to answer that?

19 REPRESENTATIVE WILLIAMS: I want to make
20 a response.

21 CHAIRMAN CALTAGIRONE: Rod has some
22 questions and then Representative Williams.

23 MR. COREY: Major, just two quick
24 questions. The first was in regard to your
25 testimony about the use of eTrace. Recently, the

1 House amended Senate Bill 623 with language from
2 Representative Myers' House Bill 24, to require that
3 local law enforcement trace illegal firearms found
4 in the possession of individuals under the age of
5 21. As an aside, the bill had also amended the
6 language from Representative O'Neill's House Bill
7 1392 to clarify the theft of the long guns' issue.

8 But Senate Bill 623 was signed into law
9 this summer. And I didn't know, has there been a
10 recent increase in the use of eTrace as a result of
11 this legislation? Or anything you have on that?

12 MR. SNYDER: I am really not prepared to
13 provide that kind of information. ETrace is an ATF
14 program, of course, and any local agency can
15 prescribe to participate in this that program, so I
16 am not sure whether or not they'd recognize a
17 significant increase in activities or transactions
18 as a result of that enactment.

19 MR. COREY: And one other quick question,
20 and it concerned the Joint State Government
21 Commission study and House Bill 1744, and setting
22 aside, for a moment, the issues in section 6111,
23 subsection (i) that deal with confidentiality of
24 information. The database of the handgun sales that
25 is maintained as part of the claim system doesn't

0108

1 have any information as to when the firearms were
2 purchased; it just has information as to the
3 firearms themselves, like identifying information as
4 to the firearms?

5 MR. SNYDER: The transaction record of
6 the record of sale certainly has the date that their
7 transaction occurred. But, you know, we keep those
8 hard copies. We don't maintain a specific database
9 for those, you know --

10 MR. COREY: But if they were able, it
11 would have that particular information?

12 MR. SNYDER: That's correct.

13 MR. COREY: Okay.

14 CHAIRMAN CALTAGIRONE: Representative
15 Williams.

16 REPRESENTATIVE WILLIAMS: Thank you,
17 Major. And thank you for your testimony. And I
18 applaud the State Police with the foresight in
19 recognizing the need for one gun a month, the need
20 for reporting lost and stolen guns. I think it's
21 about time that this body and the Judiciary
22 Committee look toward what the professionals are
23 asking for and supplying them with the tools.

24 If we ever want to resolve crime and
25 violence, the illegal guns that are plaguing our

0109

1 inner cities and out in our urban areas and in rural
2 areas, then we need to pay more attention to the
3 professionals.

4 And in my opinion, the State Police are
5 professionals. We heard the report -- or statement
6 from the Major. And I think that we need to come to
7 some consensus, come to some common sense -- or
8 common ground, rather, and make sure that we are
9 supporting the professionals with the resources, and
10 then sometime is legislation in making sure that
11 they have the dollars to combat the problems that we
12 have in Pennsylvania, and in the urban parts and the
13 rural parts of Pennsylvania. So thank you, Major.

14 MR. SNYDER: Thank you.

15 CHAIRMAN CALTAGIRONE: Thank you, Major.
16 I do appreciate your testimony. And, you know, you
17 have always been very helpful with the members of
18 this General Assembly. And I think we have shown
19 that support for all of your people that work for
20 you and do a great job for us. And I want to thank
21 you, sir.

22 MR. SNYDER: Thank you very much.

23 CHAIRMAN CALTAGIRONE: Thank you.

24 We are next going to hear from my Mayor
25 from the City of Reading, Tom McMahon. And he is

0110

1 going to be speaking on behalf of the Pennsylvania
2 League of Cities and Municipalities.

3 Welcome, Tom.

4 MR. MCMAHON: Thank you. Good afternoon.
5 And, Chairman Caltagirone, thank you for inviting me
6 again. And other members of the House Judiciary
7 Committee, it's a pleasure to see you again. And
8 now we've -- We've had a chance to speak before.
9 And it's been very enlightening for me to listen to
10 some of the previous testimonies, especially from
11 D.A. Lynne Abraham and from the Major, because it
12 reinforces a whole lot of the issues that are
13 constantly in front of the mayors.

14 But let me go through the presentation
15 and the testimony that I have, and then I will offer
16 a few comments. And I will make them brief, because
17 I know you have been sitting here a long time.

18 As I said, I am Tom McMahon. I am Mayor
19 of the City of Reading and the Chairman of the
20 Pennsylvania League of Cities and Municipalities Gun
21 Violence Task Force. And we formed that Gun
22 Violence Task Force, which is similar in scope as to
23 what Lynne Abraham defined to you in Philadelphia,
24 and that we are trying to make sure that smaller
25 cities throughout the Commonwealth are having the

0111

1 resources and the attention and being able to
2 address the problems that smaller cities are facing.

3 And I think D.A. Abraham said that the
4 problems in Philadelphia are extending out
5 throughout the Commonwealth, and that's pretty true.
6 And from Reading's point of view, as having had the
7 dubious distinction in 2005 of being the most
8 dangerous city in Pennsylvania, we have made some
9 progress since then. But the issues that we are
10 being faced are everywhere, and we need to take some
11 action on it.

12 But I am here today to provide testimony
13 in support of House Bill 1744 on behalf of the
14 Pennsylvania League of Cities and Municipalities.

15 Before I begin, I would like to thank our
16 Representative Caltagirone for his leadership in
17 keeping this topic at the forefront and for his
18 efforts in crafting House Bill 1744. We at the
19 league think this is a very reasonable piece of
20 legislation.

21 By way of background, the Board of
22 Directors of the Pennsylvania League of Cities and
23 Municipalities formed the Gun Violence Task Force
24 earlier this year in response to the growing
25 incidents of gun violence throughout our membership

1 base. Tragically, a common theme for the municipal
2 officials involved in the league has been the high
3 occurrence of gun related deaths in our communities.
4 The communities of Harrisburg, York, Lancaster,
5 Scranton, Carlisle, and my own City of Reading have
6 experienced the same violence that was found
7 previously only in our larger metropolitan areas.

8 Since its formation, our task force has
9 been actively involved in advocating common sense
10 measures to curb gun violence. We have adopted five
11 principles that we believe will have a significant
12 impact in controlling the violence we are
13 experiencing on a daily basis.

14 Our five principles are: mandatory
15 sentences for violent crime repeat offenders;
16 limiting handgun purchases to one gun a month;
17 defining criminal gang offenses; requiring lost or
18 stolen handguns to be reported; and the cracking
19 down on straw purchases, all of which you have heard
20 lots of testimony on today and we don't need to
21 reinforce that.

22 We are not naive about the reality of
23 getting legislation through the General Assembly
24 that would accomplish all of our principles
25 instantaneously. We are aware that there is much

1 opposition to some of these principles even though
2 we believe them all to be common sense measures that
3 would have a significant impact in our communities.

4 My testimony today, however, is not to
5 discuss PLCM's principles, but to offer our support
6 for House Bill 1744 which we view as more than a
7 common sense approach to addressing gun violence.
8 The four provisions of the bill offer a clear
9 opportunity for our Commonwealth to begin to address
10 the siege of gun violence plaguing our communities
11 without the typical resistance we have seen on other
12 pieces of gun violence legislation.

13 First, the bill significantly increases
14 the penalty for receiving a stolen handgun, which I
15 support personally. Instead of basing the offense
16 on the value of the property stolen and whether a
17 person is a repeat offender, if the stolen property
18 is a firearm, the penalty is a second-degree felony
19 which is punishable by a prison term of up to 20
20 years and up to a \$10,000 fine. This type of change
21 to current law raises the seriousness of receiving
22 stolen firearms and may help to reduce the market
23 for stolen guns.

24 Secondly, the bill requires every handgun
25 purchaser to be provided with a very specific notice

1 at the time of purchase.

2 And I will parenthetically add: after
3 listening to the previous testimony, if it's in
4 large print and read very carefully to the person
5 that is buying it, maybe that will have an impact,
6 rather than stick a bunch of pieces of paper in
7 front of people and say, you need to sign these 12
8 documents. And we all rush through them, and too
9 many of us sign things without reading it. But I
10 hope that when that's put into place, it is very,
11 very clear, on a single piece of paper, and type
12 that is about that large (indicating inches.)

13 Second, the bill requires every handgun
14 purchaser to be provided with a very specific
15 notice. We mentioned that. This statement puts
16 family members, spouses, and friends on notice of
17 the consequences of legally purchasing a handgun and
18 then giving it or selling it to someone who is not
19 legally authorized to possess it.

20 Few can argue that purchasing a handgun
21 does not come with some level of responsibility.
22 The notice requirement clearly stating the penalties
23 for an illegal transfer raises the knowledge of
24 personal responsibility and may preclude some straw
25 purchases from taking place.

1 Third, the bill directs the Joint State
2 Government Committee to conduct a three-year study
3 of the relation between multiple purchases of
4 handguns and the use of such handguns in criminal
5 activity. The State Police are charged with
6 providing necessary data to the committee and the
7 information that is compiled will be available to
8 the A.G. for law enforcement purposes.

9 We believe that multiple purchases of
10 handguns by someone other than a legitimate
11 collector or dealer are most likely for illegal
12 purposes. And we believe this type of study will
13 show definitively that there is a correlation
14 between such purchases and illegal activity.

15 And lastly, the bill giving the Attorney
16 General the authority to investigate and prosecute
17 illegal gun trafficking and the authority to conduct
18 compliance inspections of gun retailers to ensure
19 that licensing and record keeping requirements are
20 followed.

21 Both of the provisions would be in effect
22 for three years and would have to be reinstated at
23 the will of the General Assembly. And giving the
24 Attorney General such authority is a way to step up
25 the enforcement of gun laws currently in effect.

1 But we don't believe that any of the
2 provisions contained in this bill can be seen as
3 controversial, as limiting gun owner rights; they
4 are reasonable and they are responsible and they
5 should not warrant opposition. Moreover, the
6 current polling research, as mentioned by the Major,
7 suggests Pennsylvania voters are in favor of tougher
8 gun measures.

9 The September 2006 poll by Greenberg
10 Quinlan Rosner Research, which I believe the Major
11 referred to, indicates that Pennsylvania voters are
12 concerned about public safety. Crime and gun
13 violence were only outranked by healthcare as issues
14 of concerned voters. Currently, two-thirds of
15 voters realize that crime and gun violence are not
16 big city problems any more and favor tighter gun
17 laws.

18 From imposing a stricter penalty for
19 receiving stolen handguns, to studying the
20 correlation of gun purchasing and criminal activity,
21 to providing notice to purchasers of the
22 consequences of illegal transfers, to giving the
23 Attorney General the power to enforce current state
24 and federal law, House Bill 1744 is reasonable and
25 does not infringe on constitutional rights.

0117

1 If implemented, this legislation will
2 begin to address the concerns of Pennsylvania
3 citizens who we believe are looking to the General
4 Assembly to address the surge of gun violence and
5 gun related deaths in our communities. We urge the
6 committee members to support this bill and vote in
7 favor of sending it to the full House.

8 That's my formal presentation, but I
9 would like to add a couple of other comments, if you
10 don't mind, just from what I have heard this
11 morning.

12 CHAIRMAN CALTAGIRONE: Yes.

13 MR. MCMAHON: Unfortunately, the
14 Representative is not hear. When I heard people say
15 that before you deal with gun violence, you have got
16 to deal with this issue or this issue or this issue;
17 and with all due respect, that's a major excuse.
18 Because mayors, every day, are dealing with all of
19 the issues and they are interrelated.

20 And sometimes we say, well, we are going
21 to deal with the dropout rate, we are going to deal
22 with guns and gangs and teen pregnancy and robberies
23 and other illegal immigrants and unemployment, all
24 those issues that mayors are working on every single
25 day, and then to say, we are not going to do

0118

1 something with guns until we solve the problems in
2 the family and until we solve this, et cetera, I
3 think that's a major, major cop out.

4 And I'd also like to say that what people
5 have said, and, you know, it's ad nauseam to my
6 absolute and infinite and ultimate distraction, that
7 guns don't kill people, people do; that is a total
8 cop out.

9 And I think we have seen it in cases, if
10 somebody can pick up an AK-47 or a street sweeper
11 and go out and take out dozens and dozens of people
12 at one time, I think anything we can do to eliminate
13 that.

14 We have all seen the statistics of the
15 number of handgun murders that are happening in
16 other developed, civilized countries. None of them
17 are more than 200 a year. And we have 1200 a year,
18 just in Pennsylvania alone. And it's pretty
19 outrageous, I think.

20 So, the mayors are the ones that get
21 called in the middle of the night, the mayors are
22 the ones that try to find out where those guns came
23 from, the mayors are the ones that find out that the
24 serial numbers have been obliterated and they are
25 sent down to try to find out where they came from.

0119

1 My personally being -- having a police officer knock
2 on the door in the middle of the night and say, you
3 need to come down and go with the Chief and tell the
4 family that another police officer was just shot and
5 is dead.

6 And I don't mean to emotionalize this,
7 but I mean to tell everybody that is listening that
8 this is time to do something different.
9 Philadelphia, for example, more than almost 300, I
10 think, if not up to that point. There are guns on
11 the street. But where they are coming from and our
12 lack of control over this, it's an epidemic. It's a
13 pandemic, almost, as far as I'm concerned.

14 So, gentlemen, thank you very much.

15 CHAIRMAN CALTAGIRONE: Thank you, Tom.
16 Questions from any of the members of the committee?

17 REPRESENTATIVE GABIG: Thank you, Mr.
18 Chairman. And thank you, Mayor, for your service,
19 and for, again, coming before our committee.

20 In response to your written testimony,
21 one of the things that you supported was the
22 felonization of the increased penalty for stolen
23 guns. And I don't think it's been stated yet, that
24 our committee has already passed that.

25 It was Doug Reichley's bill. I think I

1 had mentioned his bill earlier. That would correct
2 that anomaly that came up, because we tried to
3 increase it from a felony three to a felony two
4 several years ago. And the courts interpreted that,
5 so that, apparently some of the stolen guns are
6 being treated by their value versus the fact that
7 they were a gun.

8 His bill has passed out of this
9 committee. It did not get a vote on the Floor. We
10 tried to use various amendment processes before we
11 adjourned for the budget, I remember, to try to get
12 that in; but those procedures didn't work.

13 So I would call on our, I guess the
14 Democratic leadership, to get that on the Floor as
15 soon as possible. I think there is broad consensus.
16 I don't know how many people voted against that. In
17 our committee, it was very broadly supported, as I
18 recall; if not maybe even unanimous. But that's the
19 kind of thing that can get support here, broad-based
20 support here.

21 And people want to keep running up these
22 flags that have already gone up this term, last
23 term, and they don't even get 20-percent support.
24 They want to keep: oh, I think it's a great idea,
25 and I am the smartest guy in the world, and I have a

0121

1 poll here. They can keep doing that, but I would
2 just ask --

3 For example, you saw it today. You are
4 with the League of Cities. You saw the D.A. from
5 Philadelphia oppose one of your things, which is in
6 the Caltagirone bill, to have the Attorney General
7 have concurrent jurisdiction on gun enforcement.
8 So, I mean, I don't think she is a special interest
9 group that is trying to kill people.

10 She doesn't think that is going to work.

11 You do, apparently. Or your organization
12 does think it's going to work.

13 MR. MCMAHON: I will speak for the
14 organization. The organization does.

15 And I think she made a very lucid
16 argument. And I think that from her point of view,
17 and from the D.A.s point of view, if I was a D.A., I
18 might think exactly the same way.

19 REPRESENTATIVE GABIG: Well, I am not
20 sure if she was speaking for the D.A.s Association
21 on that particular area. She was going back and
22 forth on some of the positions. And I just don't
23 recall that, that she might have been. I can't
24 remember.

25 But your organization supported that

0122

1 piece of this legislation, and other organizations
2 might support that, and others don't, so that is
3 what we, trying to represent all of these different
4 organizations and viewpoints and polls and ideas,
5 have been struggling with over the past, certainly,
6 year with Chairman Caltagirone, Chairman Marsico's
7 leadership on this issue, and we would like to get
8 to a consensus.

9 But when you have major organizations,
10 the League of Cities and the D.A.s Association,
11 taking counter positions on a major part of this
12 bill, you can see it's not quite as easy as everyone
13 says. Oh, I will just pass it and fix it or else
14 you don't care about the kids in my city. It's not
15 quite that easy to do.

16 So we are continuing to do work on this.
17 And I certainly appreciated your input and comments
18 and your organization's hard work in working with us
19 on this issue. Thank you.

20 MR. MCMAHON: But a quick comment. We
21 have met several times, and the mayors that are part
22 of the task force. And I would -- And, first of
23 all, I think this is a major step forward, 1744.
24 And I understand the amount of work and effort you
25 put into it. And I understand there is going to be

0123

1 some tweaking that you have to do to it.

2 And this particular issue between the
3 D.A. and the league is, to me, is not an
4 insurmountable object. That is, that that could
5 make a lot of sense, to have the D.A. maintain that
6 right to have the A.G. come in, but rather than have
7 the A.G. storm in at any time, I can understand.

8 But that should not be a killer. I mean,
9 literally, we need to move forward on some of these
10 things. And I think if the art of compromise isn't
11 part of this, then we have lost it, so.

12 CHAIRMAN CALTAGIRONE: Thank you, Tom.
13 And, you know, just a little bit of history on that
14 issue about the conflict between the Attorney
15 General's Office and the local D.A.s. I mean, we
16 literally sat down in my office--many more years ago
17 than I would like to think about; when you start to
18 tell your age, it's almost like history, going back
19 with an Attorney General--Kathy McDonnell and I, and
20 working out that memorandum of understanding, so
21 that that type of a conflict could be avoided with
22 the jurisdictions and between the Attorney General
23 and the District Attorney.

24 And we did finally get to that agreement.
25 And I think we can do the same again. And I want to

0124

1 thank you for your time that you took coming up
2 here, Tom. I appreciate it.

3 MR. MCMAHON: Yes, thank you. Thank you
4 all for what you are doing. I appreciate it.

5 CHAIRMAN CALTAGIRONE: Thank you, sir.

6 We will next hear from Kim Stolfer,
7 Legislative Committee Chairman of the ACSL.

8 (Off-the-record discussion occurred.)

9 CHAIRMAN CALTAGIRONE: And for the
10 record, I do want to just mention real quickly,
11 while that information is being passed out: Andy
12 Paris, the Legislative Liaison, for the record, for
13 the Attorney General's Office, has submitted
14 testimony which we will include in this hearing.

15 MR. ANDRING: Thank you.

16 CHAIRMAN CALTAGIRONE: Thank you, Andy.
17 And please let Tom know I said, I thank him for his
18 interest and help.

19 MR. PARIS: I'll pass the word.

20 CHAIRMAN CALTAGIRONE: Thank you, sir.

21 (Off-the-record discussion occurred.)

22 CHAIRMAN CALTAGIRONE: Okay. Kim, if you
23 would like to start, sir.

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

25 Mr. Chairman and members of the

1 committee, I am Kim Stolfer, Chairman of the
2 Legislative Committee of the Allegheny County
3 Sportsmen's League and Vice-Chairman of the
4 Pennsylvania Sportsmen's Association. I appreciate
5 the opportunity to appear before you today as we
6 seek solutions to the violence plaguing our urban
7 centers.

8 The legislation before us, House Bills
9 21, 41, and 1744, present a wide range of issues
10 and, in our opinion, some significant concerns.
11 President Lyndon B. Johnson is reported to have once
12 said, "You do not examine legislation in the light
13 of benefits it will convey if properly administered,
14 but in light of the wrongs it would do and the harms
15 it would cause if improperly administered." This is
16 the premise that we use to guide our analysis of
17 legislation. All three of these bills contain
18 unacceptable uncertainties that should be rectified
19 prior to serious consideration.

20 House Bill 21. Many informed sources
21 have told us that the Philadelphia bond system is
22 out of step with the rest of the state and is in
23 need of reform. These inadequacies in turn manifest
24 a cavalier attitude and are often inadequate to
25 provide the necessary incentive for those charged

1 with violent crimes to return for trial.

2 However, House Bill 21 is flawed
3 legislation. Real bail reform should apply to
4 violent criminals who commit the bulk of violent
5 crime, not just people who possess firearms. This
6 legislation singles out those who merely possess
7 guns and makes know distinctions between
8 unintentional violations and career criminals. By
9 mandating excessive bail for a person who has not
10 committed a crime of violence, we envision this
11 ensnaring the average citizen more often than the
12 career recidivist criminal, thus violating Article
13 1, sections 13 and 14, of the Pennsylvania
14 Constitution. We oppose this legislation.

15 House Bill 41. This legislation purports
16 to answer illegal firearms trafficking with yet
17 another bureau to investigate and, hopefully,
18 prosecute those most responsible for trafficking
19 illegal firearms. It does not address the seeming
20 conflict between law enforcement failing to take
21 advantage of current procedures available from the
22 Bureau of Alcohol, Tobacco and Firearms, and
23 District Attorneys failing to apply the current
24 firearms laws.

25 As an example, a recent article in the

1 Pittsburgh city paper, May 24th, 2007, quoted an
2 incident, wherein a drug addict provided seven
3 firearms to her drug dealer. Once the firearms
4 turned up in crime, they were quickly tracked back
5 to her. The following quote from the city paper
6 article is illustrative of the larger problem:

7 P.T. pled guilty to seven counts each of
8 illegal delivery of a firearm, making a false
9 statement to a firearm dealer and falsifying a
10 statement to authorities -- the latter charges
11 stemming from the fraudulent information she entered
12 on her Firearms Transaction Record. She is now
13 serving a sentence of 10 years' probation and won't
14 be allowed to buy guns again.

15 Interestingly, the police officer who was
16 quoted in this article has previously appeared
17 before this committee to deliver testimony seeking
18 harsher penalties for straw purchase sales of
19 firearms; and yet in this article, he does not
20 criticize the light sentence, because of the remorse
21 shown by the perpetrator.

22 She didn't put up much of an argument,
23 which Officer Bielevicz says isn't unusual. Few
24 straw purchasers are in the trade by choice. He
25 says, the drug users tend to be more remorseful

1 because they're doing something they don't want to
2 do.

3 What goes unsaid in this article, and is
4 seemingly lost in much of the debate about violent
5 crime, is the extent to which the courts routinely
6 set aside the many overlapping laws and punishments
7 that currently exist. This is one of the key issues
8 that so infuriated Police Chief of Detectives, Joe
9 Fox, when he chose the unorthodox method of writing
10 his personal opinions in a letter to the editor of
11 the Philadelphia newspaper to try to shed some light
12 on these issues.

13 At the heart of this legislation is a
14 creation of another multi-jurisdictional task force
15 targeting guns instead of criminals. To avoid the
16 human element in all crime raises the specter of
17 failure to address the real issues before it even
18 leaves the starting line.

19 In addition, while Pennsylvania has
20 benefited from the current hard-working Attorney
21 General Tom Corbett, the ambiguous and ill-defined
22 mission of this bureau could be disastrous in the
23 future for civil liberties. We oppose this
24 legislation.

25 House Bill 1744. Our concerns with this

1 legislation will be broken up into three separate
2 categories.

3 Our first concern deals with the grading
4 of theft offenses, otherwise known as receiving
5 stolen property. While we strongly support the
6 prosecution of anyone who steals firearms,
7 especially those who would see them used in the
8 commission of violent crime, we do not condone
9 open-ended language that does not provide adequate
10 protections against overzealous prosecution for
11 unintentional or unknowing violations.

12 Considering the past firearms sales
13 protocols under previous versions of the Uniform
14 Firearms Act, it is conceivable that this language
15 could have a devastating impact on the average
16 citizen. There should be some connection to the
17 actual commission of a crime, mens rea, prior to the
18 application of the heightened levels of punishment
19 dictated herein.

20 Our next concern deals with the changes
21 from page 4 that will provide, under subsection
22 6127, for the Attorney General to have the power to
23 inspect and examine the inventory and records of a
24 licensed importer, licensed manufacturer, or a
25 licensed dealer without reasonable cause or warrant.

1 We are deeply troubled about this
2 ambiguous language that provides enormous power to
3 disrupt lives and business dealings of legitimate
4 firearms dealers with inadequate structure or
5 application to the constitutional protections
6 guaranteed to each citizen.

7 Further, this legislation does not
8 provide any recourse for a dealer who may have his
9 records removed from the premises, nor does it
10 provide for a delineation of authority regarding the
11 federal forms that each dealer must maintain.

12 In other sections of the Uniform Firearms
13 Act, the legislature has provided for mandatory
14 procedures, should a person's private property be
15 seized by law enforcement; and yet under this
16 legislation and language, gun dealers would not
17 enjoy the same level of protection.

18 The last area of concern is that this
19 legislation once again calls for another study of
20 gun laws, this time, by the Joint State Government
21 Commission of multiple purchases of firearms. While
22 we have every confidence in the Joint State
23 Government Commission, this issue has already been
24 well researched.

25 In addition, this committee has already

0131

1 received extraordinarily detailed testimony that
2 demonstrates that multiple purchases of firearms
3 restrictions have failed in every location where
4 they have been applied.

5 Earlier this year, I testified that the
6 National Academy of Sciences and the Centers for
7 Disease Control and Prevention have both studied the
8 majority of gun control concepts and have found them
9 completely ineffective in impacting the criminal
10 element or even achieving the objectives of their
11 proponents.

12 Today I have, for the committee, those
13 very studies on the CDs before you, in the hopes
14 that the members will find these reports of some
15 benefit in achieving responsible public policy.

16 An overview. Pennsylvania has pursued a
17 course of action legislatively that has added 76
18 pages to the booklet titled, Laws Relating to Guns,
19 which now contains a total of 126 pages. It is
20 obvious even to the layman that the addition of all
21 of these laws has proven to be ineffective, at best.
22 In addition, the very individuals that are targeted
23 by these laws, criminals, routinely break laws, as
24 that is what criminals do.

25 A recent ABC 20/20 televised report on

1 gun control showed a segment where they interviewed
2 ardent career criminals from a local prison. Their
3 response was that they didn't care what laws
4 government passed because they would not interfere
5 with them getting a firearm.

6 We would like to express, to the members
7 of this committee, our deep concern over the
8 continuing introduction of legislation that seeks to
9 continue and strengthen the restrictions on
10 law-abiding citizens' constitutional freedoms,
11 thereby predicating them on the misdeeds of the very
12 criminals referenced above.

13 It is time to focus the energy and
14 resources of our Commonwealth on pragmatic and
15 effective measures that will address the issues and
16 violent crime rather than making victims of the
17 law-abiding.

18 In many areas of the Commonwealth,
19 overzealous law enforcement is turning the lives
20 upside down of the average individual who owns
21 firearms. These are very real cases of prejudice
22 and unfairness that reflect poorly on the
23 traditions that we all hold dear. This legislation
24 will not have a measurable impact on reducing crime,
25 but in the years to come will have a negative effect

0133

1 on the confidence of the people in a fair and
2 responsible government.

3 On behalf of the organizations I
4 represent, I thank you for the opportunity to
5 testify here today.

6 CHAIRMAN CALTAGIRONE: Thank you, Kim.

7 I am just curious. I am looking through
8 the packet that you handed out here. You have the
9 Harvard Journal of Law and Public Policy, Volume 30,
10 Number 2. I guess it's the spring of 2002?

11 MR. STOLFER: Yes, sir.

12 CHAIRMAN CALTAGIRONE: Is there any more
13 recent information?

14 MR. STOLFER: Yes, sir, on the disk is an
15 enormous amount of information. It has the CDC
16 study. It has the National Academy of Sciences'
17 study. That study alone is over 300 pages.

18 CHAIRMAN CALTAGIRONE: The reason why I
19 asked that: with the number of killings that have
20 been taking place in this Commonwealth, I mean,
21 every single night, you watch TV on the major
22 channels, you see that somebody else is either
23 getting shot and wounded or shot and killed, and in
24 various areas of the Commonwealth. And, you know,
25 it's sheer madness, what's been going on, with the

0134

1 number of them, over 300 in Philadelphia.

2 I am not even sure where we are at in
3 Reading, let alone Harrisburg, York, Lancaster,
4 Pittsburgh.

5 I mean, look, I am a gun owner, I am an
6 NRA member, I respect the rights of everybody to own
7 and carry a gun. I have a license for concealed.
8 But. But we have got to look at the facts the way
9 they really are. And we have got to understand what
10 we are dealing with here.

11 And the taking of innocent lives in
12 various situations that have occurred in my city in
13 Reading were stray bullets, and then those guns
14 getting tracked back to either lost or stolen or
15 straw purchases or coming in from out-of-state, I
16 mean, we just can't sit idly by and say, well, we
17 have enough laws in the books, we can't do any more,
18 or we need more people on the streets for law
19 enforcement. Do you really think that is going to
20 solve the problem, honestly?

21 MR. STOLFER: Mr. Chairman --

22 CHAIRMAN CALTAGIRONE: Go ahead.

23 MR. STOLFER: -- the California areas of
24 law that reference firearms is the size of the King
25 James Bible. Their homicide rate is higher than

0135

1 Pennsylvania's.

2 Now, the problem that we see is this: I
3 am a mechanic by trade. I look at things as if I
4 would like to see how they work and how to correct
5 them. What we are ignoring and what we don't ask
6 and why I have provided in here different criminal
7 accounts? All of those criminal accounts in there,
8 you will see, not once was the five-year mandatory
9 used. We never asked that question.

10 How come our gun laws are imposed on
11 criminals concurrently and not consecutively? I am
12 going to give you an example. In Boston --

13 CHAIRMAN CALTAGIRONE: If I could just
14 interrupt there? Part of the problem that we are
15 having in this state is that we don't really have a
16 lot of collective information that is put in one
17 spot, ergo, the study. You know, we need to find
18 out just what really is going on out there, who is
19 getting the guns, where they are coming from, you
20 know, and collect all of that information.

21 And, you know, this is the kind of
22 information that we need from the Joint State
23 Government Commission.

24 And there is no one place that you can go
25 to basically get all of that information. They say

0136

1 the uniform crimes report. Come on, I read that
2 every year. That doesn't give you everything. The
3 Attorney General's Office, that doesn't give you
4 everything.

5 You know, even the State Police, they
6 have good, useful information, but it's not all
7 compiled in one composite that you could get a real
8 handle on as to what's really happening in the
9 Commonwealth.

10 And with all the counties, you got 67
11 counties. You have 67 D.A.s. You know, you have
12 all of these myriad of police departments.
13 Sometimes you get even -- You know, even when you
14 read the crimes report, they don't all send the
15 information in. You know, there is some of it that
16 is just left vacant, for whatever reason. I mean,
17 they can participate; they don't have to
18 participate. Some of them don't participate. Even
19 in the rural areas. They can't tell me that even in
20 the rural areas there aren't shootings or stolen
21 weapons. You know.

22 And all I am saying, and I have said this
23 from the very beginning with this issue, from the
24 beginning of the year, we have got to come together
25 collectively and come up with some kind of solution.

0137

1 Granted, look, all the laws in the book
2 is not going to change behavior. Behavior
3 modification is one of the things that is so elusive
4 in our society. And false expectations of what we
5 can and can't do are another, you know, public
6 problem that we keep dealing with in this
7 legislature, whether it's property tax, whether it's
8 the gun issues. You know.

9 What we are saying is, look, be a partner
10 with us in this, in trying to resolve the problem.
11 You can't just say, it's not there, that it doesn't
12 exist. The facts are, it's there.

13 MR. STOLFER: Mr. Chairman, I don't think
14 we are saying that it doesn't exist.

15 CHAIRMAN CALTAGIRONE: We need a
16 solution.

17 MR. STOLFER: And I work in the City of
18 Pittsburgh. The solution may be:

19 Instead of studying multiple purchases of
20 firearms, why don't we study why the gun laws aren't
21 applied to criminals?

22 Why don't we actually find out from the
23 District Attorneys Association why they choose not
24 to, why the judges don't apply them?

25 Well, let's put the judges' records

0138

1 online and the criminals' records online for the
2 prosecution so outside groups like us can actually
3 look and see that X criminal was prosecuted for the
4 gun laws.

5 The legislature--and you bring up very
6 good points--has a responsibility of oversight as to
7 how government is working and where it can be made
8 better. But is it being made better by focusing
9 with 76 additional pages of gun laws that don't work
10 over the last 10 years?

11 Is it being made better, when I asked the
12 Commission on Sentencing for the records on the
13 theft of firearms prosecutions--the State Police
14 testified to that--how many people were actually
15 successfully prosecuted in this Commonwealth in 10
16 years, a total? 63 individuals.

17 Now, when I talk to line officers, who
18 are members of our organizations, I can tell you
19 exactly what they tell me that they can't be
20 outspoken about. Criminals laugh. They go down
21 there and many of them are better jail-house lawyers
22 than the public defenders; in some cases, the
23 A.D.A.s. They know how to manipulate the system.
24 And when the gun charges come up, they know that
25 that's a ticket that they can write for themselves.

0139

1 I have been in court. I have watched it
2 from Judge Manning to all others. You can see that
3 in one of those criminal reports that I provided.
4 One gentleman killed another one. He got a one- to
5 two-year sentence for carrying a firearm without a
6 license, and it was made concurrent with the
7 manslaughter. Is that serving the public interest?

8 How about this? The mother of Ryan Haggy
9 (phonetic) testified before this committee. Her
10 baby would be alive today if the justice system in
11 Allegheny County had done its job and put Vaughn
12 Matthis (phonetic) behind bars. I have his criminal
13 records in my computer. Those are questions that we
14 should be asking.

15 Trooper Pokorny, in Allegheny County, was
16 killed right in my hometown, Carnegie. He's a
17 friend of a State Trooper friend of mine, by a
18 gentleman. He would be alive today if Leslie
19 Mollett was in jail. Those are questions we should
20 be asking because our government -- And,
21 respectfully speaking, our government doesn't serve
22 the interests of citizens if we don't hold
23 accountable everyone in government.

24 And then if you look at the Holly
25 (phonetic) P.D. incident, you will see how

0140

1 government laws are abused. Here you have a Marine
2 moving back to Pennsylvania who is stopped and when
3 the police officer asks him about the firearm, he
4 runs the firearm, he has a concealed carried permit,
5 everything is legal, except it's not in the record
6 of sale database that's not supposed to be
7 maintained in this state.

8 So what happened? He was arrested
9 because it wasn't, quote, registered in
10 Pennsylvania. He's gone for over a month. He has
11 got an attorney. He's going to lose eight to
12 fourteen thousand dollars. Who makes him whole
13 again? That's my job. Nobody represents him, sir.

14 CHAIRMAN CALTAGIRONE: Kim, about three,
15 four weeks ago up on a little road where I live in
16 Reading, near Stokesay Castle, five homes were
17 broken into --

18 MR. STOLFER: Yes, sir.

19 CHAIRMAN CALTAGIRONE: -- even though
20 they were alarmed, before the police could get up
21 there, because it's up in the hill area in east
22 Reading. Guns, alcohol, and money. Now, where do
23 you think those guns are going to end up, legally
24 owned, legally licensed by people that live up
25 there?

0141

1 MR. STOLFER: In crime.

2 CHAIRMAN CALTAGIRONE: Probably in
3 Philadelphia or one of the large cities. But they
4 have been nitpicking us and picking us pretty clean
5 in the counties, the suburban counties outside of
6 Philadelphia. And a lot of our guns end up on the
7 streets in the commission of crimes down there.

8 MR. STOLFER: Eight years ago, sir, we
9 brought Robert E. Sanders into the Southwest
10 Pennsylvania Legislative Caucus. And we put on a
11 presentation. His reputation is, is that he was the
12 former Assistant Director of Criminal Investigations
13 for the Bureau of Alcohol, Tobacco and Firearms. He
14 served in that capacity for 24 years and set policy.

15 And in that presentation, he remarked
16 about the current gun laws and the federal laws.
17 And he said, it all boils down to one thing. When
18 you got the criminal, you got the gun, you dispose
19 of the gun, you make sure that criminal doesn't get
20 out of jail for a very long time. If you don't do
21 that, nothing works.

22 CHAIRMAN CALTAGIRONE: That's what some
23 of this legislation, hopefully, is going to do.
24 Some of it does whack them pretty hard. If you read
25 the legislation, similar to some of the stuff—they

0142

1 are not here now--that has been put in, it's going
2 to give them a pretty lengthy jail stay.

3 MR. STOLFER: We fully support that, but
4 we also ask that proper protections be put in place
5 for the overzealous prosecution and --

6 CHAIRMAN CALTAGIRONE: I don't disagree
7 with you.

8 MR. STOLFER: And we would be more than
9 happy to work with you on that.

10 CHAIRMAN CALTAGIRONE: What we need to do
11 is we need to get the criminals off the streets.
12 And then when we nail them, we need to nail them
13 hard. And that's what some of this legislation
14 really will do. It will really put the hurting on
15 them where they are going to spend additional time
16 in jail without the benefit of copping a plea --

17 MR. STOLFER: We look at the --

18 CHAIRMAN CALTAGIRONE: -- and I think
19 what our aim and goal is. Hopefully, we can
20 accomplish that.

21 MR. STOLFER: We look at the current
22 legislation in the similar light of House Bill 2403.
23 There are some areas that need changes. And that's
24 why we worked for eight months on House Bill 1717.
25 And we did work with the legislature on domestic

0143

1 violence issues. We came up with a very reasonable
2 compromise.

3 Right now, we don't support this, for the
4 issues that I stated in our testimony, because the
5 proper protections aren't there. And that, until we
6 do that, until we stop that sort of overzealousness
7 and the lack of accountability, it's not fair to
8 subject law-abiding citizens to excesses.

9 CHAIRMAN CALTAGIRONE: But you know what?
10 You heard Lynne Abraham testify. You were here --
11 Or maybe you weren't.

12 MR. STOLFER: Yes, sir. I heard her,
13 sir.

14 CHAIRMAN CALTAGIRONE: You know, in most
15 of the counties, in the third-class counties, and
16 there is 30 or 40 of them in the Commonwealth, they
17 are so bogged down with so much other stuff that
18 they are dealing with, do you honestly think that
19 they are going to be going after innocent
20 law-abiding citizens over the gun issues, when the
21 perpetrators of the shooters that have been involved
22 in a lot of these shootings, they got their plate
23 full dealing with just those people and those issues
24 and the cases that they are handling? That's why --
25 You know, I just can't understand --

0144

1 MR. STOLFER: It does happen.

2 CHAIRMAN CALTAGIRONE: What are you
3 really worried about? You are really worried about
4 somebody is coming into your home and going to take
5 away your guns and your right to -- your
6 constitutional rights to own and bear? That ain't
7 going to happen. Nobody on this panel is talking
8 about doing that. That's not what we want to do.

9 MR. STOLFER: Well, I know --

10 CHAIRMAN CALTAGIRONE: Is that what you
11 really believe?

12 MR. STOLFER: Mr. Chairman, I know what
13 you mean, but it is happening. I get calls three to
14 five times a week from people that I have to refer
15 to attorneys because their rights were violated and
16 they have to try to get their property back.

17 This happens. I could refer you to the
18 30-year veteran in the New York City Police
19 Department.

20 CHAIRMAN CALTAGIRONE: Whether they are
21 PFAs or people that have mental problems, okay, or
22 convicted felons, I mean, there are certain people
23 in our society that probably shouldn't have access
24 to guns. And I think we talked about this in my
25 office and we agreed on that?

0145

1 MR. STOLFER: Yes, sir.

2 CHAIRMAN CALTAGIRONE: And those are some
3 of the things. And those are the areas of agreement
4 that I think we need to be working on to try to
5 corral this problem. And I think by working
6 together, we could come up with some reasonable
7 solutions. But I don't want to -- Are there other
8 panel members that would like to?

9 REPRESENTATIVE GABIG: I want to thank
10 you for your testimony. And before I just ask you a
11 question: on Doug Reichley's bill, which is HB
12 1388, which would correct this anomaly that occurred
13 on the stolen gun issue and again make possession of
14 a stolen gun a felony, which it was for decades
15 prior to us trying to toughen the law, I don't know
16 if your organization has taken a position on that.
17 But I would ask you to take a look at that and see
18 if you could support us on that. Because that has
19 passed here. It passed last term, the House. It
20 was HB 2751, last term. And it's HB 1388. It's
21 pending on the Floor.

22 And I believe you should be able, from
23 what I understood of your testimony, you should be
24 able to support that. And I think those are the
25 kinds of things the Chairman is sort of reaching out

0146

1 on, and others of us.

2 But I really want to thank you for
3 bringing the journal that Chairman Caltagirone
4 referenced, the Harvard Journal of Law and Public
5 Policy. And I think this has been mentioned in our
6 prior testimony. The authors are Doctor Kates -- Or
7 maybe he's a constitutional lawyer. I think he's
8 the constitutional lawyer. Then Gary Mauser, Ph.D.,
9 the Doctor co-authored this.

10 And the great example they give is on
11 page 655. And I really encourage the members of the
12 committee to, that haven't already. I know many of
13 them have reviewed this article. It is from 2002.
14 And you have given us some updates on your CD.

15 But this is for those that believe that
16 some kind of Soviet-style gun control would help
17 their situation with crime and violence. This is
18 really informative.

19 In England, in the '90s, it's referenced
20 there, went from a gun control to banning guns.
21 Went in and confiscated guns, took the guns from
22 lawful gun owners from that island nation and the
23 crime rate in response to that went up.

24 MR. STOLFER: Yes.

25 REPRESENTATIVE GABIG: It far surpassed

0147

1 the U.S. murder rate. And that's well documented
2 empirical evidence that shows that. So there is
3 things that we can all do.

4 They had the -- I remember Governor Ridge
5 before I was up here, when I was in the D.A.'s
6 Office, and Chairman Caltagirone was up here working
7 on the special session on crime that passed a lot of
8 very good, tough, get-tough crime things that got a
9 lot of these career criminals off the streets. We
10 seemed to have wandered away from that with some of
11 the new administration proposals just to take guns
12 away from law-abiding citizens and somehow you are
13 going to reduce crime.

14 I think this is a great empirical study
15 and the other studies that you referenced. And if
16 you are really concerned about this issue and not
17 just trying to make some rhetorical, political
18 campaign points, I encourage my colleagues to take a
19 look at this and work together on things that do
20 work.

21 So I want to thank you for your
22 testimony. And again, thank the Chairman and his
23 staff; and our staff, Representative Marsico's
24 staff, for their hard work throughout this. And I
25 hope, as we move into the fall, we can pass a couple

0148

1 of other pieces of legislation.

2 And I am really -- If we don't get that
3 done, 1388, Doug Reichley's bill, in some form,
4 shame on us, is how I think. And I think the
5 Chairman, I know worked hard at trying to get that
6 through before we broke in the summer. And I think
7 that should be our number one priority when we get
8 back, because there is support for it, a broad
9 support.

10 And I think that would be a way to get
11 some of these career criminals off and get them in
12 when you pull them over for a traffic offense and
13 they're in possession of a stolen gun. It shouldn't
14 be a misdemeanor; it should be a felony. That's
15 what we wanted it to be and that was the intent of
16 the legislature and it is just a fluke that it's not
17 being that way; and so I hope you can support us in
18 that effort in the fall. And I want to again thank
19 the Chairman.

20 MR. STOLFER: I will review that and get
21 back to you, sir.

22 I would like to make two points to follow
23 up.

24 (Off-the-record discussion occurred.)

25 MR. STOLFER: It's interesting you bring

1 up England, because approximately three years ago,
2 the United Nations recognized them as the -- England
3 and Scotland as the most dangerous countries in the
4 industrialized world on the planet. That's a very,
5 very serious allegation. And it comes from the
6 United Nations. And I have the documented studies
7 to prove that as well.

8 I deal in fact. I don't deal in
9 subterfuge. I don't deal in hyperbole. I spend a
10 lot of time collating, organizing, and inquiring
11 this data so that I can help the legislature with
12 bringing it all together. Just like what the
13 Chairman mentioned: we don't have all the data in
14 one place. So that's -- I have taken it upon myself
15 because I feel very strongly about these issues.

16 But also, now you mention about coming
17 together, I want to -- There are interpretations of
18 the law that can sometimes run afoul, and people's
19 property does get confiscated. And I will give you
20 one very narrow example.

21 Law enforcement is required when they
22 seize property to give citizens a receipt, under the
23 Crimes Code, to the condition, the officer, the
24 time, all the clarifying information as to that
25 particular moment and where the firearm is going;

0150

1 and yet not one officer or situation that I have
2 been involved in has any police officer, State
3 Police or local police, ever complied with that law.

4 Holly Police Department doesn't do it,
5 Oakdale, Ross Township, Westmoreland County, Plum.
6 I can go down the list of people that have gone to
7 court to try to get their property back and it's
8 been missing, or all of a sudden it shows up, or
9 nobody is held accountable. Or in the case of
10 Westmoreland County, it cost them a sheriff. In the
11 case of Ross Township, it cost them their police
12 chief.

13 This happens all across the Commonwealth,
14 and police officers are not being held accountable
15 for documenting the seizure of property in
16 accordance with the law. That's something that
17 needs to be addressed, too. We will work with that
18 on you.

19 But there is a seedy little undercurrent
20 to some of the law enforcement that it does happen;
21 people's firearms are confiscated without cause. We
22 agree police officers, who may encounter a firearm,
23 may need to hold it to verify it. We don't have a
24 problem with that. We support law enforcement.
25 However, they need to follow the law, too. And if

0151

1 there is a double standard, then that causes people
2 and citizens to be distrustful. And we think we'd
3 try to eliminate that, too. Thank you.

4 REPRESENTATIVE JAMES: Thank you, Mr.
5 Chairman. Thank you for your testimony.

6 I just have a few questions. Would you
7 report your gun lost or stolen if it was?

8 MR. STOLFER: Would I? Yes. Upon
9 knowing it, yes.

10 REPRESENTATIVE JAMES: Would you support
11 legislation that is saying that people must report
12 their guns lost or stolen without a criminal
13 penalty?

14 MR. STOLFER: No, because I don't believe
15 it's going to do any good. If you could show me a
16 connection to a crime that would be solved because
17 of it, we can talk. But right now it's all
18 rhetorical: if we want to do this because it might
19 help. And we believe the basic solution to crime is
20 holding those people responsible that commit it and
21 not focusing on the law-abiding citizens.

22 REPRESENTATIVE JAMES: But you do say you
23 support law enforcement?

24 MR. STOLFER: Yes, sir.

25 REPRESENTATIVE JAMES: And law

0152

1 enforcement said they would like to have that, have
2 some type of law that you report lost or stolen
3 guns?

4 MR. STOLFER: Well, as I understand it,
5 not all law enforcement supports that measure, sir.

6 REPRESENTATIVE JAMES: Okay. Now, I
7 understand that the State Police today said they
8 supported it; the District Attorney said they
9 support it, they are just not clear on terms of the
10 penalty; and I think the F.O.P. supports it.

11 Do you know which law enforcement is
12 nonsupportive of it?

13 MR. STOLFER: I believe the Pennsylvania
14 Sheriff's Association that hasn't taken a position
15 on it yet.

16 REPRESENTATIVE JAMES: Okay. All right.
17 So would you be willing to work with us in trying to
18 develop common sense approaches to dealing with this
19 violent crime?

20 MR. STOLFER: Absolutely.

21 REPRESENTATIVE JAMES: Okay.

22 MR. STOLFER: In every measure, sir.

23 REPRESENTATIVE JAMES: Thank you. Thank
24 you, Mr. Chairman.

25 CHAIRMAN CALTAGIRONE: Thank you.

1 MR. ANDRING: And, Kim, just briefly.
2 One of the real difficulties in trying to address
3 these issues is to get people not to over-react
4 initially, let me put it that way, when you put some
5 of these proposals out and you hear some of the
6 comments.

7 And I will -- Out of respect, I have
8 heard you testify before with the things you say.
9 But two concerns I have, like you mention the issue
10 that Representative Gabig was talking about,
11 changing the grading on the receiving stolen
12 property involving firearms, correcting what was a
13 screw-up that happened here a little ways in the
14 past.

15 And I read your testimony that it is
16 conceivable that this language could have a
17 devastating impact on the average citizen. And I
18 have been dealing with these issues for a long time.
19 And it really isn't conceivable.

20 This is a correction of a simple mistake.
21 We aren't changing the law, whatsoever. We are
22 restoring and grading to what it used to be. We
23 aren't making any changes in the presumptions and
24 the offenses under the law of receiving stolen
25 property. And, you know, this is just such a simple

0154

1 and straightforward thing. I think maybe you are
2 over-reacting a little bit on that one.

3 And I have the same concern with the
4 inspection language. Again, when we drafted that
5 bill, we took that language directly out of the
6 federal statute. And it's our understanding, was
7 that -- At least it was my understanding that that
8 language was put into the federal statute with the
9 agreement of various gun rights group as essentially
10 a compromise and agreement as to what is appropriate
11 for administrative inspections and for law
12 enforcement inspections of a gun shop retailer.

13 And, you know, again, it's my
14 understanding that that, people kind of feel that's
15 on both sides of the issue, were willing to come
16 look up -- Actually, I think that was pushed more by
17 the gun rights people, that that was an appropriate
18 limitation and delineation of gun shop inspections.
19 And all we were saying was that maybe our state
20 people need to have that same authority for
21 investigating crimes and seeing that the
22 provisions -- the pencil of it.

23 So, you know, I don't -- Again, I don't
24 see this as something completely off the wall or
25 that out of the ordinary, and I just ask you to take

0155

1 a look at those things maybe a little bit.

2 MR. STOLFER: Could I respond?

3 MR. ANDRING: Yeah, sure.

4 MR. STOLFER: The protections. Again,
5 search and seizures of the firearms dealers, there
6 is a different standard at the federal level,
7 reasonable belief versus probable cause of
8 Pennsylvania. But setting that aside for a moment,
9 taking that one portion of what federal agencies can
10 do to dealers without taking, also folding in the
11 protections that dealers have, and it resulted in so
12 much controversy at the federal level that we're
13 established under the Firearms Owners Protection
14 Act; only presents half a pie.

15 Now, if you want to put in protections
16 and reconciliation procedures for a dealer to have a
17 procedure for challenging the taking of property or
18 getting a receipt for the property, do they take the
19 records?

20 But I could see situations that have
21 happened in other states, Ohio, notably, where local
22 authorities take records and the dealers are
23 subsequently inspected--setting aside, for the
24 moment, the unwillingness of District Attorney
25 Abraham to realize that dealers are investigated

0156

1 sometimes as many as once every three months--and
2 the records weren't there, and the dealer will be
3 cited, lose his license because perhaps the state
4 agency took something.

5 Now, there should be some, just like
6 seizing property from a firearm owner, there should
7 be some receipt for what property was taken,
8 itemizing what they have taken. Providing
9 protections, I think, is a responsible and
10 reasonable request in that regard.

11 MR. ANDRING: Are those in federal
12 statute or are those in federal regulation?

13 MR. STOLFER: Regulation.

14 MR. ANDRING: Okay.

15 MR. STOLFER: That's what we would ask.
16 And perhaps it would be better to put it in statute
17 since we do have a different standard of probable
18 cause for search and seizure.

19 MR. ANDRING: Okay.

20 MR. STOLFER: As far as the other measure
21 you were talking about with -- What we do is we look
22 back. And in Pennsylvania, in 1995, we changed the
23 Uniform Firearms Act, as you well know.

24 And what that did was it changed a lot of
25 the procedures for the sale of firearms. And,

0157

1 potentially, you could have an individual, that
2 might have a firearm that had been reported stolen
3 years ago, now be involved in a traffic stop and,
4 all of a sudden, all the computerized records fold
5 together--just like this gentleman who was in Holly
6 Police Department--and now he's arrested for
7 receiving stolen property for something that might
8 have been stolen 30 years ago.

9 And that is the exceptions to the rule.
10 That we would like to see some sort of accommodation
11 made that there was no unintentional violation, that
12 there was no connection to a violent crime. You
13 connect it to a violent crime and you have a theft
14 of a firearm, as far as I am concerned you can throw
15 away the key and I will help you do it.

16 MR. ANDRING: See, I think those issues
17 are addressed by the case law and the common law and
18 a hundred years of interpretations on the statute of
19 receiving stolen property, terms of rebuttable
20 presumptions, and whatever evidence (phonetic;
21 overlapping) there is.

22 MR. STOLFER: We have asked our attorneys
23 that and they haven't really -- Now, granted, they
24 haven't looked at all the case law, but they have
25 said that this is a little weak in that area. Now,

0158

1 I would be more than happy to stand corrected and
2 redact that if you could help me with that.

3 MR. ANDRING: Right. Okay. Thanks.

4 MR. STOLFER: Thank you, sir.

5 CHAIRMAN CALTAGIRONE: Kim, thank you.
6 Thank you very much for your --

7 MR. STOLFER: Thank you for the
8 opportunity.

9 CHAIRMAN CALTAGIRONE: We appreciate your
10 testimony.

11 MR. STOLFER: Thank you, sir.

12 CHAIRMAN CALTAGIRONE: Thank you.

13 (At or about 1:10 p.m., the hearing was
14 concluded.)

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C E R T I F I C A T E

I, Roxy C. Cressler, 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 3rd day of October, 2007.

Roxy C. Cressler - Reporter
Notary Public

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