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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE JUDICIARY COMMITTEE

IRVIS OFFICE BUILDING  
ROOM G-50  
HARRISBURG, PENNSYLVANIA

WEDNESDAY, FEBRUARY 21, 2008  
10:04 A.M.

BEFORE:

- HONORABLE THOMAS R. CALTAGIRONE, CHAIRMAN
- HONORABLE TOM C. CREIGHTON
- HONORABLE CRAIG DALLY
- HONORABLE JOHN EVANS
- HONORABLE WILL GABIG
- HONORABLE GLEN GRELL
- HONORABLE DEBERAH KULA
- HONORABLE BETH MACKERETH
- HONORABLE CARL MANTZ
- HONORABLE BERNIE O'NEILL

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HONORABLE JOHN PALLONE  
HONORABLE JOSEPH PETRARCA  
HONORABLE TINA PICKETT  
HONORABLE SEAN M. RAMALEY  
HONORABLE DON WALKO  
HONORABLE JEWELL WILLIAMS

ALSO PRESENT:

HONORABLE SCOTT PERRY  
HONORABLE CURTIS G. SONNEY  
WILLIAM ANDRING, CHIEF COUNSEL  
JOHN RYAN, MAJORITY EXECUTIVE DIRECTOR  
MICHELLE MOORE, MINORITY EXECUTIVE DIRECTOR

BRENDA S. HAMILTON, RPR  
REPORTER - NOTARY PUBLIC

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## P R O C E E D I N G S

- - -

CHAIRMAN CALTAGIRONE: I'd like to get started with the House Judiciary Committee public hearing on law enforcement powers for sheriffs. It's House Bill 466.

And I apologize for the room. The Appropriations Committee hearing is taking place as this hearing is being conducted. Otherwise, we would have had that room and we could have handled many more people. So I apologize for those of you that are standing. This is the only other large size room that was available.

I'm State Representative Tom Caltagirone from Berks County. I'd like the members who are present from my left to go down and introduce themselves and then go to the back row for the members also.

Tom?

REPRESENTATIVE CREIGHTON: Tom Creighton, Lancaster County.

REPRESENTATIVE GABIG: Will Gabig from Cumberland County.

REPRESENTATIVE SONNEY: Curt Sonney

1 from Erie County.

2 REPRESENTATIVE EVANS: John Evans  
3 from Erie and Crawford County.

4 REPRESENTATIVE DALLY: Craig Dally,  
5 Northampton County.

6 MR. ANDRING: Bill Andring, chief  
7 counsel.

8 MR. RYAN: John Ryan, Executive  
9 Director for the Democratic Caucus.

10 REPRESENTATIVE O'NEILL: Bernie  
11 O'Neill from Bucks County.

12 MS. DALTON: Karen Dalton, senior  
13 counsel to the House Judiciary Committee on  
14 the Republican side.

15 REPRESENTATIVE PICKET:  
16 Representative Pickett, Bradford, Sullivan,  
17 and Susquehanna Counties.

18 REPRESENTATIVE KULA: Deberah Kula,  
19 Fayette and Westmoreland Counties.

20 CHAIRMAN CALTAGIRONE: Okay. I'd  
21 like to start off with Representative Craig  
22 Dally who has some opening remarks. Craig?

23 REPRESENTATIVE DALLY: Thank you,  
24 Mr. Chairman. Chairman Caltagirone and fellow  
25 members of the House Judiciary Committee, good

1 morning to all of those gathered here today  
2 for this important hearing.

3 I appear before you this morning to  
4 speak about an issue that concerns us all:  
5 The need to do everything in our power to  
6 protect the safety and well-being of the men,  
7 women, and children who make up the family we  
8 call Pennsylvania.

9 This committee plays a pivotal role  
10 in that regard, and I am proud to serve as a  
11 member of the Judiciary Committee as it works  
12 to secure greater freedom for our citizens by  
13 developing and enacting statutes that fight  
14 and reduce crime.

15 And while it is necessarily true that  
16 the members may disagree on the means, we do  
17 not disagree on the ends. Everyone here is  
18 committed to making Pennsylvania a place where  
19 its citizens and our civic life together can  
20 flourish.

21 In that vein, I wish to thank  
22 Chairman Caltagirone for holding this public  
23 hearing and also to thank his able staff for  
24 their work regarding the hearing.

25 To the witnesses who will appear

1 today, I say thank you for giving the  
2 committee the benefit of your time and your  
3 expertise. To my colleagues in the House and  
4 all those here today, let me express how  
5 grateful I am that the important dialogue  
6 about H.B. 466 has begun.

7 House Bill 466 vests sheriffs and  
8 deputy sheriffs with the power to investigate  
9 crime and to make arrests, the same power  
10 given to municipal police officers.

11 Further, House Bill 466 requires that  
12 before the powers to investigate crime and to  
13 make arrests may be exercised, sheriffs and  
14 deputy sheriffs must complete the same type of  
15 training as municipal police officers.

16 Let me make it clear what H.B. 466  
17 will accomplish. It will make sheriffs and  
18 their deputies full partners in the fight  
19 against crime, a fight that they have  
20 traditionally been asked to fight.

21 Indeed, the power of the sheriff to  
22 enforce the law dates back to before the Magna  
23 Carta. The Supreme Court of Pennsylvania  
24 acknowledged this power when it wrote the  
25 seminal case that enunciated the legal



1 principle that sheriffs retain common law  
2 power to arrest.

3 And that case is Commonwealth versus  
4 Leet. The Supreme Court held that since  
5 sheriffs retained this long-standing  
6 authority, they could make warrantless arrests  
7 for violations of the Vehicle Code which  
8 constituted breaches of the peace when  
9 committed in their presence.

10 We all know that parts of  
11 Pennsylvania are experiencing a crippling  
12 level of violence. These neighborhoods and  
13 communities need to be able to rely upon their  
14 sheriffs and deputies to enforce the law.

15 The Attorney General of Pennsylvania,  
16 Tom Corbett, whom is on our agenda to hear  
17 from him, I'm not sure if he is going to be  
18 present today or not, but his office and  
19 district attorney offices throughout the state  
20 have utilized deputies on Drug Task Forces.  
21 At least until the Pennsylvania courts spoke.

22 These neighbors and communities need  
23 these deputies to be put back to work fighting  
24 crime. And I am grateful to say the sheriffs  
25 and their deputies want to go back to work.

1           We also know that if the General  
2           Assembly is not heard on this issue, the  
3           courts of Pennsylvania will speak for us.  
4           Indeed, we have seen the result of our  
5           science, a patchwork of cases, some enhancing  
6           the power of deputy sheriffs, some diminishing  
7           that power. Without a statute which speaks  
8           clearly and definitely, the criminal caught  
9           red-handed by a deputy sheriff knows he will  
10          most likely be released before the arrest is  
11          even made.

12           The idea behind House Bill 466, that  
13          of vesting sheriffs with the power to arrest  
14          and to conduct investigations, is not new. As  
15          I mentioned the power of the sheriff to  
16          enforce the law dates back to a time that  
17          predates the finding of the United States.  
18          Moreover, the Pennsylvania statutes contain  
19          two very important examples where the General  
20          Assembly requires sheriffs to act to protect  
21          our citizens.

22           Sheriffs are entrusted with securing  
23          the safety of the most vulnerable among us  
24          under the Protection From Abuse Act. Under  
25          this statute, the sheriff is empowered to

1       arrest those who violate orders, to confiscate  
2       weapons, and to take those accused of  
3       violating orders before a court after arrest  
4       is effectuated.

5                 Similarly, the General Assembly vests  
6       sheriffs with investigatory authority under  
7       the Uniform Firearm Act. The statute requires  
8       sheriffs to conduct background checks to  
9       ensure that a person requesting a license  
10      poses no threat to the community.

11                By enacting House Bill 466, the  
12      General Assembly can not only expand the  
13      public policy we set for sheriffs under the  
14      Protection From Abuse Act and Uniform Firearms  
15      Act, we can restore the sheriffs to their  
16      rightful place in law enforcement.

17                By enacting House Bill 466, we can  
18      meet the dedication and seriousness of purpose  
19      of some 2500 deputy sheriffs with the  
20      statutory authority to make arrests and  
21      investigate criminal acts.

22                By enacting House Bill 466 we can  
23      help bring about a greater level of safety and  
24      security throughout the Commonwealth.

25                Thank you, Mr. Chairman.

1 CHAIRMAN CALTAGIRONE: Thank you. We  
2 had a couple members join us. If they would  
3 please introduce themselves and the counties  
4 they represent.

5 REPRESENTATIVE WALKO: Don Walko,  
6 Allegheny County.

7 REPRESENTATIVE GRELL: Good morning.  
8 Glen Grell, 87th District, Cumberland County.

9 CHAIRMAN CALTAGIRONE: Thank you.  
10 Another one has joined us.

11 REPRESENTATIVE RAMALEY: Sean  
12 Ramaley, Beaver and Allegheny Counties.

13 CHAIRMAN CALTAGIRONE: Thank you.  
14 We'll next hear from Robert Merski,  
15 the Sheriff of Erie County, President of the  
16 Sheriffs' Association of Pennsylvania.

17 SHERIFF MERSKI: Good morning. I'm  
18 Bob Merski, the Sheriff of Erie County, and  
19 President of the Pennsylvania Sheriffs'  
20 Association.

21 I would like to thank Chairman  
22 Caltagirone and all the members and staff of  
23 the House Judiciary Committee for holding this  
24 informational hearing today on the important  
25 issue of the powers and duties of the sheriffs

1 of Pennsylvania.

2 Allow me to review why the issue of  
3 the powers and duties of sheriff has become a  
4 legislative concern. In February of 2006, the  
5 Supreme Court ruled in a case known as Kopko  
6 that sheriffs are not investigative or law  
7 enforcement officers under the Pennsylvania  
8 Wiretap Act.

9 In that decision, the court restated  
10 that the sheriffs' common law authority allows  
11 only for arrests for breaches of the peace and  
12 felonies committed in their presence,  
13 authority no different than the common  
14 citizen.

15 It did not take long for the sheriffs  
16 to feel the impact of the Kopko decision.  
17 Attorney General Tom Corbett removed all 72  
18 deputy sheriffs serving on the Drug Task  
19 Force.

20 And the Kopko decision was felt also  
21 when the DA started to pull the sheriffs off  
22 the Drug Task Force.

23 Many sheriffs' offices, especially  
24 those in rural areas where there are few or no  
25 municipal police forces, faced uncertainty

1 over what law activities they could or could  
2 not perform.

3 This is not a new issue. The Supreme  
4 Court has been asked to clarify the duties of  
5 the sheriff no less than five times in the  
6 past 15 years. The justices have reached the  
7 same conclusion time after time. Sheriffs and  
8 deputy sheriffs need statutory authority to  
9 perform their law enforcement duties.  
10 Clearly, this is the time to give that  
11 authority.

12 Last November, the Supreme Court  
13 issued its most recent decision in the Dobbins  
14 case which dealt with a search warrant  
15 executed by deputy sheriffs on a meth lab in  
16 rural Bradford County. The court remanded the  
17 case and suppressed the evidence.

18 The facts of this case illustrate the  
19 need for law enforcement authority for deputy  
20 sheriffs across the Commonwealth.

21 Let me just tell you a little bit  
22 about the Dobbins case. In July of 2003, two  
23 Bradford County deputy sheriffs visited a  
24 residence seeking to question an individual  
25 about a prior meth case.

1           At the residence the deputies smelled  
2 ether, which is used to manufacture the drug.  
3 The odor was coming from a nearby barn. At  
4 that barn, they encountered an individual who  
5 did not -- did not live at the residence and  
6 was not the person they were originally  
7 seeking to question. This suspect ran off  
8 into the woods and escaped.

9           The deputies secured a search warrant  
10 based on probable cause from the district  
11 magisterial judge and recovered  
12 methamphetamine and evidence of its  
13 manufacture. The suspect was later arrested  
14 in upstate New York. He was found guilty by a  
15 jury and sentenced to the state penitentiary.

16           Then the Kopko decision was issued.

17           Soon afterwards the defendant's  
18 attorney appealed the conviction on the  
19 grounds of the Kopko decision that ruled that  
20 deputy sheriffs were not law enforcement  
21 officers. The Supreme Court ultimately agreed  
22 in the Dobbins decision and determined that  
23 deputy sheriffs lacked statutory authority to  
24 investigate violations of the Controlled  
25 Substance Act.

1           And that is why we're here today.

2           We are seeking your support on House  
3 Bill 466 sponsored by Representative Craig  
4 Dally, which would give the sheriffs and the  
5 deputy sheriffs the statutory authority to  
6 perform law enforcement duties based on the  
7 needs of their communities.

8           Let me repeat that, because that's  
9 very important. Law enforcement duties based  
10 on the needs in their communities.

11           This legislation provides local  
12 option of communities seeking more law  
13 enforcement personnel.

14           In 2006 the Pennsylvania Sheriffs'  
15 Association conducted a statewide poll of 700  
16 registered voters in Pennsylvania on the  
17 issues of the powers and duties of the  
18 sheriffs and deputy sheriffs. The poll found  
19 that 65 percent of Pennsylvanians believe  
20 deputy sheriffs should be allowed to  
21 investigate crimes and make arrests. 65  
22 percent.

23           To a follow-up question, 64 percent  
24 said they favored the deputy sheriffs to have  
25 the same local -- or same law enforcement



1 powers as state and local police.

2 Now, we're elected officials. If we  
3 won an election by 65 percent, we'd call that  
4 a landslide victory. So I would say that the  
5 citizens of the Commonwealth are supportive of  
6 their sheriffs and really want the sheriffs to  
7 be involved in law enforcement.

8 This poll shows that Pennsylvanians  
9 view sheriffs and deputy sheriffs as full  
10 members of the law enforcement community. The  
11 poll also showed that 73 percent of the  
12 Pennsylvanians at that time were not aware  
13 that deputy sheriffs did not have the same law  
14 enforcement authority as state or local  
15 police.

16 I know that the people of my county  
17 expect their fully trained deputy sheriffs to  
18 protect the public and enforce the law.

19 This poll shows that this is felt  
20 across the Commonwealth.

21 The needs of Pennsylvania communities  
22 are very different depending on the size and  
23 the resources of the county. Many urban and  
24 suburban counties have municipal police  
25 departments and State Police coverage. In

1 those counties, the sheriff would be an  
2 additional law enforcement resources --  
3 resource in case of emergencies.

4 The Dobbins decision raises a serious  
5 public -- public issue. Can sheriffs or  
6 deputy sheriffs under this decision respond to  
7 manmade or natural disasters? This is another  
8 question that needs to be addressed by  
9 legislation.

10 Many rural counties have no municipal  
11 police departments and can use the highly  
12 trained deputy sheriffs to handle law  
13 enforcement duties as they did before the  
14 Supreme Court decision.

15 Some have asked whether the  
16 Pennsylvania Sheriffs' Association is trying to  
17 create a new law enforcement agency in the  
18 Commonwealth. This is not our intent. Again,  
19 we are seeking statutory authority for  
20 sheriffs and deputy sheriffs to perform law  
21 enforcement duties in their counties where  
22 they are needed.

23 Keep in mind that the elected sheriff  
24 can only perform duties that he or she has the  
25 manpower and the resources to perform. The

1 resources of the Office of Sheriff are  
2 controlled by county commissioners, who must  
3 approve the sheriff's budget and pay the  
4 sheriff's expenditures. The commissioners  
5 also determine how many deputy sheriffs are  
6 employed by the county.

7 So there is a very real check on the  
8 sheriff's ability to perform law enforcement  
9 duties in their counties.

10 There is also a more important check  
11 of the sheriff's powers and duties: The  
12 voters. Like the district attorney, who  
13 controls the county detectives, the elected  
14 sheriff must face the voters of the county  
15 every four years. If the voters do not  
16 approve of the sheriff's performance, they  
17 have the right and the obligation to remove  
18 him or her from office.

19 Others have questioned the skill,  
20 knowledge, and ability of deputy sheriffs and  
21 whether they have the training to perform law  
22 enforcement duties.

23 As you know municipal police officers  
24 are required to take Act 120. Deputy sheriffs  
25 also are required to take Act 2 and be

1 certified. Both are highly trained and state  
2 certified.

3 The course work for both  
4 certifications is very similar. And I believe  
5 you have a packet that was distributed that  
6 gives the comparisons. The sheriffs in Act 2  
7 are trained and have -- are trained more in  
8 civil procedure and court training. In fact,  
9 many deputy sheriffs are both Act 120 and Act  
10 2 certified which allows them to work for the  
11 sheriff's office and their local police  
12 department.

13 The fact that many of our deputies  
14 are also police officers is another reason why  
15 the General Assembly should codify the powers  
16 and duties of the sheriff. How do you explain  
17 to the public that a criminal is going free  
18 because the law enforcement officer who  
19 arrested him was wearing a deputy sheriff's  
20 uniform that day and not his municipal police  
21 officer uniform?

22 It just doesn't make sense.

23 The sheriffs have a good working  
24 relationship with the State Police and local  
25 law enforcement. We have no interest in

1 competing with them for jurisdiction.

2 There is enough criminal activity in  
3 Pennsylvania to make this a serious public  
4 issue. We need the authority to protect our  
5 communities.

6 There is a precedence set in  
7 Pennsylvania that the Office of Sheriff can  
8 have law enforcement authority and coexist  
9 with municipal and State Police. Since 1994  
10 the Allegheny County Sheriff's Office has had  
11 the statutory authority to function as a law  
12 enforcement agency.

13 This legislation would give all 67  
14 sheriffs the same authority.

15 This month Speaker Emeritus John  
16 Perzel and many of your colleagues called on  
17 the General Assembly to hire as many as 10,000  
18 new police officers. House Bill 466 would go  
19 a long way to realizing that goal of safer  
20 communities. And that's what we're in the  
21 business for, are safer communities.

22 The bill would enable the 2300 fully  
23 trained deputy sheriffs to perform law  
24 enforcement duties at no additional cost to  
25 the taxpayers.

1           In September of 2006, the Committee  
2 of the Whole voted on this issue during its  
3 deliberations in the -- on crime in our  
4 communities. The proposal was overwhelmingly  
5 approved by a vote of 142 to 27. The sheriffs  
6 of Pennsylvania would like to thank you for  
7 that support and ask you again to support  
8 House Bill 466.

9           Since 19 -- since 1634, when this  
10 nation was in its infancy, the sheriff has  
11 played a major role in law enforcement and  
12 continues to do so today. All we have to do  
13 is look around us. New York State, Ohio, West  
14 Virginia, Maryland, Virginia, in all these  
15 states the sheriffs have the statutory  
16 authority to enforce the law.

17           This legislation would allow us to  
18 perform the duties we performed before the  
19 Kopko decision. It would allow the sheriffs  
20 and deputy sheriffs in all 67 counties to  
21 participate in law enforcement activities.  
22 BY House Bill 466 would allow sheriffs,  
23 especially in the rural counties, where they  
24 have -- they are desperately needed to enforce  
25 the law and protect the citizens in their

1 community. 24

2

3 The people of the Commonwealth  
4 overwhelmingly support this legislation and  
5 they support their local sheriffs. We all  
6 collectively are entrusted, all of us here are  
7 entrusted by the public to serve them and  
8 provide them with safe communities.

9 There is no good reason to exclude  
10 the 2300 fully trained and certified deputy  
11 sheriffs from protecting the citizens of our  
12 community.

13 Thank you and we will entertain  
14 questions.

15 CHAIRMAN CALTAGIRONE: Representative  
16 Evans.

17 REPRESENTATIVE EVANS: Thank you,  
18 Mr. Chairman.

19 Sheriff Merski, thank you very much  
20 for your testimony today and making the long  
21 trek here to Harrisburg from the Erie area.  
22 I'm very familiar with that commute.

23 I'd like to ask you, first of all,  
24 from your position in Erie County as -- as  
25 sheriff, the Kopko decision has had a dramatic

1 effect on the way you can conduct business in  
2 Erie County.

3 Could you give the committee some  
4 evidence or some anecdotal evidence of how  
5 this has had an adverse effect on your ability  
6 to do your job in Erie County?

7 SHERIFF MERSKI: In 1999, I received  
8 a grant for \$500,000 for school resource  
9 officers. It's a federally granted program.  
10 And presently today we still have the four  
11 school resource officers that serve in four  
12 different school districts.

13 With -- when the Kopko decision came  
14 down, this hampered our ability to be able to  
15 function in the schools when it came to  
16 investigating drugs in the schools,  
17 information we received on investigating  
18 stolen firearms or information that we  
19 received from -- on burglaries or drinking  
20 going on and different activities within the  
21 school.

22 In Erie County, our District  
23 Attorney, Brad Foulk, runs the Weed and Seed  
24 program, and we are very active in -- I do  
25 believe everybody here knows what the Weed and



1 Seed program is. We put police officers out  
2 on the street during high crime times and  
3 patrol the streets on foot patrols.

4 This has been very successful in the  
5 city of Erie, but 50 percent of the officers  
6 that work that Weed and Seed program are  
7 deputy sheriffs. This has hampered our  
8 ability to work that program.

9 We work with the DUI program. There  
10 are many, many instances, even in the  
11 courthouse, where we need to conduct  
12 investigations. We have control and security  
13 of the Erie County Courthouse, as do many  
14 sheriffs across the Commonwealth.

15 These decisions hampered our ability  
16 to do investigations and it's clouded the  
17 issue even more as to what the sheriff is  
18 capable of doing and what he's allowed to do.  
19 This would clear it up.

20 REPRESENTATIVE EVANS: Are there  
21 specific examples at the Erie County  
22 Courthouse that you can point to that have  
23 changed since this decision, that have -- that  
24 have made it tough for you to -- to do what  
25 you need to do in the courthouse environment?

1           SHERIFF MERSKI: Well, in the  
2 courthouse environment, we now -- if we get  
3 information on a theft in the courthouse,  
4 we'll have to call the city police over rather  
5 than conduct the investigation ourselves.

6           In Erie, we can do the on-site, but  
7 that's one of the things that comes to the top  
8 of my head, was the investigations on anything  
9 that happens within the courthouse.

10          REPRESENTATIVE EVANS: Is there a  
11 public perception since this decision that has  
12 made it tougher and perhaps put some of your  
13 officers at risk of personal safety?

14          SHERIFF MERSKI: Yes. There has  
15 been. And it started back with the Kopko case  
16 and we have had deputy sheriffs that were put  
17 in positions where they had to physically  
18 restrain somebody because of the fact that  
19 they did not believe that the sheriffs had the  
20 right to arrest them.

21          Even within their -- if you go by the  
22 Kopko and the Dobbins case, they were well  
23 within their authority to make those arrests,  
24 yet they're getting this from the public, you  
25 have no authority at all, no more than the

1 common citizen, as the Supreme Court said.

2 REPRESENTATIVE EVANS: And in reading  
3 the bill, Representative Dally's bill, which I  
4 commend him for bringing forward to the  
5 legislature, I think it needs to be stressed  
6 that this is a may provision. Right? This is  
7 not a mandate that every county has to adopt a  
8 policy. Right? It's up to the counties to  
9 decide how they want to utilize this.

10 SHERIFF MERSKI: Yes. This bill was  
11 very well written and what it does is it gives  
12 what our founding fathers intended. It gives  
13 the local communities, the local government,  
14 the option to determine what they can afford  
15 and what they need and I -- I commend  
16 Representative Dally for this because it gives  
17 us the option. Nobody is being forced to do  
18 it.

19 REPRESENTATIVE EVANS: Well, I think  
20 that's an important point to stress. And in a  
21 rural community -- and my legislative district  
22 is 365 square miles. It takes up a large  
23 portion of Erie County and I can attest to the  
24 fact that law enforcement resources are  
25 stretched very thin.

1           The State Police are asked to cover  
2           many of the municipalities that do not have a  
3           local police force. We see evidence of that  
4           all the time. And the more manpower and the  
5           more law enforcement officials we can get out  
6           there to fight crime and to be able to  
7           investigate I think is certainly something  
8           that we need to explore and clarify in the  
9           law.

10           And I thank you for your leadership,  
11           Sheriff Merski, in Erie County, and it's a  
12           testament to your leadership at the statewide  
13           level that we see standing room only and I  
14           don't know how many officers are even in the  
15           hallway that can't even get in this room this  
16           morning. But it's clear evidence that there's  
17           a lot of support for this legislation.

18           And, Mr. Chairman, I appreciate the  
19           opportunity to ask these questions and commend  
20           Representative Dally for bringing this  
21           forward.

22           CHAIRMAN CALTAGIRONE: I was just  
23           told by our -- good morning, gentlemen. I  
24           wanted to try to help those that are standing  
25           out there ready to testify to come on in and

1 sit down. We have special seats in the front  
2 here.

3 Our security officer said that we're  
4 going to get the Ryan Office Building Room 205  
5 open for the feed so those that can't get into  
6 the room that are standing out there that  
7 you'd at least be able to follow this and be  
8 able to sit down over there. And he'll have  
9 that up and running, I think, shortly.

10 So those that can't come in here, if  
11 you can hear me out there, the Ryan Office  
12 Building Room 205, they'll have the feed for  
13 all of you out there that are standing in the  
14 hallway.

15 REPRESENTATIVE GABIG: Thank you,  
16 Mr. Chairman.

17 I wanted to bring that point up in  
18 terms of housekeeping. I saw many witnesses  
19 that are on the agenda here were not able to  
20 get in the room because there weren't any  
21 seats and I guess it seems like you've  
22 accommodated them, including my District  
23 Attorney Dave Freed from Cumberland County is  
24 able to come in here.

25 Are all the witnesses then that were

1 out in the hall, are they able to come in so  
2 they can hear each other? I always find it  
3 more helpful if they can hear each other  
4 testify.

5 EXECUTIVE DIRECTOR RYAN: The ones  
6 that are here right now?

7 REPRESENTATIVE GABIG: Yeah.

8 EXECUTIVE DIRECTOR RYAN: Maybe we  
9 could repeat that for those that are going to  
10 be here later.

11 REPRESENTATIVE GABIG: All right.

12 CHAIRMAN CALTAGIRONE: Yeah. We're  
13 trying to accommodate them, you know, the ones  
14 that are here.

15 REPRESENTATIVE GABIG: Because I did  
16 see someone from the Attorney General's Office  
17 out there earlier, and I don't know if he's  
18 going to be speaking on behalf of the Attorney  
19 General or -- or not. But I just --

20 CHAIRMAN CALTAGIRONE: We're trying  
21 to accommodate them

22 EXECUTIVE DIRECTOR RYAN: It's Rick  
23 Sheetz.

24 CHAIRMAN CALTAGIRONE: As a matter of  
25 fact, the Attorney General is going to be at

1 my county tonight at the country club speaking  
2 to local officials. I don't believe he's  
3 going to be here, but someone from his office  
4 is going to be here to speak.

5 REPRESENTATIVE GABIG: Then I hope  
6 they're able to get a seat in here so that  
7 they can hear the other witnesses testify. I  
8 always find it more helpful.

9 But anyways welcome, Sheriff, to  
10 central Pennsylvania. You have a great  
11 representative in John Evans. We came in  
12 together in 2000. He's doing a good job for  
13 the great northwest up there. If I don't say  
14 so myself.

15 The -- in my county, Cumberland  
16 County, prior to this decision, I was in the  
17 D. A.'s Office before I came up here, and I  
18 know the sheriffs were involved in -- in what  
19 I would call law enforcement efforts.

20 I don't know quite how to say it.  
21 They weren't detail. I mean they weren't out  
22 doing traffic, routine traffic or routine  
23 patrolling for crime like the State Police  
24 would do or municipal officers would do, but  
25 they would support, be in a very important

1 support role.

2           They were on the Drug Task Force.  
3 They had members on the Drug Task Force. I  
4 see my sheriff, Tom Kline's back there with  
5 many of his. We had DUI check points in terms  
6 of enforcement of the traffic law and they  
7 were -- they would participate in that. They  
8 would, of course, have their courthouse  
9 duties. They were -- they had a member, I  
10 think, on the SWAT team. Also we had a  
11 countywide SWAT team, and I think we had  
12 somebody that was certified and trained on  
13 that. And the -- and the courthouse security,  
14 there would be events. One year the KKK came  
15 to town and so all the different law  
16 enforcement, the local and the State Police  
17 and the sheriffs, were involved heavily with  
18 making sure that was a peaceful effort.

19           And I know this decision from the  
20 Supreme Court has impacted their ability to  
21 participate with the district attorney's  
22 office, with the other law enforcement  
23 agencies, to ensure public safety in  
24 Cumberland County. I know that to be a fact.

25           So I think that the effort by



1 Representative Dally to address the court  
2 decision is supported by many of us. The --  
3 the shall versus may issue, there's some  
4 language in the Dally bill that says shall  
5 have the power and may execute the power or  
6 exercise the powers.

7 I think it's something that we can  
8 work on to clarify to make sure everybody is  
9 on the same page.

10 And -- and I don't want -- and  
11 another concern I have, I guess -- so I'm  
12 supportive of this overall effort, is what I'm  
13 saying, and I appreciate your testimony from a  
14 different -- but I don't want to drive from  
15 one county to another either, to be honest  
16 with you, and not know what powers the sheriff  
17 has as a citizen.

18 I don't want to have to look up and  
19 say, now I'm in Erie and, you know, what  
20 powers does the sheriff have over me as a  
21 citizen as I'm driving through town, et  
22 cetera.

23 And I think most people are concerned  
24 about that. And -- and so do you have any  
25 response? And I know you've heard that

1 concern also from others.

2 So I just wondered what -- what your  
3 response was to those kinds of concerns.

4 SHERIFF MERSKI: Well, my response  
5 would be that this is exactly what this bill  
6 will do, is it will clear up the powers and  
7 the duties of the sheriff across the whole  
8 Commonwealth that all 67 sheriffs will have  
9 the same authority and the same power and the  
10 same duties to make arrests, warrantless  
11 arrests, to enforce the Crimes Code, to  
12 enforce the Vehicle Code, without any doubt or  
13 any question.

14 I understand what you were saying is  
15 that how active will sheriffs be from county  
16 to county? That would depend on the needs in  
17 the communities.

18 Just like the school resource officer  
19 we have in the program in Erie County is a  
20 prime example. Every school district has  
21 different needs. Say, for instance, the one  
22 school district where we had the most latest  
23 school shooting in the Commonwealth of  
24 Pennsylvania where a young boy went and shot a  
25 teacher at a school dance up in Edinboro,

1 Pennsylvania.

2 The needs in that school district are  
3 far different than in the Harbor Creek School  
4 District. So each officer fashions his  
5 program depending on the needs.

6 And that's what this bill would do.  
7 It would allow the local communities, the  
8 county commissioners, in my case the home rule  
9 charter form of government, fashion the --  
10 what the sheriffs -- how active they would  
11 be.

12 They would have the authority to do  
13 the job; but if the need wasn't there, that  
14 there were enough municipal police officers  
15 and State Police in the area, that their role  
16 would be in a resource role.

17 But if something would happen, then  
18 they do have the authority to make that  
19 arrest, and that's what we need.

20 REPRESENTATIVE GABIG: Thank you for  
21 that response. And I guess just to make sure  
22 on the bill that I have, 466, on the second  
23 page, Page 2, Line 3, where it says shall have  
24 and may exercise the same powers as municipal  
25 police officers, there's a shall have and may

1 exercise, and I just think that language is a  
2 little -- can be clarified a little bit better  
3 to ensure that the intent of the maker of the  
4 bill -- that we're -- you know, we're able to  
5 do that.

6 Because it says shall have and may  
7 exercise, and there the shall and may seem to  
8 be terms that could be clarified a little bit  
9 better.

10 So thank -- thank you for your  
11 response and that's just a comment to the  
12 maker of the bill.

13 REPRESENTATIVE DALLY: Thank you,  
14 representative, and I just -- my comment was  
15 that I think Sheriff Merski explained it very  
16 well and I think that is the intent of the  
17 legislation.

18 And I'd be happy to, you know,  
19 discuss that with you if there are, you know,  
20 some tweaks to the language. But I think your  
21 testimony explains the bill as far as what my  
22 intent is.

23 Thank you.

24 SHERIFF MERSKI: Mr. Chairman, I  
25 would like to introduce Sheriff Gerringer from

1 Montour County. He would also like give some  
2 compelling testimony to the committee.

3 Would that be possible?

4 CHAIRMAN CALTAGIRONE: Okay. Is it  
5 very --

6 SHERIFF GERRINGER: Very short.

7 CHAIRMAN CALTAGIRONE: Is it very  
8 short? Okay. Because, as you know, we got a  
9 long list of testifiers here today and some of  
10 the members are going to have to leave the  
11 room for Appropriations a little bit later  
12 on.

13 But go ahead.

14 SHERIFF GERRINGER: Thank you,  
15 Mr. Chairman. Good morning.

16 My name is Ray Gerringer. I'm the  
17 Sheriff of Montour County.

18 On behalf of all sheriffs and deputy  
19 sheriffs and citizens of Montour County, thank  
20 you, Mr. Chairman, and members of the  
21 committee for conducting the informational  
22 hearing on this vital issue concerning the  
23 sheriffs in Pennsylvania.

24 Let me begin by telling this  
25 committee that I have been with the Montour

1 County Sheriff's Office since February 5th,  
2 1978. In January 2004, I was sworn in as the  
3 elected sheriff of Montour County and on  
4 January '4th of this year I was sworn into my  
5 second term of office.

6 Prior to being elected sheriff, while  
7 serving as a deputy sheriff, a chief deputy  
8 sheriff, and a chief county detective, I  
9 attended and successfully completed the  
10 proscribed courses of study with the  
11 Pennsylvania Deputy Sheriffs' Education and  
12 Training Commission, the Pennsylvania  
13 Municipal Police Officers Education and  
14 Training Commission, and also attended and  
15 successfully completed the Pennsylvania  
16 Electronic Surveillance and Wiretapping  
17 Control training.

18 In addition to the statutory --  
19 statutory courses, I have attended and  
20 completed well over 100 courses of study  
21 related to criminal law, criminal  
22 investigations, and specialized narcotic  
23 enforcement and I continue to receive yearly  
24 recertification as required under Pennsylvania  
25 law.

1           The Montour County Sheriff's Office,  
2           like all other Pennsylvania sheriffs, continue  
3           to provide deputy sheriffs with training and  
4           recertification every two years as per Act 2.  
5           Those deputies that have attended the Act 120  
6           training receive recertification yearly by  
7           purchasing tickets from MPOETC. This training  
8           is the type that the municipal police are  
9           receiving each year. This training must be  
10          completed in accordance with Pennsylvania  
11          law.

12                    In Montour County the sheriff's office  
13           and all municipal police work together  
14           diligently each day, working together as a  
15           team to ensure the citizens of Montour County  
16           receive the best law enforcement that they  
17           deserve and they presently pay for.

18                    Montour County is an eighth class  
19           county with 11 government bodies within the  
20           county, which has approximately 18,236  
21           citizens and covers approximately 131 square  
22           miles.

23                    The county only has two municipal  
24           police departments with 13 full-time  
25           officers. The -- all the other municipalities

1 depend on the Pennsylvania State Police for  
2 law enforcement protection.

3 The Pennsylvania State Police that  
4 are assigned to cover Montour County are out  
5 of the Milton station, which is located in  
6 Northumberland County. The State Police from  
7 Milton also cover part of Northumberland  
8 County and all of Union County. This station  
9 has a large area to cover.

10 For many years in Montour County the  
11 Office of Sheriff and all law enforcement  
12 agencies have worked together side by side on  
13 law enforcement matters and for years it has  
14 proven positive for Montour County.

15 For the record, there is no turf war  
16 along law enforcement in Montour County. It's  
17 always been a team effort, and we've worked  
18 well together, and it's made Montour County a  
19 safer place to live, work, and raise a  
20 family.

21 Since the Pennsylvania Supreme Court  
22 decision *Kopko v. Miller*, and now *Commonwealth*  
23 *v. Dobbins*, clearly the time is now for the  
24 General Assembly to pass legislation that  
25 clearly authorizes the sheriffs and deputy



1 sheriffs to enforce the laws of this great  
2 Commonwealth.

3 The people of Pennsylvania expect law  
4 enforcement to work aggressively to rid our  
5 communities of illegal drugs and the people  
6 that sell them. Pennsylvania sheriffs have  
7 been an integral part of this mission for many  
8 years.

9 As Sheriff of Montour County, I  
10 believe and share the same common mission as  
11 all other sheriffs of Pennsylvania, that we  
12 must protect and serve the citizens of our  
13 counties, and this should be the most important  
14 service that government agency can provide.

15 The need for this legislation, House  
16 Bill 466, is critical. Crime, drugs, and  
17 gangs are escalating, in small rural counties  
18 especially.

19 House Bill 466 is not a Republican or  
20 Democratic issue. House Bill 466 is a public  
21 safety issue. The General Assembly needs to  
22 pass the bill and the Governor needs to sign  
23 the same into law.

24 As Sheriff of Montour County and a  
25 proud father of two wonderful children, I

1 respectfully request the General Assembly to  
2 work in a bipartisan effort for the passage of  
3 House Bill 466.

4 It is imperative for all  
5 Pennsylvanians, but for those in smaller rural  
6 counties with limited law enforcement, this  
7 bill is critical.

8 Should House Bill 466 not pass into  
9 law, the only losers will be the good citizens  
10 of the great Commonwealth and the true winners  
11 will be the drug dealers and the criminal that  
12 violate our laws each day.

13 Finally, all citizens of Pennsylvania  
14 deserve the best in law enforcement. It would  
15 be absolutely unacceptable to the citizens of  
16 rural counties to not enable sheriffs to  
17 participate in fighting crime.

18 Sheriffs and deputies, well over  
19 2,000, already being trained, already being  
20 paid, stand ready to assist their law  
21 enforcement brothers and sisters when called  
22 upon.

23 House Bill 466 is not about taking  
24 jobs away from municipal police. It's not  
25 about more money for sheriffs' budgets.

1       Simply put, it's about public safety.

2                   Thank you very much, Mr. Chairman,  
3       and members of this committee.

4                   CHAIRMAN CALTAGIRONE: Thank you.  
5       Any questions from members? Any other  
6       questions from members?

7                   REPRESENTATIVE PICKETT: Thank you,  
8       Mr. Chairman.

9                   I do represent the Bradford County  
10       that was spoken about in Sheriff Merski's  
11       testimony, and thank you for being here today,  
12       sheriff.

13                   I also represent two other counties,  
14       but Bradford County has had some very vital  
15       involvement, should I say, in what we're  
16       talking about here today.

17                   And if I can picture Bradford County  
18       for you, it's the second largest  
19       geographically-sized county in the state and  
20       yet only has 60,000 people.

21                   So you can imagine that there's a lot  
22       of wide open, beautiful territory in Bradford  
23       County, but unfortunately that territory is  
24       also pretty apt to provide hidden spots for  
25       people who want to do things that are against

1 the law and, namely, certainly a lot of drug  
2 dealers. Other crimes also, but certainly a  
3 lot of drug dealers feel that they can go very  
4 undetected in these rural territories, of all  
5 three of my counties, and especially  
6 Bradford.

7 In Bradford County there are only six  
8 boroughs that have municipal police, and they  
9 -- that would represent a very small portion  
10 of the -- of the actual land coverage in  
11 Bradford County and certainly a small amount  
12 of the population.

13 And I do believe that in -- during  
14 the night when the State Police are patrolling  
15 that county there are two that are -- on a  
16 common basis are out in the county that  
17 night.

18 I only say those things because it's  
19 just not enough, and I do believe we have  
20 well-trained people who are dedicated and  
21 willing to take on part of this mission from  
22 our sheriffs' departments, and I personally  
23 know all of my sheriffs and all -- I have  
24 three that I -- within my -- my legislative  
25 district, and all of the deputies, and I find

1       them to be incredibly intelligent,  
2       well-trained, dedicated people who really have  
3       all of the things in their -- in their heart  
4       that were just given in testimony by the  
5       Montour sheriff.

6               I believe that the -- that our  
7       sheriffs' departments can and have made a  
8       great difference in shutting down the  
9       methamphetamine labs in my area.

10              They're there. We still have  
11       problems, and I do believe that by backing the  
12       sheriffs off, it has given those labs another  
13       feeling of freedom to do what they want to do  
14       out there.

15              The other municipal police and State  
16       Police simply cannot cover it all. They do  
17       their best, but they can't do it.

18              And I believe that when we started to  
19       see the most intense number of labs and  
20       cooking and -- and activity with meth that was  
21       going on in my region, the sheriffs became  
22       extremely active in that and -- and began to  
23       make a huge difference.

24              All of the elected sheriffs  
25       themselves went out and did seminars with

1 people. They -- they enlisted the citizens in  
2 becoming working watchdogs for this type  
3 and -- of activity and allowed 800 numbers and  
4 opportunities for people to be able to report  
5 what they saw. It became a real citizens'  
6 effort, and I believe a lot of that was put in  
7 place by the sheriffs' department.

8 I herald them for that, I recognize  
9 that it's important, and I'm very, very  
10 interested in this bill for my region.

11 I -- if I were to ask a question at  
12 this point, I guess I would say that in -- in  
13 understanding what happened with the -- with  
14 the Kopko decision, I'm kind of wondering  
15 if -- if the judge at that point was telling  
16 us, I understand -- I believe I understand  
17 that the question that originally brought the  
18 case had to do with wiretapping training.

19 If I'm incorrect on that, somebody  
20 can tell me. But I am wondering if that judge  
21 wasn't more or less telling us to do what  
22 we're doing here today. Listen, folks, you're  
23 behind the times on this. I have to do what I  
24 have to do based on what the law says. You  
25 need to upgrade the law and you need to make

1 it say what it -- what it would say for  
2 today's safety needs in our communities.

3 So I guess I would just ask for a  
4 comment on that at this point.

5 SHERIFF MERSKI: You are absolutely  
6 right. The Supreme Court in the last  
7 decision, the Cory Dobbins decision, clearly  
8 stated that the -- we need to go to the  
9 legislators to get statutory authority.

10 They don't want to see the sheriffs  
11 cut back. Let's face it. This is a  
12 commonsense bill. I mean we have 2300 deputy  
13 sheriffs out there doing the job before these  
14 two decisions and everything was just fine.

15 All of a sudden, we've got these two  
16 decisions and now it's taken the knees right  
17 out of the sheriffs' offices. The deputies  
18 can't go out there and do their jobs.

19 It's a commonsense bill, and that's  
20 all we need to have here, is commonsense, and  
21 move this bill along and get it passed.

22 REPRESENTATIVE PICKETT: Thank you.

23 CHAIRMAN CALTAGIRONE: Are there any  
24 other questions from members? Counsel?

25 MR. ANDRING: Yeah. Just a few

1 questions. First off, in your testimony  
2 you've -- you've constantly presented the  
3 Dobbins and Kopko cases as having made a  
4 drastic change in what was the existing law,  
5 and I -- and I find that difficult to  
6 comprehend.

7           Sheriffs, to my knowledge, have never  
8 been looked at in the state of Pennsylvania as  
9 police officers any more than constables are  
10 looked at as police officers.

11           And I was here as chief counsel back  
12 in 1994 when we passed the legislation  
13 addressing the situation in the Allegheny  
14 County Sheriff's Office, because that was the  
15 one place in the state where sheriffs had been  
16 involved in what you would call routine law  
17 enforcement.

18           And at that time I don't recall any  
19 sheriffs from anywhere in the state or the  
20 state association coming in and saying that we  
21 need to give that same sort of authority to  
22 other sheriffs around the state that we were  
23 specifically giving to the Allegheny County  
24 Sheriff's Department, and by implication, not  
25 giving to any other sheriffs in this state.



1           And so when you say the Dobbins case  
2 shows that sheriffs need police powers,  
3 frankly, the sheriffs in the Dobbins case  
4 should have taken the information they had and  
5 gone to the appropriate law enforcement  
6 agency, the appropriate police department, and  
7 let them get the search warrant.

8           That is what -- that is what has been  
9 done in this state historically.

10           And in the Kopko case, as far as Drug  
11 Task Forces, we have had sheriffs working on  
12 Drug Task Forces. They can be deputized by  
13 the district attorney as county detectives.  
14 They can be deputized by the Attorney General  
15 as assistant district attorneys. So that  
16 would address that issue.

17           And in that respect, we have talked  
18 to your representatives about the possibility  
19 if -- if additional legislation is, in fact,  
20 needed of authorizing sheriffs to have police  
21 powers if they're operating under the  
22 authority of a district attorney or the  
23 Attorney General or the State Police or the  
24 municipal police department, to be essentially  
25 deputized and operate under the authority of

1 an existing police agency.

2 So where does your agency -- or where  
3 does your organization stand on granting that  
4 type of authority to the sheriffs as opposed  
5 to general police powers?

6 SHERIFF MERSKI: I don't believe that  
7 we ever discussed that as an option.

8 Historically, the sheriffs under common law  
9 have always had the authority to make  
10 arrests. It was never abrogated.

11 And the Supreme Court ruled on that  
12 in the first three cases. That would be Leet,  
13 Lockridge, and Kline.

14 What we need to do here today is we  
15 have 2300 deputy sheriffs that by the  
16 legislature the Act 2 was passed to train them  
17 and they have similar or exact training as  
18 municipal police officers.

19 It would be a shame not to utilize  
20 the sheriff and the sheriff's deputies in a  
21 full law enforcement capacity.

22 Crime doesn't sit and wait around the  
23 corner. It happens just like that (snap of  
24 fingers), and sometimes the sheriffs are  
25 available. A lot of times the sheriffs are

1 available. We also have a network and we work  
2 fine with all the law enforcement.

3 The idea and intent of this bill is  
4 to allow the local communities, based on their  
5 needs, to give the sheriff the authority  
6 across the whole Commonwealth to utilize those  
7 people in the same capacity as a local police  
8 officer or State Police.

9 MR. ANDRING: But we get to this  
10 problem then. I mean in your testimony you --  
11 you talk about limits and you keep talking  
12 about local options and local decisions. In  
13 fact, this bill contains no limitations, no  
14 local options of any sort whatsoever.

15 If this bill passes, every sheriff in  
16 the state and every deputy sheriff will have  
17 police powers. The deputy sheriffs would have  
18 to complete the training. The sheriff doesn't  
19 even actually have to complete any training or  
20 have any experience whatsoever in law  
21 enforcement.

22 And when you give someone police  
23 powers, true, they can go out and get a search  
24 warrant against a drug lab like in Dobbins,  
25 but they also can go out and get a search

1 warrant against their neighbor. They can go  
2 out and get a search warrant against their  
3 political opponents. They can go out and get  
4 a search warrant against anybody that they  
5 want to get a search warrant against. And  
6 there's nothing in this bill that in any way  
7 limits that.

8 With our municipal police departments  
9 we have civilian control, and we also have a  
10 very important protection, Civil Service. And  
11 the sheriffs, to my knowledge, do not use  
12 Civil Service to hire deputies in the state of  
13 Pennsylvania.

14 So if the sheriffs are going to move  
15 to be unlimited police departments, operating  
16 solely at the discretion of the sheriff, would  
17 you suggest that we move to the Civil Service  
18 hiring then for deputy sheriffs?

19 SHERIFF MERSKI: To answer the first  
20 part of your question, because it was a  
21 multiple question, as far as the sheriffs are  
22 concerned, the majority of the sheriffs have  
23 law enforcement training and experience.

24 That -- the part of requiring the  
25 sheriff to have some, before he runs for

1 election or she runs for election, that would  
2 be incumbent on the General Assembly to create  
3 some type of legislation if that's -- that  
4 were their desire.

5 But, on the other hand, we have the  
6 Attorney General is not a law enforcement  
7 officer, is not required to have Act 120 or  
8 Act 2 training, and he controls a large law  
9 enforcement agency.

10 He even writes the wiretap -- he  
11 issues the orders for the Wiretap Act. Yet  
12 he's not a law enforcement officer.

13 The district attorneys are just like  
14 the sheriffs. They're elected every four  
15 years. There is some stipulation, I  
16 understand. I believe they have to be  
17 lawyers. But they could be marriage lawyers  
18 or they could be bankruptcy lawyers.

19 But yet they're the ones that are  
20 going to decide what cases are prosecuted. It  
21 doesn't specify exactly what they need to do.

22 And probably another compelling  
23 example would be our district magistrate or  
24 district justices. I don't know the exact  
25 term for them now.

1           They're not required before they're  
2           elected to have any kind of training or any  
3           special training or qualifications.

4           MR. ANDRING:   But before they assume  
5           office they have --

6           SHERIFF MERSKI:   Yes.

7           MR. ANDRING:   -- to have training.

8           SHERIFF MERSKI:   Yes.   So that's why  
9           I say the General Assembly can look at that,  
10          about the sheriffs, if need be.

11          Probably the most compelling one is  
12          our President of the United States.  He's in  
13          charge of the largest military, the most  
14          powerful military in the world, and can have  
15          them do just about anything, but he is not a  
16          general.  So --

17          MR. ANDRING:   What about the issue of  
18          Civil Service for hiring deputies?

19          SHERIFF MERSKI:   I have not discussed  
20          that issue and that would be something that we  
21          would have to get back to the Chairman on that  
22          in writing.

23          We're not sure.  We've never  
24          discussed it.  So I can't really comment on  
25          that at this point in time.

1           MR. ANDRING:  Again, you keep talking  
2           about local options.  This bill doesn't  
3           provide any sort of global option.  If this  
4           passes, the sheriff in every county  
5           essentially has a police department and can  
6           utilize it at his total discretion.

7           The people who are going to end up  
8           paying for this are the county commissioners.  
9           They're also going to pay for the liability  
10          insurance.  They're the ones who are going to  
11          get blamed.

12          And they have absolutely no  
13          authority.  They have no right to opt in or  
14          out.  They have no right to control.

15          Are you willing to provide the local  
16          county commissioners with a veto power over  
17          what the sheriff's office does and whether or  
18          not they exercise these powers?

19          SHERIFF MERSKI:  They already have  
20          that option because they control the budget of  
21          the sheriff.  They can determine through the  
22          citizens what the citizens want in that  
23          community.

24          MR. ANDRING:  No.  I'm -- I'm -- what  
25          I'm talking about is, if this bill passes --

1           SHERIFF MERSKI:  Yes.

2           MR. ANDRING:  -- any sheriff or  
3           deputy sheriff can walk into a magistrate's  
4           court to -- to attempt to swear out a search  
5           warrant.  They can go out on the street and  
6           arrest somebody for a crime.

7           There's nothing in this bill that  
8           lets the county commissioner say, wait a  
9           minute, maybe it's not a good idea to have  
10          our -- give our deputy sheriffs that kind of  
11          broad-based power with no control by the  
12          county over that.

13          Are you willing to let -- let the  
14          county commissioners opt in or out of granting  
15          broad-based police powers to the sheriffs?  
16          It's a simple question.

17          SHERIFF MERSKI:  I do not have a  
18          direct answer.  It's really not a simple  
19          question.  It's a very complicated question.

20          And I don't have a direct answer for  
21          that for you right now.  And if that needs to  
22          be answered by the rest of the committee, we  
23          will get back to you in writing.

24          MR. ANDRING:  Okay.  Thank you.  
25          That's all the questions I have.



1                   REPRESENTATIVE WILLIAMS: I have a  
2 question

3                   REPRESENTATIVE DALLY: Okay. Thank  
4 you, counsel.

5                   Yes. The Chair recognizes  
6 Representative Jewell Williams from  
7 Philadelphia.

8                   REPRESENTATIVE WILLIAMS: Thank you,  
9 Mr. Chairman.

10                   Let me just say, let me just  
11 compliment you on this bill, supporting this  
12 bill, and having support for a bill like  
13 this.

14                   As a former chief of the criminal  
15 division for the Philadelphia's Sheriff's  
16 Office, I believe that the sheriff's office  
17 plays a major role in law enforcement, a major  
18 role.

19                   In the city of Philadelphia our  
20 sheriffs are Civil Service. And it's  
21 working. I believe that sheriffs' offices  
22 around -- the sheriffs' offices around the  
23 state need to be integral part -- partner with  
24 our local police with the way crime is going  
25 on these days around our state.

1                   The Municipal Police Officers  
2           Training Act, which gives most of the sheriffs  
3           the powers of arrest, is already there. It is  
4           my opinion that legislation that is need --  
5           that is needed, that we need to support a bill  
6           like this, so we can all work together in  
7           solving crime in Pennsylvania.

8                   I don't think this committee should  
9           be antagonizing the sheriffs and putting so  
10          many questions up so they have to act --  
11          answer all these questions.

12                   The problem is, in Pennsylvania, we  
13          need to have these -- we need to have the  
14          sheriffs working with the police officer.  
15          Crime is everywhere.

16                   And a lot of times we get caught up  
17          in this red tape. Throw the red tape out.  
18          Let's get the sheriffs in Pennsylvania to be  
19          the municipal police officers. If they need  
20          additional -- if they need additional  
21          municipal police officers training, programs,  
22          or whatever, let's give it to them.

23                   Let's make the sheriffs whole in  
24          Pennsylvania. Let's cut the red tape. Let's  
25          cut the bureaucracy in making sure that these

1 sheriffs are whole and working hand in hand  
2 with the local police organizations.

3 For me, and the city of Philadelphia,  
4 where I represent, I want the sheriffs to be  
5 more active in law enforcement in the city of  
6 Philadelphia.

7 I want to be able to say that we need  
8 the sheriffs to be activated to start driving  
9 in the streets of Philadelphia to solve some  
10 of the crimes and the violence that we have in  
11 the city of Philadelphia.

12 So I support this bill, and I -- and  
13 I commend you for coming here today and  
14 testifying in front of this committee.

15 REPRESENTATIVE DALLY: Thank you,  
16 representative.

17 Any other members wish to question  
18 these witnesses? I see none.

19 Thank you, gentlemen, for your  
20 testimony.

21 SHERIFF MERSKI: Thank you,  
22 Representative Dally.

23 SHERIFF GERRINGER: Thank you.

24 REPRESENTATIVE DALLY: Is there  
25 anyone here from the Attorney General's

1 Office? They're next on the agenda. They may  
2 be delayed.

3 So, given that, I'd like to call as  
4 our next witness, Lieutenant Frank Pawlowski,  
5 who is the Deputy Commissioner of Operations  
6 for the Pennsylvania State Police.

7 Welcome. You may be seated.

8 Welcome, Lieutenant Colonel Pawlowski. We  
9 appreciate you taking the time to testify  
10 before the committee today and you can proceed  
11 when you're ready.

12 LT. COLONEL PAWLOWSKI: Thank you and  
13 good morning.

14 Committee members, I'm Lieutenant  
15 Colonel Frank Pawlowski, Deputy Commissioner  
16 of Operations for the Pennsylvania State  
17 Police.

18 At the outset I want to thank you for  
19 the opportunity to testify and to commend you  
20 on your efforts to increase the police  
21 presence in Pennsylvania.

22 I also want to emphasize the fact  
23 that county sheriffs are, and always have  
24 been, our partners in law enforcement.

25 As you already know, many communities

1 across Pennsylvania are plagued by drugs and  
2 gun violence. Obviously, it's critical to  
3 maintain an adequate police presence  
4 throughout the state, and I appreciate your  
5 desire to tackle that issue.

6 Further, we welcome the assistance  
7 and collaboration of groups like the sheriffs  
8 to try to keep our communities safer.

9 This effort has to be done the right  
10 way, however; and the legislation as currently  
11 written provides significant operational and  
12 structural challenges that must be addressed.

13 Unfortunately this legislation gives  
14 sheriffs additional police powers without  
15 truly recognizing the total needs of the  
16 criminal justice community which relies upon  
17 the services sheriffs provide to the courts,  
18 the prisons, and the public as a whole.

19 The truth is our sheriffs already  
20 have a full plate. They perform  
21 time-intensive duties that play a significant  
22 role in public safety.

23 To mention just a few, sheriffs are  
24 needed to serve process, transport prisoners,  
25 provide courthouse security, issue licenses to

1 carry concealed weapons, conduct the required  
2 background investigations, and deal with  
3 firearms relinquished in Protection From Abuse  
4 cases.

5           If sheriffs now begin to focus on  
6 police work, valuable resources will be  
7 shifted away from these important  
8 responsibilities. If the duties of sheriffs  
9 are to be increased, we must first make sure  
10 that their current duties can still be met  
11 with the same quality and dedication that  
12 exists today.

13           Moreover, there's simply no need to  
14 create another category of law enforcement  
15 with different training standards and  
16 overlapping jurisdiction. In fact, every  
17 square inch of the Commonwealth is already  
18 served by a police department, either a local  
19 department or the Pennsylvania State Police.

20           Suppose there is a burglary at your  
21 house. Who responds? Right now it's simple.  
22 Either the State Police or the municipal  
23 police, whichever has primary police  
24 jurisdiction of that municipality at the  
25 time.

1           Adding county sheriffs into the mix  
2 has the potential to cause jurisdictional  
3 confusion. Clearly our communities are  
4 entitled to the maximum deployment of existing  
5 police services.

6           However, they are also entitled to  
7 clarity and reliability as to who will be  
8 responding to their need for police services.

9           Simply deploying more people to  
10 perform police work does not provide clarity  
11 and reliability. Instead, we need to maximize  
12 the use of police officers for police work.

13           Further, not all sheriffs' offices are  
14 funded or equipped to provide police services,  
15 creating a patchwork across the state in which  
16 some county sheriffs will function as police  
17 officers and others will not.

18           We already have an unusually  
19 fragmented system in which approximately 1100  
20 police departments operate independently. If  
21 anything, we should be consolidating police  
22 services, not adding additional layers.

23           Significantly, in those areas where  
24 additional police resources truly are needed,  
25 the county chief law enforcement, the district

1 attorney, has already the power to deputize  
2 sheriffs as county detectives.

3 Finally, if sheriffs are given the  
4 same powers and duties as municipal police  
5 officers, it's imperative that they be subject  
6 to the same requirements as municipal police  
7 officers.

8 In addition to training, municipal  
9 police officers must undergo background  
10 investigations, psychological investigations,  
11 and drug screening. They must meet vision and  
12 hearing standards and read at a ninth grade  
13 level.

14 Municipal police officers cannot have  
15 been convicted of a felony or serious  
16 misdemeanor and their certifications are  
17 subject to revocation by the Commission.

18 Consequently, if deputy sheriffs are  
19 going to serve as police officers, they need  
20 to be certified as police officers.

21 Once again, on behalf of Colonel  
22 Miller and the Pennsylvania State Police,  
23 thank you for this opportunity to testify  
24 before your committee. I would be happy to  
25 answer your questions you may have.



1                   REPRESENTATIVE DALLY: Thank you,  
2                   Lieutenant Colonel Pawlowski.

3                   Members? Representative Gabig.

4                   REPRESENTATIVE GABIG: Thank you. I  
5                   think you've framed a couple of issues that  
6                   some of us have been concerned about, and I  
7                   tried to a raise of couple of those concerns  
8                   from the prior -- with the sheriffs that were  
9                   there.

10                  But my -- so here's what I -- I want  
11                  to ask you basically the flip side of what I  
12                  asked the sheriffs. It seems like these court  
13                  cases limited what was the status quo. We had  
14                  sheriffs doing certain things, and I think you  
15                  were here when I was listing off certain  
16                  things. And I know, for example, with the  
17                  Drug Task Force and -- and the other things,  
18                  they have been involved with the State Police  
19                  and also involved with municipal enforcement,  
20                  with the FBI, in a team approach, and it seems  
21                  like since these court cases they've been  
22                  limited by those court cases in their  
23                  participation in some of these efforts.

24                  So what many of us want to do is get  
25                  them back at least to where they were. And

1 then there's -- there's some people that want  
2 to make them a general police authority.

3 And -- and so don't you think there's  
4 a -- with these court cases that have come  
5 out, don't you agree that they have been  
6 limited in their ability to participate as  
7 they were prior to these court cases in the  
8 law enforcement capacity, probably as an  
9 auxiliary or back-up, or not the lead agency,  
10 but they were participating in these task  
11 forces and these other efforts.

12 Don't you think there's something  
13 that the legislature needs to do to respond to  
14 the court case to at least get us back to  
15 where we were?

16 LT. COLONEL PAWLOWSKI: I think the  
17 court worked very, very hard to define their  
18 responsibilities and they go back to the  
19 common law and they go back historically to  
20 their authority there.

21 And I'm not quite sure how involved  
22 the court wants to get. I'm not a lawyer here  
23 or anything like that. Obviously, they do  
24 suggest there that the legislature has the  
25 authority to take the sheriffs wherever they

1 want.

2 It seems to me that the court cases  
3 spoke to the fact that the legislature can  
4 define the authorities of the sheriffs, if  
5 need be, there.

6 So I don't think the courts enjoy  
7 getting involved in these fights here. It's  
8 just my read on things here.

9 REPRESENTATIVE GABIG: No. My  
10 question is not -- not -- not to comment on  
11 what the courts did, but because of the  
12 decisions they've made, it seems like there's  
13 been a change in what the sheriffs were doing  
14 before these court cases. They were  
15 involved. I know in my county, and you  
16 probably know better throughout the state,  
17 with DUI task forces, with Drug Task Forces.  
18 I mean one of the cases was an electronic  
19 surveillance thing where they were  
20 participating. I'm sure -- I imagine the  
21 State Police might have been involved with  
22 that. I can't imagine them not be on a -- on  
23 a case. And now they're limited because of  
24 these court decisions.

25 Don't you think we need to do

1 something to at least put them back to where  
2 we were before these recent court decisions so  
3 they can help the State Police and the  
4 municipal and D.A.'s and the Attorney General  
5 enforce the law here in Pennsylvania?

6 LT. COLONEL PAWLOWSKI: I think the  
7 decision still allows the district attorneys  
8 and the General Attorney to swear in the  
9 sheriffs and use them as they see fit.

10 As the chief law enforcement officers  
11 for the county, the D.A.'s really can oversee  
12 the need for the sheriffs, where to get them  
13 involved.

14 REPRESENTATIVE GABIG: Well, I  
15 thought -- I thought I read that the Attorney  
16 General, after this -- after these decisions,  
17 took all the sheriffs off of his Drug Task  
18 Force, which are across the state; that he --  
19 he felt that because of these decisions  
20 they -- he couldn't use them in their law  
21 enforcement capacity.

22 Now, that's affected law enforcement  
23 on a Commonwealth basis to be able to fight  
24 drug dealers. And so don't you agree that  
25 we -- or do you disagree? I guess maybe you

1 disagree that we don't need to do anything.

2 Maybe you don't like the current  
3 bill. You think it goes too far. But is --  
4 but is the State Police position that we don't  
5 need to do anything legislatively in response  
6 to these recent court decisions at least to  
7 get us back to where we were?

8 LT. COLONEL PAWLOWSKI: No. I know  
9 what you're asking there and I think we do  
10 have to clarify.

11 REPRESENTATIVE GABIG: Okay.

12 LT. COLONEL PAWLOWSKI: Some of their  
13 powers there. I think some of the confusion  
14 in the Drug Task Force then is the  
15 partnership.

16 The defense bar probably have a  
17 number of avenues that they can pursue here to  
18 try to overturn action by the police because  
19 of the involvement of the deputies there. I  
20 think there's some members of the district  
21 attorneys office here that are able to address  
22 that.

23 But I agree with you there is some  
24 confusion there as to how far to allow  
25 deputies to play in law enforcement.

1           REPRESENTATIVE GABIG:  And then your  
2           overall position or your -- what you're saying  
3           to us is that if we're going to make -- give  
4           these general police powers to the sheriffs,  
5           which they did not have prior to this, or at  
6           least they weren't functioning that way in my  
7           county; let me put it that way -- that they  
8           have to abide by all the rules and regs and --  
9           and legislative and statutory guidelines that  
10          municipal police officers would have to do.

11                    Is that your position?

12                    LT. COLONEL PAWLOWSKI:  Yes.

13                    REPRESENTATIVE GABIG:  Okay.  Thank  
14           you very much.

15                    And thank you, Mr. Chairman.

16                    REPRESENTATIVE DALLY:  Thank you,  
17           Representative Gabig.

18                    The next question comes from  
19           Representative Kula.

20                    REPRESENTATIVE KULA:  Thank you,  
21           Mr. Chairman, and I thank you for your  
22           testimony, Lieutenant Colonel.  I have a  
23           couple of questions and maybe as well as a  
24           statement.

25                    My area covers Fayette County which

1 is where the Uniontown State Police barracks  
2 is located, and I'm sure you can attest to the  
3 fact that the Uniontown State Police barracks  
4 is the busiest barracks within the  
5 Commonwealth as far as crime.

6 Not that that is a great thing for  
7 Fayette County, but I can tell you -- it has  
8 come a long way and we're very proud of the  
9 accomplishments we've made.

10 But I -- your question was when  
11 someone calls for a burglary, that your home  
12 is being burglarized, who responds?

13 Now, the township that I represented  
14 as a magisterial district judge had no local  
15 police officers. So obviously State Police  
16 handled that. So if there was no local  
17 police, obviously the State Police would  
18 respond.

19 What would happen if there was local  
20 police if someone called the State Police?

21 LT. COLONEL PAWLOWSKI: If there were  
22 local police --

23 REPRESENTATIVE KULA: Yes.

24 LT. COLONEL PAWLOWSKI: -- there?  
25 The local police, if they were on duty, would

1 respond because they'd retain primary  
2 jurisdiction of the call.

3 REPRESENTATIVE KULA: So that call  
4 would be made to 911 I would assume.  
5 Probably. Okay.

6 LT. COLONEL PAWLOWSKI: Possibly.

7 REPRESENTATIVE KULA: So it seems  
8 then that that could be covered by the 911  
9 dispatchers as to whether there's a local  
10 police, there's not a local police, in  
11 coordination with the State Police as to  
12 during certain hours who would be contacted to  
13 cover that particular area.

14 I can tell you, as a district judge,  
15 I would have complaints from people coming  
16 into the office and indicating that they had  
17 called, the State Police were contacted, and  
18 no -- I am not in any way degrading the State  
19 Police because I know the tough job that they  
20 do -- but the time that would --that elapsed  
21 until that response was made by the State  
22 Police, because there just are not enough to  
23 cover every minute of the day and not knowing  
24 what type of crimes are going to be  
25 committed.



1           So it seems that -- and we have sat  
2           in this Judiciary Committee -- I've been here  
3           over a year now -- and listened to the  
4           problems throughout the Commonwealth of there  
5           not being enough police officers on the  
6           street, that we are lacking the presence of  
7           police to help to deter the amounts of crimes  
8           that are being committed.

9           And it seems to me that this  
10          legislation would certainly help to put the  
11          police presence out on the street.

12          We also have been very active in  
13          expanding the scope of practice in many parts  
14          of the medical profession. Because we -- and  
15          this is what we heard in every one of those.  
16          That these are people that are trained to do  
17          something, and we are not using that training  
18          to the best of their ability and to all areas  
19          that we should.

20          And this seems to be another area  
21          that we have people trained, we have people  
22          out there that can help protect this  
23          Commonwealth, but we are not using --  
24          utilizing those officers to be able to use  
25          that training to do what we need to do.

1           I mean are the State Police -- are  
2 you -- is your testimony here today  
3 specifically in opposition to this  
4 legislation?

5           LT. COLONEL PAWLOWSKI: Yes.

6           REPRESENTATIVE KULA: And your reason  
7 being your testimony here today, that you feel  
8 there are other ways of dealing with it?

9           LT. COLONEL PAWLOWSKI: Yes. There  
10 are.

11          REPRESENTATIVE KULA: Okay.

12          LT. COLONEL PAWLOWSKI: Nobody in  
13 this room denies we, you know, need more  
14 police officers across the Commonwealth. And  
15 there's always concerns about response time.

16                 But there's unintended consequences  
17 when you have far-reaching legislation like  
18 this.

19                 I'm a member of a committee that's  
20 working with Judge MacElree for the Common  
21 Pleas Court judges across the Commonwealth.  
22 The judges are very, very concerned about  
23 their security in the courthouse as well as  
24 outside of the courthouse there. We're  
25 working very hard to enhance the security in

1 the courthouses here.

2 As law enforcement continues to make  
3 more arrests, more people are coming in and  
4 out of our courthouses day in and day out.

5 It's the duty of the sheriffs to  
6 protect the courthouse, to protect the  
7 judges. And one of our concerns is -- is  
8 that, fine, the sheriffs can be out on the  
9 street doing police work while they're  
10 shortchanging their mission there of  
11 protecting the courthouse and the judges  
12 there.

13 So you have a number of unintended  
14 consequences in this far-reaching legislation  
15 that is of concern to the State Police.

16 REPRESENTATIVE KULA: I believe  
17 though that there are ways of handling that  
18 situation also. As in my county we have court  
19 constables.

20 We have constables within our  
21 courthouse that are there for security for  
22 each of the courtrooms and for the judges and  
23 those are handled in that way, which then  
24 frees up the sheriff's department to do -- to  
25 do the job that they're required to do under

1 their present realm in Fayette County.

2 But we do -- I believe there are  
3 other ways to deal with courthouse security  
4 and that type of security because it has  
5 worked in my county.

6 But I thank you for your testimony.

7 REPRESENTATIVE DALLY: Thank you,  
8 representative. And I guess I just have one  
9 comment to your concern about courthouse  
10 security.

11 I mean obviously that's the elected  
12 sheriff. That is their obligation under the  
13 law, and nothing in this bill would -- would  
14 preclude that obligation from being  
15 fulfilled.

16 Much like, I don't hear any sheriffs  
17 saying that, you know, they're concerned about  
18 the speeding on interstate highways because  
19 there aren't enough State Police out there. I  
20 mean are they fulfilling that obligation?

21 So I think that is really a red  
22 herring.

23 Representative Pickett.

24 REPRESENTATIVE PICKETT: Thank you,  
25 Mr. Chairman, and thank you, Colonel

1 Pawlowski.

2 Just to comment a little further, I  
3 really believe that this is a manpower issue  
4 and I don't think that anything I hear is  
5 reasons for why we can't work out details of  
6 who is going to do what and issues of  
7 training, I just simply believe all of that is  
8 solved with good minds coming together to do  
9 it.

10 And as an unintended consequence, I  
11 think we develop an unintended consequence by  
12 simply not having enough manpower out in our  
13 communities watching crime.

14 Crime has changed a lot. If I go  
15 back 30 years and I think about the sheriff  
16 that was in my county 30 years ago, he drove  
17 around in a compact car, put the -- the -- the  
18 transported inmate or criminal on the seat  
19 beside him and drove him where he needed to  
20 take him.

21 I mean that's just in that short a  
22 period of time how things have changed and how  
23 crime has changed.

24 We -- we know that especially even  
25 our -- our -- especially even our rural jails

1 are overcrowded. We got just this burgeoning  
2 drug issue that will not stop and will not go  
3 away and to not make use of all the manpower  
4 that's available to us, that can be easily  
5 trained and easily put in place --and I  
6 certainly respect everything the State Police  
7 do.

8           But I can tell you that they are run  
9 so thin in my rural areas, if somebody makes a  
10 phone call that's a known crime, I'm in my  
11 house or I just came to my house and somebody  
12 burglarized it, okay, I can make a phone call  
13 and I can wait for the State Police to come  
14 and make a report on this. They're not going  
15 to catch the criminal.

16           But I just believe that in so many  
17 other cases we can use these -- these sheriffs  
18 and deputy sheriffs to be able to see what's  
19 going on and to investigate what's going on  
20 and to be able to just be one more helpmate in  
21 changing this -- this constant pattern of  
22 crime that we have growing throughout our --  
23 our state everywhere really. It's city and  
24 rural. No question about it.

25           You did talk about -- in your

1 testimony about what training might be  
2 needed. It is my -- my probable thinking that  
3 that -- that the training requests you make  
4 are not out of line, and I don't think that we  
5 really have a problem with those. Anyway with  
6 the sheriffs that I've spoken with.

7 So, anyway, I appreciate your  
8 comments and I just wanted to add mine to  
9 that.

10 Thank you.

11 REPRESENTATIVE DALLY: Thank you,  
12 representative.

13 Counsel Ryan.

14 EXECUTIVE DIRECTOR RYAN: For some of  
15 our members' edification, in our discussion  
16 with the members from the Sheriffs'  
17 Association, we discussed possibility the of  
18 these sheriffs having the powers of arrest and  
19 executing as enforcement officers when they  
20 were used or would be used by another police  
21 agency and under their supervision.

22 In other words, designation by the  
23 Attorney General and use by the Attorney  
24 General or an agency that has other law  
25 enforcement authority where they can be used

1 to complement in that particular situation and  
2 be involved in all the task forces.

3 I can just say the idea wasn't  
4 received well. It was that just the  
5 sheriffs -- sheriffs' departments themselves  
6 should have the complete supervision, which  
7 would kind of be the situation of creating  
8 really a -- truly a separate police force  
9 within -- within a county and that's -- that's  
10 where we did have discussion with them.

11 REPRESENTATIVE PICKETT: Thank you,  
12 Mr. Chairman. Since that kind of came to me.

13 I did want to comment also that,  
14 surely, you know, being perhaps attached to  
15 other law enforcement groups, but going back  
16 to the municipal police in my area, and I  
17 spoke about six boroughs that have any kind of  
18 full-time protection at this point, I can't  
19 imagine that there's been a year in a decade  
20 when every single one of them didn't struggle  
21 with their budget on whether or not they're  
22 going to continue that police department and  
23 to what level.

24 It is a constant battle to keep any  
25 kind of municipal police from a financial



1 aspect in the rural areas. Thank you.

2 REPRESENTATIVE DALLY: Any other  
3 questions of this witness from any of the  
4 committee members?

5 All right. Thank you very much,  
6 Lieutenant Colonel.

7 Next to appear before the panel is  
8 Robert -- is it Boner -- Buehner, Esquire,  
9 District Attorney for Montour County and  
10 George Wagner, Esquire, a former member of the  
11 House of Representatives.

12 Welcome, gentlemen.

13 MR. BUEHNER: Good morning,  
14 Representative Dally and members of the House  
15 Judiciary Committee.

16 My name is Bob Buehner, and I'm the  
17 elected District Attorney of Montour County.  
18 I have served in that capacity for nearly 17  
19 years, ranking fifth in seniority among  
20 Pennsylvania's 67 district attorneys.

21 I have served as president of the  
22 Pennsylvania District Attorneys Institute. I  
23 was president when legislation was introduced,  
24 and it went before this committee, to make  
25 Pennsylvania's district attorneys full-time.

1           And I want to thank this committee  
2 through the years for being in the forefront  
3 and focusing on issues of public safety.

4 After all, it was the House Judiciary  
5 Committee which took the lead in the special  
6 session on crime to make Pennsylvania safer.

7           And you have a similar opportunity  
8 with House Bill 466, granting sheriffs and  
9 deputy sheriffs the same powers as municipal  
10 police officers.

11           What's the problem? Well, the  
12 problem is that there have been various  
13 Supreme Court decisions emanating from our  
14 Pennsylvania justices that have really rained  
15 confusion on the powers and duties of the  
16 sheriffs in this Commonwealth.

17           You've heard about the Kopko decision  
18 and Dobbins decision from Representative  
19 Pickett's area of Bradford County.

20           I think the point in those cases was  
21 a larger point than the individual issue that  
22 was addressed. I think it was the  
23 Pennsylvania Supreme Court specifically saying  
24 to the General Assembly would you please  
25 define the powers and duties of a sheriff.

1           They have had difficulty with that  
2           issue. I don't think they particularly liked  
3           it. I don't think justices of our Supreme  
4           Court like freeing criminals who are operating  
5           meth labs.

6           So they are pointing and looking to  
7           you, as our elected representatives, to  
8           address this issue head-on.

9           You know, whenever district attorneys  
10          had a problem with the Supreme Court case, we  
11          did not hesitate to come before the Senate and  
12          the House to reright a wrong. For example,  
13          when the Supreme Court ruled that D.A.'s had  
14          to charge specific offenses rather than  
15          general offenses and threw out convictions on  
16          that basis, we came to this body and you  
17          corrected that wrong.

18          And that's all the sheriffs are doing  
19          today. So be it for them.

20          And I think this confusion has also  
21          confused the citizens of this Commonwealth who  
22          perceive sheriffs as being part of the law  
23          enforcement community that protects them every  
24          day.

25          They think they can call the sheriff

1 and he can come out and make arrests and do  
2 various things when, in fact, they cannot.

3 In Montour County, as small as it is,  
4 we have a section of over 100 square miles,  
5 populated by thousands of people, that from  
6 10:00 p.m. at night until 6:00 a.m. in the  
7 morning there is but one State Police cruiser  
8 available for our county and it is dispatched  
9 from a State Police barracks located in  
10 another county.

11 A personal experience for me. I was  
12 working late in the office, came home.  
13 Thought there was a burglar in my house.

14 I live in State Police territory. I  
15 was getting ready for a big crime day and  
16 there had been some threats made.

17 I called the State Police. Now, I'm  
18 the D.A. calling the State Police. I was told  
19 it would take them 40 minutes to get there.  
20 Not uncommon. They had other things they were  
21 doing, and I understand that.

22 So what did I do? I called the  
23 sheriff. And he helped me. But that is the  
24 problem, Representative Pickett and our  
25 representative from Fayette County, time and

1 time again, through no fault of the State  
2 Police, I have such an excellent group of  
3 state troopers in the Milton barracks. I'm so  
4 proud of them. I work with them, and I work  
5 with them every day. Great people.

6 There just aren't enough. They  
7 reduced the complement from above 30 with a  
8 lieutenant overseeing the barracks, to less  
9 than 30 and their rules require a sergeant  
10 take over.

11 Where these troopers went, perhaps  
12 they went to casinos, perhaps they went  
13 somewhere. But, doggone it, there just aren't  
14 enough of them, as good as they are, and they  
15 are so good.

16 House Bill 466 would add additional  
17 and local law enforcement officers to protect  
18 those parts of our counties, vast portions of  
19 rural Pennsylvania, and I've said it's no  
20 fault of the Pennsylvania State Police.

21 A speaker I think that will follow me  
22 will tell you and he will agree that even in  
23 the affluent counties, in the more suburban  
24 areas, we do not have sufficient law  
25 enforcement resources to combat the growing

1 level of crime.

2 Now, there's a false solution to this  
3 problem. And here's what it is. Some will  
4 suggest to you, and already have, that all we  
5 need to do is cross-designate sheriffs as  
6 county detectives and the problem will go  
7 away.

8 Now, let me talk to you about that,  
9 because I think I have to hit that head-on,  
10 and people who know will tell you I'm blunt,  
11 candid, and direct.

12 This is just a roadblock to defeat  
13 this bill. That's all it is.

14 First of all, cross-designation will  
15 require county salary boards, approval by the  
16 county commissioners, to establish the county  
17 detective position and pay for it.

18 Roadblock number one.

19 Cross-designation -- think about this -- will  
20 create divided loyalties. Who does that  
21 county detective work for? The District  
22 Attorney, who has designated him, or the  
23 sheriff, who has hired him and pays his salary  
24 out of his budget?

25 These divided loyalties, when the

1 D.A. says I want you to go out and do this and  
2 the sheriff says, no, you have to be in the  
3 courthouse that day because we have court, so  
4 you can't go out and do the search warrant or  
5 do the drug surveillance. These divided  
6 loyalties will not work.

7 Where special county detectives do  
8 work would be in areas, like, for example, a  
9 Drug Task Force. Designating a specific area  
10 for a specific person -- purpose.

11 But let me tell you this. Drug task  
12 forces using deputized sheriffs as county  
13 detectives are no cure-all. They're no  
14 panacea.

15 We try to get people together to do a  
16 big round-up and we try and get people to, and  
17 ,gee, the local police departments, they got  
18 to do school patrols and make sure kids get  
19 across the street to the elementary schools.  
20 They have other things they need to do. They  
21 got to respond to accidents.

22 So we end up doing the best we can  
23 scraping it together using cross-designation  
24 where we actually drag in the sheriffs because  
25 they're the ones who come to our aid and my

1 aid when we need it.

2 But they're no cure-all, no panacea,  
3 and I'm telling you this issue of divided  
4 loyalties in counties where the district  
5 attorney and sheriff may not necessarily see  
6 eye to eye on everything, it's just a false  
7 promise to defeat this bill.

8 Also, the district attorney, if he  
9 doesn't like his sheriff, he can effectively  
10 block the good intentions of cross-designation  
11 by never cross-designating any deputy  
12 sheriff. Road block number three or four for  
13 those counting.

14 And, frankly, I am a District  
15 Attorney in an eighth class county. I'm it.  
16 There are no assistant D.A.'s and until last  
17 year I didn't have a secretary. I now have a  
18 secretary. I actually have an office in the  
19 courthouse now. First district attorney in my  
20 county to have that.

21 I don't have the time, because of all  
22 the things I do as head of the trial division,  
23 the appellate division, the appeals division,  
24 the juvenile division, anything you do,  
25 advising the police, I can't be out running a



1 bunch of county detectives.

2 A sheriff can. A sheriff can  
3 absolutely do that. But I can't. I don't  
4 have the time.

5 You folks, with all the legislation  
6 you've given us to make Pennsylvania a safer  
7 place, like victim/witness coordinators,  
8 things of that nature, I spend a lot of my  
9 time doing that.

10 There are not enough hours in the day  
11 for a D.A. to run a bunch of --  
12 cross-designated deputy sheriffs as county  
13 detectives.

14 And there's also some concerns raised  
15 about the cost of this bill, and I think  
16 that's somewhat misplaced, although I  
17 understand it truly.

18 But concerns about cost, equipment,  
19 they need to be discussed at the county level  
20 between the sheriffs and the county  
21 commissioners, and let the locally elected  
22 official sort that out.

23 That's an important point. I don't  
24 think all of a sudden that if this legislation  
25 happens that things are going -- right away

1 everyone is going to be running out as deputy  
2 sheriffs making arrests. What's going to  
3 happen is there will be serious discussions at  
4 the county level to work out how many county  
5 detectives -- I'm sorry -- how many sheriffs,  
6 deputy sheriffs will we need? How many do  
7 court security? How many do law enforcement  
8 purposes?

9 But let that be done nearest to the  
10 people, nearest to the problem.

11 And at the same time you're  
12 considering House Bill 466, one of your most  
13 distinguished members of the House of  
14 Representatives, the Honorable John Perzel,  
15 the -- a Speaker Emeritus, has floated a  
16 proposal for 10,000 new police officers.  
17 Wow.

18 But why do we need 10,000 when we've  
19 already got 2300 ready to go? And I -- I laud  
20 him for that. I'm not sure how effective it  
21 will be or whether it will get any hearing or  
22 airing of this.

23 But he is saying there's a need, and  
24 I respect that opinion. But there's a  
25 solution in House Bill 466.

1           Another issue that's been raised is  
2           the potential liability of all these deputy  
3           sheriffs, that if they all become -- get  
4           police powers.

5           Let me tell you, as the only District  
6           Attorney who has been sued civilly in  
7           Pennsylvania for actually dismissing charges  
8           against a defendant, I understand how civil  
9           liability works.

10           And we have something called  
11           insurance. And my county defended me and the  
12           case was dismissed.

13           Insurance will take up the issue of  
14           civil liability, as it should. That's why  
15           counties have it. And so there is an issue of  
16           civil liability. Sure. More police officers,  
17           more people are having police powers.

18           But there's no guarantee of anything  
19           on that. And I think it's sort of saying,  
20           well, geez, these deputy sheriffs, they're  
21           really risky. Well, I don't believe that to  
22           be the case at all.

23           I want to talk about now the real  
24           opposition to this bill and it's very  
25           subliminal. You might only hear today in

1 oblique ways. But I think it's important to  
2 hit it head-on.

3           And this is one -- there are two main  
4 points of opposition. First is, there's a  
5 distrust of giving sheriffs too much power.  
6 The ideas that some rogue sheriff is going to  
7 go out and get a search warrant and spy on his  
8 neighbors, there are so many checks and  
9 balances and I say to, with respect to  
10 Attorney Andring, who I think I went to law  
11 school with at Dickinson, there's something  
12 called probable cause and to a district judge,  
13 I know you would never stamp a search warrant  
14 for any purpose at all because a sheriff  
15 wanted to spy on a neighbor.

16           I understand the concern, though, but  
17 I think it's more because of the image of  
18 sheriffs you see on television, you know, the  
19 old Smokey and the Bandit with Jackie Gleason,  
20 Boss Hoggs from the Dukes of Hazard.

21           Well, that is not Pennsylvania  
22 sheriffs. No way. Pennsylvania sheriffs are  
23 educated. They're trained. They're  
24 professional. And, most importantly, they're  
25 damn courageous. Damn courageous.

1 Deputy sheriffs have paid for their  
2 involvement in law enforcement with their  
3 lives. With their lives. So I take great  
4 umbrage at people who have a misperceived idea  
5 of what a sheriff is in Pennsylvania.

6 And maybe that's true down in  
7 television land and maybe it's true in some  
8 parts of the United States, but not here in  
9 Pennsylvania.

10 The real trouble is -- and I'll put  
11 it this way. It's a lousy way to make policy  
12 to scuttle a bill because Sheriff A doesn't  
13 get along with District Attorney B in County  
14 C.

15 I think we have to take the broad  
16 policy approach. Because District Attorney A  
17 is not going to be around forever. Neither is  
18 Sheriff B.

19 We have to look at this in a policy  
20 context, not regarding the pet peccadillos  
21 that D.A.'s and sheriffs have for each other.  
22 And I think that is a great underlying  
23 opposition to this bill.

24 Then the other opposition comes from  
25 law enforcement groups who fear loss of jobs

1 or their precious overtime if sheriffs somehow  
2 become law enforcement officers. And I -- I  
3 appreciate that. Because our local police  
4 work doggone hard day in and day out.

5 But as my sheriff in Montour County  
6 told you, and as I think is the case  
7 throughout Pennsylvania, at the local level  
8 the deputy sheriffs, the local police, they  
9 all get along. They understand their roles,  
10 and they all cover each other's backs for  
11 public safety purposes.

12 Deputy sheriffs have been called to  
13 crime scenes in our county time and time  
14 again, or the deputy sheriffs have called when  
15 they've seen some crime the local police or  
16 the State Police. Why? Because they  
17 understand the risk. They understand the  
18 threat that is to law enforcement and to them  
19 as sheriffs or police officers.

20 They get along really well. I don't  
21 think this is as big an issue at the local  
22 level between sheriffs and local police  
23 departments and even the State Police as it is  
24 statewide, for whatever reason.

25 Now, the real solution. Here it is.

1 It can be solved with approval of House Bill  
2 466. If we are going to continue the war  
3 against criminals in this Commonwealth, we  
4 need as many bullets in our arsenal as we can  
5 obtain.

6 In rural Montour County -- listen to  
7 this -- in rural Montour County we have the  
8 Crips and the Bloods. For heaven's sake.  
9 Gangs. And we have two local police  
10 departments and a State Police barracks in  
11 another county and one D.A. with no  
12 assistants.

13 And you know what? We're going after  
14 them. But we're going after them with the  
15 sheriffs. We're going after them with  
16 everything that we can.

17 But this is what's going on in rural  
18 Pennsylvania in case some people haven't  
19 noticed. Interstate 80 has brought a lot of  
20 crime. Maybe tolling it is a good idea if we  
21 can keep the criminals out.

22 But the problem really is that in  
23 rural Pennsylvania we have a serious problem.  
24 We have the Internet predators everywhere.

25 We just had a guy arrested. He was

1 chatting with people from all around the  
2 county and with a web cam on his body. And we  
3 have more challenges in local law enforcement  
4 in rural areas than you can imagine. So why  
5 can't we have more bullets in our arsenal?  
6 Why can't we have deputy sheriffs with police  
7 powers?

8           And you know what? These sheriffs  
9 and deputies are well trained. Let me give  
10 you an example. They sit in the courtrooms  
11 and they monitor our court proceedings. And  
12 when I've had to use them as witnesses,  
13 they're more experienced and they're better at  
14 testifying when the rubber meets the road in a  
15 trial than the local law enforcement officers  
16 who rarely get into court, who rarely have an  
17 opportunity to testify at trials, and, as I've  
18 said, they also have courage.

19           And I would be remiss if I didn't  
20 repeat that. They go in harm's way every day  
21 to protect us.

22           Now, there are checks and balances  
23 and I want to point this out. There --  
24 because in the present Rules of Criminal  
25 Procedure we can address some of the concerns



1 of Attorney Andring and others.

2 In addition to the powers that I have  
3 statutorily as a district attorney, and so do  
4 my 66 other colleagues, we can null pros  
5 criminal charges against defendants. And if  
6 we don't like an arrest that was made by a  
7 deputy sheriff in that capacity, well, we can  
8 get rid of them.

9 And I've gotten rid of them because  
10 local police didn't do a good job. It's not  
11 fun doing that. But that's a check that I  
12 have to keep local law enforcement in check.

13 And do you understand that under the  
14 Rules of Criminal Procedure that a district  
15 attorney can require prior approval of all  
16 criminal complaints and arrest warrants that  
17 are intended to be filed by law enforcement  
18 pursuant to Rule 507?

19 So if you want to do a check and  
20 balance on sheriffs, if they have powers,  
21 district attorneys already have that because  
22 we can require prior approval.

23 And as my sheriff will tell you, as  
24 the son of an English teacher and the husband  
25 of an English teacher, I'm damn critical of

1 search warrants and things like that that come  
2 before me. I tear them apart, and I require  
3 prior approval for those kinds of things, as a  
4 check and balance.

5 And whether it's the middle of the  
6 night or the middle of the afternoon, that is  
7 a check that can be put into place on this  
8 situation if people have concerns.

9 Also, Attorney Andring, you talk  
10 about search warrants. District attorneys  
11 have prior approval for search warrants. And  
12 I think that's an important power that we  
13 should retain to review any search warrant  
14 that's filed, to make sure it states  
15 sufficient probable cause for a magisterial  
16 district judge to issue a warrant so we can  
17 search.

18 And although some in the District  
19 Attorneys Association do take a different  
20 position on House Bill 466 than I, this is a  
21 matter of paramount public safety and the  
22 interests of my citizens, who have elected me  
23 five times, takes overwhelming precedence over  
24 my loyalty to an association.

25 Since when is having more trained law

1 enforcement officers providing protection to  
2 our citizens a bad idea? When did that ever  
3 come into play?

4 I want to address two other things.  
5 I'm sorry. One other thing. And I think I've  
6 covered it with Attorney Andring on probable  
7 cause.

8 But there's another issue that you  
9 raised, sir, and I think it needs to be,  
10 again, addressed candidly and directly.

11 You talk about politicalization of  
12 the sheriff's office and a concern about that.  
13 Well, what about district attorneys? We run  
14 for office every four years. We have to run  
15 as a member of a political party. And so  
16 we're in politics, too.

17 But I'll be doggone if I would ever  
18 try to use that because I think I know what  
19 the result is. I can't speak for all the  
20 sheriffs, because I don't know all of them,  
21 but the sheriffs that I do know I would say to  
22 you are not about politicalization.

23 I have had to say this repeatedly.  
24 There's no Republican way to fight crime.  
25 There's no Democratic way to fight crime.

1 There's only one way, and that's the right  
2 way.

3 In conclusion, we up in Montour  
4 County, we like to call ourselves  
5 Pennsylvanians. And we urge this committee to  
6 adopt House Bill 466 for the benefit of all of  
7 us Pennsylvanians.

8 Thank you.

9 REPRESENTATIVE DALLY: Thank you very  
10 much for your testimony.

11 Former Representative George Wagner,  
12 do you have testimony, sir?

13 MR. WAGNER: I do. There's three  
14 minutes left. I'll keep them to five.

15 I did submit written comments for the  
16 record.

17 I just want to -- I was -- served as  
18 -- elected three terms as a district  
19 attorney. That was in the '80s. In the '70s  
20 I was elected to four terms here in the House,  
21 three of which were on the Judiciary  
22 Committee.

23 For reference, Merle Phillips is my  
24 successor. Probably -- not probably -- has  
25 done a better job than I have done, and will

1 continue to do a better job.

2           There are some concerns which have  
3 been raised here, and that's really what I  
4 want to address, the concerns, because they  
5 were not in my written comments.

6           There's been some suggestions about  
7 when did this problem come up? During the  
8 '70s when I was here, I was contacted by my  
9 sheriff, can you get a clear definition on  
10 this problem?

11           And you have to remember these  
12 problems have come up, I think, mainly because  
13 of acts, good acts, municipal training,  
14 wiretapping law, all the civil service things,  
15 everything, collective bargaining which has  
16 gone in, and I think one of the problems is  
17 the interchange here. I've heard today here  
18 law enforcement, municipal law enforcement,  
19 policemen, police officers, and they're all  
20 used interchangeably, and yet in the  
21 legislation themselves sometimes the words are  
22 particular.

23           And I think the court in its criminal  
24 rules also probably does not use all these  
25 words coherently and together and maybe the

1 reference bureau would have to do some sort of  
2 cross-checking to make sure that all these  
3 words are defined as -- the same.

4 The main criticisms I've heard are  
5 finances, territorial, associations and  
6 overbearing police.

7 When I came down today I was not  
8 concerned about overbearing police. I didn't  
9 care if it was a sheriff, I didn't care if it  
10 was a municipal police, or I didn't care if it  
11 was a trooper. I didn't want to see any of  
12 them.

13 And that's the problem we have. We  
14 have laws, which we have passed, which deal  
15 with the governing of society. Everything  
16 from speeding to fireworks to a certain extent  
17 DUI.

18 We pass them not because they're  
19 innately wrong but because we as a society  
20 have decided we have to regulate this.

21 There has to be some discretion, and  
22 we recognize that. But when it comes to the  
23 inchoate, the serious crimes, the thefts, the  
24 burglaries, I don't care where I am. I want a  
25 policeman there. I don't want to wait half an

1 hour. I want someone there right away.

2 The -- the -- the solution which has  
3 been talked about, the D.A.'s when I was D.A.,  
4 my county detective (sic) came to me, asked me  
5 and we appointed him as a county detective, he  
6 would have police officers. It was Ray  
7 Gerringer. I didn't like it. I didn't want  
8 to do it. For several reasons.

9 One is, if he made an arrest, now all  
10 of a sudden is my independent judgment as a  
11 prosecutor affected? I think it was.  
12 Fortunately, we never came across that.

13 I personally don't have a problem  
14 with that. I think that's a great idea. To  
15 continue. I wouldn't make that change. To  
16 allow the D.A. to appoint them.

17 I think that's a great tool. In some  
18 counties that works well. And I would say in  
19 most counties it works well. And I wouldn't  
20 change that. I would continue with that.

21 But what I want to point to is I hear  
22 this, and, Representative Pickett, what are  
23 the two counties, three counties you  
24 represent? You said Bradford.

25 REPRESENTATIVE PICKETT: Bradford,

1 Sullivan, and Susquehanna

2 MR. WAGNER: Okay. Like a lot of  
3 boomers, I have a second home and one of them  
4 is located in Steuben County, immediately to  
5 the north, a little to the west up there.

6 And I began to notice during the past  
7 four years up there sheriffs are involved.  
8 I've gone through DUI check points. There are  
9 the troopers, there's the local police  
10 department, and there are the sheriffs. All  
11 working together.

12 And it just so happens that one of my  
13 client's grandsons is a full-time D.A. up  
14 there, assistant D.A., and I talked to him  
15 some time ago.

16 I said, do they? Yes, absolutely  
17 sheriffs have complete authority. And you  
18 have a full-time D.A., full-time assistants.  
19 Steuben County is rural. It has more deer  
20 killed in Steuben County than any other county  
21 in New York.

22 But they only have about 80,000  
23 people. They don't have -- I said, well, tell  
24 me about the territorial problems. We don't  
25 really have any. There are some, but they get



1 worked out.

2 So I did ask and I did talk to the  
3 chief, the deputy sheriff up there. He said  
4 we're broken into divisions with a criminal  
5 division. We have a corrections division for  
6 the -- the prisoners and then we have the  
7 civil division for warrants.

8 And I said, well, tell me what  
9 happens then when you get a call? He said,  
10 well, the way it's handled -- and I did not  
11 talk with the New York troopers about this.

12 I'm going by what he told me. He  
13 said, we don't have a problem. Whoever calls  
14 gets the call. That's who responds.

15 He said, most times most of your  
16 problems are not your rapes, your robberies,  
17 and murders. Most of them deal with  
18 assault-type things. They don't want to have  
19 the State Police there. They want to have  
20 someone who comes, someone from the sheriff's  
21 department or the local police department,  
22 someone who knows the brother, someone who  
23 knows the aunt, someone who knows the uncle,  
24 and can get the problem solved. That's what  
25 they want.

1           They don't want to have someone in  
2 jail. They want to have the problem solved.  
3 They want a uniform there, someone who has  
4 authority, and if the problem isn't solved,  
5 that's what's going on.

6           I said, well, what happens if -- if  
7 they say I got a problem here and I don't know  
8 who to call? He said, 911 will make that  
9 call. We ask them and 911 will make that  
10 decision. That's the response. They don't  
11 have problems.

12           The reason I ask about the county is  
13 because they also have -- that's the southern  
14 tier of New York. They have the same meth and  
15 other criminal labs that are going on in their  
16 southern tier mountains as we do in our  
17 northern tier mountains.

18           They have these regional task  
19 forces. They even get together with the  
20 Pennsylvania State Police and local police to  
21 talk about this. Because these guys go back  
22 and forth. And just imagine saying, oh, well,  
23 we have the New York police here but, sheriff,  
24 your local guys can't come in because you  
25 don't have authority.

1           It just doesn't work that way. And  
2           it seems to me that New York doesn't have  
3           these territorial problems. They don't have  
4           these jurisdictional problems. They don't  
5           have this harassment problems. It works very  
6           well.

7           As a matter of fact, the harassment  
8           is taken care of because in general the  
9           sheriffs and the local police know who the  
10          people are. They know who is involved.

11          And, of course, you have the  
12          electorate involved. You have the  
13          electorate. You have the people who can vote  
14          for the sheriff. If they think he is being  
15          overbearing, they vote him out. If they think  
16          the county commissioner is not properly  
17          supporting the budget, they can vote them  
18          out. So the electorate is involved as the  
19          ultimate deciders on all this.

20          I think the tools are on the table.  
21          This is not a new bureaucracy with the  
22          sheriffs.

23          The tools are on the table. They're  
24          already there. All they're just asking is  
25          legislative permission to go ahead and use

1 those tools to fight the crime.

2 It's been a pleasure to be back here  
3 before and -- with the Judiciary Committee.  
4 And I thank you.

5 REPRESENTATIVE DALLY: Do any members  
6 have any questions of the two witnesses?

7 Counsel Andring.

8 MR. ANDRING: Yeah. In listening to  
9 your testimony and in listening to the  
10 comments that members of the committee have  
11 expressed in support of this bill, it seems to  
12 be focused primarily on the lack of police in  
13 certain areas of the Commonwealth, and that's  
14 probably a problem all over the Commonwealth.

15 But in supporting this bill, I mean,  
16 Bob, you made the comment that we have 2300  
17 law enforcement officers ready to go. But, in  
18 fact, I mean I think we can assume that these  
19 people all have a problem right now.

20 That's why they're on the payroll.  
21 They have courthouse duties. They serve  
22 warrants. They have all the things that  
23 they're doing right now.

24 So this bill does not, in fact, put  
25 2300 new police officers out on the street.

1 It gives people who have a job to do right now  
2 some additional powers.

3 But if we're actually going to  
4 address the shortage of police officers, we  
5 need more police officers, whether they be  
6 municipal, state, sheriff, whatever.

7 And so my question is you seem to --  
8 at least it struck me that you were supporting  
9 this because you essentially want to move to a  
10 county police department with --

11 MR. BUEHNER: No.

12 MR. ANDRING: -- with -- some sort  
13 of -- am I misreading --

14 MR. BUEHNER I think you are.  
15 Attorney Andring, you are.

16 But, yeah, I agree with you, you  
17 know, sheriffs are -- and deputy sheriffs are  
18 not going to all of a sudden fill the streets  
19 with these 2300 and then we'll replace them  
20 immediately with 2300 doing the back office  
21 work or the security work or all that.

22 MR. ANDRING: Right.

23 MR. BUEHNER: But amazingly enough, I  
24 think deputy sheriffs are multitaskers, and I  
25 think they have this ability to cross over in

1 areas.

2 Let me just give you one example in a  
3 courthouse. Deputy sheriffs have functions in  
4 the courthouse for courthouse security.

5 MR. ANDRING: Right.

6 MR. BUEHNER: We agree with that.  
7 But the problem is somebody slugs the judge  
8 back in his chambers, they got to call the  
9 local cops to come up and make the arrest.  
10 And that's a problem. And -- and -- because  
11 they don't have the powers unless they  
12 actually see it happen.

13 MR. ANDRING: Right.

14 MR. BUEHNER: And, you know, we don't  
15 have foolproof security in any courthouse in  
16 Pennsylvania.

17 So, yeah, it is a manpower issue. I  
18 absolutely agree with you. And I think,  
19 again, that's got to be an issue with county  
20 commissioners and local sheriffs to address  
21 that, and perhaps the General Assembly to be  
22 involved along the lines of Representative  
23 Perzel, how he thought that would be an idea  
24 to jump with the 10,000.

25 I think a collection of those two

1 things would be important. And I -- but I  
2 concur with you on that.

3 MR. ANDRING: And my concern is if  
4 you give this kind of broad police power to  
5 the sheriffs, are you in effect creating an  
6 expectation that they are now, especially in  
7 the smaller counties, the police department  
8 who is responsible?

9 If it takes the State Police 40  
10 minutes to come there, now you've got a  
11 sheriff's office who might be right down the  
12 street. People are going to call there and  
13 they're going to expect a response.

14 And are we by doing this, without any  
15 funding or any real consideration of that,  
16 effectively telling the county commissioners,  
17 especially in our rural counties, you are now  
18 going to be required to set up and fund a  
19 county police department?

20 MR. BUEHNER: I don't think so. In  
21 my county of 20,000 we have two, a township  
22 and a borough, and we have, if you know where  
23 I live in Danville, we have the country's  
24 largest rural health care center, Geisinger  
25 Medical Center, which brings in 20,000 people

1 to our county every day, either as patients or  
2 employees or visitors.

3 So -- and there are police  
4 departments that handle where Geisinger, and  
5 the borough of Danville, where our courthouse  
6 is located.

7 I don't see the sheriffs having  
8 powers in those areas primarily, but in a  
9 rural area where we have one trooper in a  
10 vehicle eight hours at the midnight shift,  
11 yeah, they might become that.

12 On the other hand, while crime is  
13 increasing, not every house is being  
14 burglarized every day or night. So we do not  
15 have an overwhelming crime problem compared  
16 to, say, some of our friends in the urban  
17 areas. But we have a growing crime problem.

18 So I don't think there will be -- it  
19 will be a countywide police department. I  
20 don't see that.

21 And, again, there are checks and  
22 balances, as I indicated to you, budget, D.A.  
23 approval, things of that nature, that would --  
24 would -- could act to restrict that if a  
25 sheriff got what I would call beyond the pale,



1 you know, went over the top. There's ways I  
2 can bring him back in, as can county  
3 commissioners. But it's a local decision,  
4 local checks and balances.

5 MR. ANDRING: How about the issue  
6 that the State Police mentioned of the  
7 difference in some qualifications between  
8 police officers generally and deputy  
9 sheriffs? And you also have the Civil Service  
10 issue.

11 MR. BUEHNER: I think Civil Service  
12 in small -- in rural counties may not be the  
13 way to go because, you know, a limited pool of  
14 applicants.

15 But in certain mid-size and, you  
16 know, counties like Dauphin and Cumberland,  
17 there may be a way to address it. I don't  
18 know. You know, I think the days where  
19 sheriffs hired all their political cronies and  
20 all that stuff, you know, may have happened at  
21 one time, it's too important today for public  
22 safety purposes to hire your buddies. You  
23 have to hire trained professionals.

24 MR. ANDRING: But in Allegheny County  
25 we have seen where we have a sheriff with law

1 enforcement powers and what happens when you  
2 mix an elected sheriff and law enforcement  
3 officers who are also able to participate as  
4 contributors and workers in the political  
5 system. I --

6 MR. BUEHNER: I'm aware of that. I  
7 followed that in -- in newspaper articles and  
8 -- but the same could be said of D.A.'s. I  
9 have to -- if I have an opponent, I've got to  
10 raise funds and -- and, you know, who do you  
11 talk to?

12 Well, you talk to your friends and  
13 people like that. Well, yeah, that could  
14 happen. It hasn't. But, yeah, that's a  
15 potential.

16 I think it can be addressed outside  
17 of House Bill 466.

18 MR. ANDRING: Okay. Thank you.

19 MR. BUEHNER: Thank you. Good to see  
20 you.

21 CHAIRMAN CALTAGIRONE: I'm back.

22 MR. BUEHNER: Hi.

23 CHAIRMAN CALTAGIRONE: Any other  
24 questions or comments? No?

25 REPRESENTATIVE GABIG: Mr. Chairman?

1 CHAIRMAN CALTAGIRONE: Yes, sir.

2 REPRESENTATIVE GABIG: I hate to --  
3 I'm just wondering about scheduling and  
4 timing. It's afternoon here and I didn't know  
5 if the chair was going to address that issue  
6 or --

7 EXECUTIVE DIRECTOR RYAN: That clock  
8 is ten minutes fast.

9 CHAIRMAN CALTAGIRONE: That's a  
10 little fast.

11 REPRESENTATIVE GABIG: Oh, that's a  
12 legislative clock?

13 EXECUTIVE DIRECTOR RYAN: It's for  
14 when I want to go home.

15 REPRESENTATIVE GABIG: Noon. Are we  
16 still going through?

17 CHAIRMAN CALTAGIRONE: Yes.

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

20 CHAIRMAN CALTAGIRONE: What I'd like  
21 to do, you know, I'll let the members decide  
22 if you want to take a break at 12:30 or if you  
23 want to just continue and try to go straight  
24 through, if you could. Because I know that a  
25 lot of the sheriffs are here and -- unless you

1 need a break. Short break? You're fine to go  
2 to 12:30?

3 THE COURT REPORTER: I can go to  
4 12:30. I'll just need five minutes.

5 CHAIRMAN CALTAGIRONE: Okay. Five  
6 minutes. Thank you, gentlemen.

7 MR. WAGNER: Thank you.

8 CHAIRMAN CALTAGIRONE: Rick Sheetz is  
9 next. That would be from the Attorney  
10 General's Office. I think he's right outside  
11 the door there.

12 In talking with the prime sponsor,  
13 while we're waiting for him to come in, just  
14 for your edification, I was talking with -- in  
15 addition to getting some medication for  
16 myself, I was talking to some of your friends  
17 from Berks County from our sheriff's  
18 operations in Berks, and one of the -- let me  
19 just run these five items by you all just to  
20 think about this for potential drafting,  
21 either in a separate bill or as an amendment  
22 to Representative Dally's bill.

23 Training, certification, Civil  
24 Service, liability, and binding arbitration.  
25 So I -- I put that out there before you to

1 discuss -- and I know you probably are going  
2 to be meeting -- as part of, I think, a  
3 compromise to try to get some understanding on  
4 the legislation and with the other groups that  
5 may or may not be in opposition to the  
6 legislation. I just wanted to share that with  
7 you.

8 We'll start off right now with the  
9 Attorney General's Office. Go right ahead,  
10 sir.

11 MR. SHEETZ: Thank you, Chairman  
12 Caltagirone. And I -- I do wish to thank you  
13 for accommodating the Attorney General's  
14 Office this morning. We had some other  
15 matters going on earlier, and I'm sure you --  
16 following Bob Buehner was quite a chore, but I  
17 promise you I will be brief.

18 My name is Rick Sheetz and I'm the  
19 Director of the Criminal Law Division for  
20 Attorney General Tom Corbett, and to my right  
21 is a much more familiar face, Annmarie Kaiser,  
22 who is the Director of Legislative Affairs for  
23 the Office of Attorney General.

24 Good morning. Good afternoon,  
25 Chairman Caltagirone, Chairman Marsico, and

1 members of the House Judiciary Committee.

2 Thank you for the opportunity to appear before  
3 you today to provide commentary on House Bill  
4 466.

5 As you are aware, the issues  
6 addressed in House Bill 466 are rather complex  
7 and have been the subject of discussion for  
8 decades.

9 How can Pennsylvania's law  
10 enforcement entities work together in the most  
11 cooperative manner to assure the safety of our  
12 citizens? How can we effectively carry out  
13 our individual responsibilities, yet  
14 collaborate with our criminal justice partners  
15 without the existence of conflict?

16 Clearly, we could spend days  
17 contemplating these issues. But in the  
18 interest of time I will restrict my  
19 comments to a few key areas.

20 Sheriffs have a vital role in the  
21 criminal justice community. They secure the  
22 courthouses throughout the Commonwealth, serve  
23 process, transport prisoners, issue licenses  
24 to carry firearms, and have assumed key  
25 functions with respect to the Protection From

1 Abuse Act.

2           What you may not know is that until  
3 Pennsylvania Supreme -- the Pennsylvania  
4 Supreme Court issued its decision in the case  
5 of Kopko versus Miller, many sheriffs'  
6 deputies served on our Drug Task Forces.

7           In Kopko the Supreme Court held that  
8 sheriffs have comparatively limited powers of  
9 arrest compared to law enforcement.

10           We greatly appreciate the dedication  
11 and service of the sheriffs who work closely  
12 with our agency to dismantle illegal drug  
13 trafficking rings in communities throughout  
14 the Commonwealth. Unfortunately, we were  
15 compelled to suspend their involvement with  
16 respect to the task forces in the wake of  
17 Kopko.

18           As you may be aware, after Kopko was  
19 decided, another case, Commonwealth versus  
20 Dobbins, declared that Pennsylvania sheriffs  
21 do not have the authority to investigate and  
22 initiate charges for violations of the Drug  
23 Act.

24           This case further cemented the  
25 inability of sheriffs' deputies to participate

1 in the task forces. Thus, the courts have  
2 spoken and now the matter is before the  
3 legislature for consideration.

4 As you consider these important  
5 issues, I would suggest that you bear in mind  
6 the diverse nature of Pennsylvania's 67  
7 counties. Law enforcement needs of our  
8 citizens in our urban areas vary greatly from  
9 those who reside in our rural communities.

10 Thus, a one-size-fits-all structure  
11 may not be workable in Pennsylvania. Should  
12 you chose to provide some flexibility to  
13 ensure local needs are addressed, certain  
14 procedures should be followed statewide to  
15 ensure a certain level of standardization.

16 Furthermore, it is imperative that  
17 all members of the law enforcement community  
18 have sufficient resources to effectively carry  
19 out their duties, whether it's the duties that  
20 they are currently assigned or new  
21 responsibilities provided by statute.

22 Other factors to consider include the  
23 cost of liability and indemnification coverage  
24 and who will bear that expense.

25 I would be remiss if I did not



1 mention the issue of training. On behalf of  
2 the Office of Attorney General, I serve as a  
3 member of the Municipal Police Officer  
4 Education and Training Commission,  
5 affectionately referred to as MPOETC. I'm not  
6 sure how you get that out of the acronym, but  
7 that is the name it was referred to. And this  
8 oversees the training for municipal police  
9 officers throughout the Commonwealth.

10 The training program for the sheriffs  
11 is a separate program which does not fall  
12 under the training commission, Municipal  
13 Police Officers' Training Commission.

14 The deputy sheriff training program  
15 is administered by the Pennsylvania Commission  
16 on Crime and Delinquency and is overseen by  
17 the Deputy Sheriffs' Education and Training  
18 Board. Although both programs have a  
19 substantive, challenging curriculum, they are  
20 separate and distinct.

21 This separateness raises a larger  
22 issue. If we are to coordinate and  
23 collaborate in the most effective manner with  
24 our law enforcement partners, we must examine  
25 the various educational programs that exist

1 for all law enforcement entities and determine  
2 how they can be streamlined to provide some  
3 level of consistency.

4 Even if we maintain our separate  
5 respective roles in the field of law  
6 enforcement, there are certain basic core  
7 principles that should be part of the  
8 instruction of any law enforcement  
9 curriculum.

10 It may not be possible to find  
11 solutions today to these questions raised, but  
12 we must continue to engage in these  
13 discussions so that law enforcement has the  
14 tools, the training, and clarity of purpose to  
15 proceed with our most important responsibility  
16 and that is protecting our citizens.

17 And I would be glad to answer any  
18 questions that you may have and Annmarie has  
19 offered to step in when you stump me.

20 CHAIRMAN CALTAGIRONE: Thank you.

21 Any questions?

22 Representative Gabig.

23 REPRESENTATIVE GABIG: Thank you,

24 Mr. Chairman.

25 The -- the State Police Colonel

1 Pawlowski, who is still here in uniform -- I  
2 guess it's Lieutenant Colonel. You're sitting  
3 right in front of me.

4 MR. SHEETZ: Frank.

5 REPRESENTATIVE GABIG: -- raised  
6 similar concern about training and education  
7 if we're going to broaden the historic powers  
8 of the sheriffs to make them general police  
9 powers.

10 And not -- and the core function, the  
11 traditional core function of the sheriffs as  
12 courthouse security is different than -- than  
13 someone that's participating in Drug Task  
14 Force and SWAT teams and these other task  
15 forces that are out there.

16 And so did I understand -- was I  
17 following along that you're saying if -- you  
18 know, someone should be certified and trained  
19 to the same level as municipal or State Police  
20 if they're going to be doing general policing,  
21 was that basically what you're saying?

22 MR. SHEETZ: Yes, Representative. I  
23 think that's the theme that you get from what  
24 we -- you know, our comments. I mean I think  
25 it's for all you to decide how -- how that

1 would be done.

2 But in one part -- and our office has  
3 had success in working with deputy sheriffs  
4 and it seems to me that all those years and  
5 the hundreds of deputy sheriffs that we've  
6 worked with, you know, for the Commonwealth,  
7 it seemed to have some success. So to -- to  
8 cut that off doesn't really seem to make  
9 sense.

10 But before we get to that point, I  
11 think you have to address the issue of -- of  
12 the qualifications, the training, and the  
13 education of all law enforcement for that  
14 purpose, but particularly for -- for deputy  
15 sheriffs because if you can -- if you can  
16 address that issue first, I think you've  
17 answered your question.

18 I've -- I've read some of the  
19 comments from people who have testified today  
20 and also who will testify, and it seems that  
21 throughout their testimony that seems to be a  
22 concern, is that, the qualifications,  
23 training, and education.

24 So I think we need to address that  
25 issue. This is nothing new. I remember this

1 body through House Resolution -- you can help  
2 me, Annmarie.

3 MS. ANNMARIE KAISER: 167.

4 MR. SHEETZ: 167, probably 12 --  
5 between 12 years ago, I think maybe 10 years  
6 ago, they issued recommendations and came up  
7 with exactly a similar proposal, that we  
8 should have some core curriculum for all law  
9 enforcement.

10 Once that's done I think the answer  
11 is very simple. The more law enforcement  
12 bodies that we can put on the street in the  
13 Commonwealth the better we all are.

14 I think that issue has to be  
15 addressed by you. I think that's crucial.

16 REPRESENTATIVE GABIG: So, if, for --  
17 for example, the, you know, transporting back  
18 and forth between the county prison and the  
19 courthouse and the courthouse security, do  
20 they -- do you feel they all have to have a  
21 minimum level?

22 I mean many -- some of the counties  
23 I've been in, they're retired state troopers  
24 or retired police officers. They might be  
25 older than your normal police officer or

1 trooper, because they're retired from that.

2 They might not -- they have a lot of  
3 experience, but their function and their  
4 mission is -- is different and -- than someone  
5 that's going in to do a SWAT with ongoing gang  
6 members and -- and other type of missions.

7 Do you feel that -- that the  
8 traditional role could maintain the current  
9 level of education, training, and  
10 certification, or whatever they have to  
11 maintain in terms of firearms and other  
12 training, but there should be additional  
13 training for someone that's going to have  
14 general police powers? Do you follow my  
15 question?

16 MR. SHEETZ: Yeah. I think  
17 there's -- I do. I'm not exactly sure I can  
18 answer all of it.

19 But there has to be a basic -- again,  
20 a basic core curriculum for qualifications,  
21 training, and education, and continuing  
22 education to be able to have general police  
23 powers. Okay?

24 REPRESENTATIVE GABIG: But --

25 MR. SHEETZ: I mean the division of

1 labor we find in all police departments and we  
2 know many district attorneys hire county  
3 detectives who are retiring from the State  
4 Police or other police departments but they  
5 still maintain certification under the  
6 Municipal Police Officers' Education and  
7 Training Act, in fact, as police officers.

8 You know, I think that you need to  
9 look and figure out whether or not that can be  
10 done with the sheriff -- with the sheriffs,  
11 with the body of sheriffs.

12 REPRESENTATIVE GABIG: So -- so, in  
13 other words, someone who had completed his  
14 training, similar to the municipal police,  
15 MPOETC training, could have these powers, but  
16 someone that did not complete that training  
17 and completed the current training that deputy  
18 sheriffs have might not be granted that  
19 power?

20 Is that the kind of situation you're  
21 looking at or are you saying that --

22 MR. SHEETZ: Well, I think you  
23 need --

24 REPRESENTATIVE GABIG: -- everyone  
25 who is a deputy sheriff would have to be

1 MPOETC qualified?

2 MR. SHEETZ: That -- that's really  
3 probably something you all need to discuss and  
4 figure out how that's --

5 REPRESENTATIVE GABIG: But it's an  
6 issue that you think is important that we need  
7 to look at then, I guess.

8 MR. SHEETZ: Yes.

9 REPRESENTATIVE GABIG: All right.  
10 Thank you, Mr. Chairman.

11 CHAIRMAN CALTAGIRONE: I'd like to  
12 recognize Representative Carl Mantz from Berks  
13 County who has joined the committee. Carl.

14 Representative Dally.

15 REPRESENTATIVE DALLY: Thank you,  
16 Mr. Chairman.

17 I just want to point out for the  
18 benefits of the members that in your  
19 information today is information about the  
20 difference in training of municipal police and  
21 sheriffs on a side-by-side analysis.

22 And, interestingly, there's only six  
23 hours' difference from total training hours  
24 between the two. So that's a good point that  
25 you make as far as training.



1                   And I was on that House Resolution  
2                   167 task force. I didn't realize it was that  
3                   long ago. But --

4                   MR. SHEETZ: That's our secret.

5                   REPRESENTATIVE DALLY: But -- but  
6                   thank you for your testimony.

7                   MR. SHEETZ: Thank you.

8                   CHAIRMAN CALTAGIRONE: Counsel  
9                   Andring.

10                  MR. ANDRING: Yeah. Quickly. On the  
11                  issue of the deputy sheriffs working for the  
12                  Drug Task Forces, subsequent to the Kopko  
13                  decision, does your office believe that you  
14                  would have had the authority to deputize or  
15                  appoint them in some manner to continue  
16                  working on the Drug Task Forces and was that  
17                  considered?

18                  MR. SHEETZ: It was. It was  
19                  considered, but it was decided that we would  
20                  wait and see what -- what followed after that  
21                  decision.

22                  MR. ANDRING: Did you reach a  
23                  determination as to whether you currently have  
24                  that authority?

25                  MR. SHEETZ: I can only answer that

1 by saying we have never done that.

2 MR. ANDRING: Thank you.

3 CHAIRMAN CALTAGIRONE: Representative  
4 Grell.

5 REPRESENTATIVE GRELL: Thank you.  
6 Mine sort of piggybacks onto Counsel Andring's  
7 question.

8 Prior to Kopko, were you using -- was  
9 the Attorney General's Office using deputy  
10 sheriffs in capacities other than on the Drug  
11 Task Forces or is that the primary partnership  
12 between your office and the sheriffs?

13 MR. SHEETZ: I think that was the  
14 primary, given our limited jurisdiction, but  
15 drugs being one of our main priorities, that  
16 was probably the only relationship we had with  
17 deputy sheriffs.

18 REPRESENTATIVE GRELL: I'm wondering  
19 whether as a -- as an initial step, something  
20 we could do while these training and  
21 certifications issues are sorted out, we could  
22 certainly limit legislation to authorizing  
23 deputy sheriffs to be engaged in enforcement  
24 of the drug law in coordination with the  
25 Office of Attorney General.

1           Is that something that your office  
2 would be supportive of? If we limited the  
3 expansion of the scope of deputies' powers just  
4 to address that immediate need?

5           MR. SHEETZ: I mean I would certainly  
6 discuss that with the Attorney General. I  
7 know that his concern is that he really would  
8 like this education, training, and  
9 qualification issue to be addressed at some  
10 point.

11           I believe he had -- was involved with  
12 it in his -- when he was first Attorney  
13 General back in the mid '90s and also through  
14 PCCD, as chairman of that, and I think he  
15 thinks it's an important issue. I --

16           REPRESENTATIVE GRELL: I agree with  
17 you on that. But -- but I'm thinking about if  
18 part of the catalyst for this is to address  
19 what was done by the court in Kopko, perhaps  
20 as an intermediate step we could simply  
21 address that issue while these other things  
22 are being sorted out.

23           MR. SHEETZ: Sort of --

24           REPRESENTATIVE GRELL: I'd ask you to  
25 consider that.

1 MR. SHEETZ: Yeah, I think we need to  
2 consider that and --

3 REPRESENTATIVE GRELL: Thank you.

4 MR. SHEETZ: -- get back to you.

5 REPRESENTATIVE GRELL: Thanks.

6 CHAIRMAN CALTAGIRONE: Representative  
7 Dally.

8 REPRESENTATIVE DALLY: Thank you,  
9 Mr. Chairman, once again.

10 At the Appropriations hearing the  
11 other day, the Attorney General's Office was  
12 in and I took the opportunity to ask the  
13 Attorney General --

14 MR. SHEETZ: Yes, you did.

15 REPRESENTATIVE DALLY: If he  
16 supported House Bill 466 and he indicated  
17 that -- that he believes that the issue should  
18 be dealt with statutorily. Didn't endorse  
19 this bill or whatever.

20 So that is the position of your  
21 office, that the legislature should do  
22 something with this issue?

23 MR. SHEETZ: Yes. We think. Yes.

24 REPRESENTATIVE DALLY: Good. Thank  
25 you.

1 CHAIRMAN CALTAGIRONE: Are there any  
2 other questions? Thank you.

3 MR. SHEETZ: Thank you.

4 CHAIRMAN CALTAGIRONE: Appreciate  
5 your testimony. It's your call. Five  
6 minutes? We'll take five minutes.

7 (A recess was taken from 12:24 p.m to  
8 12:40 p.m.)

9 CHAIRMAN CALTAGIRONE: We want to get  
10 started. Let's get started.

11 We'd like to next hear from David  
12 Freed, District Attorney, Cumberland County,  
13 Executive Committee from the Pennsylvania  
14 District Attorneys Association of  
15 Pennsylvania.

16 MR. FREED: Thank you, Mr. Chairman.  
17 Good afternoon. I guess it's in order.  
18 Distinguished members of the House Judiciary  
19 Committee.

20 I'm David Freed, District Attorney of  
21 Cumberland County and a member of the  
22 Executive Committee of the Pennsylvania  
23 District Attorneys Association.

24 Thank you for this opportunity to  
25 offer testimony on behalf of the Pennsylvania

1 District Attorneys Association concerning  
2 House Bill 466 which would amend  
3 Pennsylvania's Judiciary Code to greatly  
4 expand the powers and duties of the sheriffs.

5 Obviously you heard from one of our  
6 members, my colleague and friend, Bob Buehner,  
7 earlier, and I will respond to some of the  
8 things that Bob had to say.

9 Like any good prosecutor, I provided  
10 Bob with my evidence in advance of the  
11 hearing. So we're used to responding in kind,  
12 however. But I think you'll actually find  
13 areas of agreement between our positions and  
14 certainly we're good friends and Bob is an  
15 effective advocate on behalf of his citizens  
16 and certainly the sheriffs here today.

17 We appreciate the opportunity to give  
18 input on this bill and appreciate all of the  
19 committee's past supportive measures that help  
20 law enforcement, the criminal justice system,  
21 and victims of crime.

22 This bill has been a significant  
23 underlying -- significant amount of discussion  
24 within our executive committee and within the  
25 full membership of our association.

1           There is a diversity of opinion on  
2           sheriffs' law enforcement powers that I  
3           believe reflects the diversity of our  
4           Commonwealth. And I think that's been evident  
5           so far in the testimony that you've heard and  
6           will probably remain so.

7           On the issue of full, unfettered law  
8           enforcement powers for sheriffs, we did  
9           conduct a full vote of our membership and the  
10          result was that an overwhelming majority of  
11          our members oppose the bill as it's written.

12          Almost every state in the U.S. has  
13          sheriffs and the role of the sheriff varies  
14          from state to state. Even within our state  
15          the role of the sheriff and deputy sheriffs  
16          varies from county to county.

17          We are grateful to have dedicated and  
18          hard working sheriffs and deputy sheriffs who  
19          keep our courthouses safe, diligently serve  
20          process, transport prisoners, and carry out  
21          court orders. Sheriffs are essential to the  
22          orderly functioning of our court system. Many  
23          survivors of domestic violence have benefited  
24          from the hard work of sheriffs and the vital  
25          role that they perform in Protection From

1 Abuse proceedings.

2           There have been appellate decisions  
3 in Pennsylvania that have recognized sheriffs'  
4 common law powers to enforce Vehicle Code  
5 violations and summary offenses committed in  
6 their presence, and some counties rely on  
7 their sheriffs to help enforce these  
8 provisions -- provisions.

9           District Attorneys' offices are the  
10 only law enforcement agencies in Pennsylvania  
11 with countywide jurisdiction, and besides the  
12 State Police, our county detectives are the  
13 only law enforcement officers with both  
14 countywide jurisdiction and full police  
15 powers.

16           Just as the responsibilities of  
17 sheriffs vary from county to county, so do the  
18 responsibilities of county detectives. For  
19 example, in addition to all of their other  
20 responsibilities, Montgomery County's county  
21 detectives also have primary responsibility to  
22 investigate all homicides that occur there.

23           The Philadelphia District Attorney's  
24 Office has an investigations division in which  
25 prosecutors and county detectives investigate



1 crimes by public officials, economic and cyber  
2 crime, and narcotics.

3 My county detectives in Cumberland  
4 County assist municipal departments with major  
5 cases, handle most of the complicated elder  
6 fraud matters, and assist other departments as  
7 needed.

8 As chief law enforcement officer in  
9 the county, the district attorney must work  
10 with all law enforcement agencies in our  
11 jurisdiction. With as many 50, 60, or 70  
12 municipal police departments in our counties  
13 and the State Police with countywide  
14 jurisdiction, we must form a complex web or  
15 working agreements to manage potential  
16 conflicts and avoid turf wars in our  
17 jurisdictions.

18 Our Supreme Court's decision in Kopko  
19 last year ended many of these conflicts  
20 because it clarified the duties of our  
21 sheriffs' departments, or at least sought to.

22 Long ago, Pennsylvania legislators  
23 realized that there might arise a need for  
24 counties to have additional law enforcement  
25 officers with countywide jurisdiction to deal

1 with special law enforcement needs.

2 To address those needs, the  
3 legislature enacted Section 4441 of the County  
4 Code which allows district attorneys to  
5 appoint special county detectives, confers  
6 upon them full police powers, and makes them  
7 subject to the direction of the district  
8 attorney

9 Some district attorneys have formed  
10 task forces and have elected to include  
11 municipal officers, sheriffs, and deputy  
12 sheriffs by cross-designating them as county  
13 detectives with full police powers.

14 This type of cross-designation has  
15 worked remarkably well in the counties that  
16 have done it, and we believe that this process  
17 can help solve the problems that the bill  
18 seeks to address.

19 Allow me to take a moment to explain  
20 how cross-designation works. A district  
21 attorney can seek to cross-designate police  
22 officers, deputy sheriffs, or other law  
23 enforcement officers that he or she thinks  
24 would address a short-term need. The  
25 cross-designation can be full-time, part-time,

1 or can be for a specific task, such as a  
2 one-night sobriety check point or other  
3 investigation.

4 Compensation for a deputy sheriff  
5 cross-designated as a county detective would  
6 have to be worked out between the district  
7 attorney, sheriff, and county commissioners,  
8 or other appropriate fiscal officers depending  
9 on the county structure.

10 This approach allows the district  
11 attorney to meet the specific needs of his  
12 county for as long as a special law  
13 enforcement need exists.

14 Cross-designation solves many  
15 potential problems that our membership has  
16 identified with this bill. The first issue is  
17 training, as has been discussed repeatedly  
18 today.

19 Some deputy sheriffs have extensive  
20 law enforcement training, the Act 120; some do  
21 not. Before making a decision to  
22 cross-designate a deputy sheriff as county  
23 detective, district attorneys can review their  
24 resume, background, and law enforcement  
25 training.

1           For example, we might want to know  
2           whether the individual has attended a police  
3           academy or has municipal police officer  
4           weapons training.

5           By using a system of  
6           cross-designation, the district attorney  
7           becomes the gatekeeper to ensure that the most  
8           qualified people receive cross-designation in  
9           their county.

10           I'm going to go away from my written  
11           remarks for just one moment. There's a  
12           document that -- that I think everybody has  
13           comparing the trainings between municipal  
14           police officers and sheriffs and the sheriffs  
15           training is extensive. It used to be held at  
16           Dickinson Law School in Carlisle. Involves  
17           actually more training than the state -- in  
18           terms of hours than municipal police officers  
19           receive.

20           I would submit that one primary area  
21           of focus has to be on the difference between  
22           the two trainings. One of the things that we  
23           do as prosecutors is try to anticipate  
24           challenges that we'll face.

25           And I can guarantee you that if the

1 will of the legislature is to accept the  
2 training that the sheriffs now receive and  
3 confer full law enforcement powers upon them,  
4 we're looking at a decade of challenges based  
5 on the difference in training between sheriffs  
6 and police officers, and I think that would do  
7 a disservice to everyone.

8           So if we're going to look at the  
9 issue of training, we should look as hard as  
10 we can at standardizing.

11           Civil lawsuits and civil liability  
12 are other concerns expressed by our  
13 membership. Civil lawsuits against police and  
14 other law enforcement officers are  
15 unfortunately all too common. Even when these  
16 suits are frivolous, they must still be  
17 defended.

18           By using cross-designation, liability  
19 issues can be worked out in advance between  
20 the district attorney, sheriff, county  
21 commissioners and other county officers. That  
22 way the county knows what its potential  
23 liability might be and can budget and seek  
24 insurance accordingly.

25           Again, I'm going to depart from the

1 written remarks. This is one thing that my  
2 colleague, District Attorney Buehner brought  
3 up and indicated that he had been sued for  
4 failing to file charges.

5           Although some may not see it as a  
6 badge of honor to get sued by Don Bailey,  
7 Esquire, I was -- I was also sued for failing  
8 to pursue criminal charges in a case. Was  
9 sued, filed in the Middle District of  
10 Pennsylvania and the case was recently  
11 dismissed by Judge Caldwell.

12           So I don't say liability just to wave  
13 the red flag of liability. That's an issue,  
14 and it should be of serious concern to  
15 everyone.

16           Now, let me speak from personal  
17 experience about the value of  
18 cross-designation.

19           In Cumberland County, we have a  
20 county drug task force. For my entire tenure  
21 as both an assistant and as the district  
22 attorney, and as Representative Gabig can  
23 attest as a former colleague of mine in the  
24 D.A.'s Office, Sheriff Tom Kline, who was my  
25 friend up until today -- we'll see what

1 happens afterwards. No, I know he'll be my  
2 friend afterwards even if we disagree on  
3 certain things.

4 Tom has dedicated one of his deputies  
5 full-time to our task force. The value of  
6 this contribution cannot be overstated. The  
7 participation of municipal departments, the  
8 State Police, and the Attorney General's  
9 Office in our task force varies as you might  
10 expect according to their work loads.

11 In the case of municipal departments  
12 in particular, participation in county  
13 activities is often subject to serious budget  
14 constraints or, regrettably, political whim.

15 Fortunately we've always been able to  
16 count on Sheriff Kline to provide desperately  
17 needed manpower for our task force.

18 And that continues. I have a deputy  
19 sheriff cross-designated and serving as a  
20 member of my task force. I have not taken the  
21 conservative position, the legally  
22 conservative position that the Attorney  
23 General has taken and removed her from the  
24 task force.

25 We've put some -- some steps into

1 play where everything she does is being  
2 cosigned by a police officer or another county  
3 detective, but she is still participating.  
4 I'm not going to tell you that I don't  
5 anticipate a challenge to that because I'm  
6 sure it will come, but we cannot afford to  
7 lose a full-time member of our task force. We  
8 just don't have the ability to -- to withstand  
9 that.

10 The strong cooperative relationship  
11 that we have with our sheriff's office in  
12 Cumberland County was reflected in my office's  
13 support of the Sheriffs' Association as named  
14 plaintiffs in the Kopko. In Kopko we sought  
15 the ability to have a deputy who was  
16 cross-designated as a county detective  
17 certified to conduct consensual wiretaps.

18 Notwithstanding the fact following  
19 certification, I or one of my designees would  
20 still have to approve each intercept, the  
21 Supreme Court ruled that deputies could not be  
22 certified. And then frankly went further  
23 in -- in opining on what -- what deputies can  
24 and can't do.

25 The -- the ability of deputies to



1 assist law enforcement was further eroded, as  
2 you know, by the recently decided case of  
3 Commonwealth versus Dobbins. Although I  
4 understand the Court's reasoning in Dobbins, I  
5 urge you to read Justice Eakin's dissent for a  
6 reality check on what's really happening in  
7 the street. I think Eakin really laid out  
8 what's going on there and frankly the  
9 absurdity -- well, that's not a good word --  
10 some of the issues with the majority opinion.

11 The simple fact is that even in a  
12 relatively affluent county, such as  
13 Cumberland, we do not have sufficient law  
14 enforcement resources to combat the growing  
15 level of crime.

16 Our sheriff's office necessarily  
17 handles a variety of matters on a daily basis,  
18 including crimes committed in their presence  
19 on county property. Cross-designation of  
20 deputies puts another weapon in our arsenal.

21 We also need to recognize the needs  
22 of smaller counties, as District Attorney  
23 Buehner testified to, where the combined  
24 effects of Kopko and Dobbins have given  
25 criminals a leg up.

1           I believe cross-designation is vital  
2           for smaller counties. Mr. Buehner laid out  
3           some of the problems in eighth class counties  
4           with cross-designation and -- and extra work  
5           that might be put on the D.A. Office if that  
6           happened.

7           Our membership has also expressed  
8           concerns about the potential expenses  
9           associated with this bill, and we're concerned  
10          that there's no fiscal note incorporated into  
11          the bill to pay for the increased expenses to  
12          the counties.

13          A countywide law enforcement agency  
14          would be an expensive proposition with a need  
15          for cars, increased training, increased  
16          supervisors, and, of course, increased  
17          overtime of court appearances.

18          We would hate to see limited  
19          resources for current law enforcement reduced  
20          even further to pay for the inevitable  
21          expenses associated with this bill.

22          And, you know, let's be clear. We're  
23          all fighting for our share of our county  
24          dollar to do the job that we need to get  
25          done. Sheriff Kline and I commiserate on that

1 constantly, and I think you'll hear from  
2 somebody from the County Commissioners  
3 Association later and I would imagine that  
4 that's one of their major issues with the  
5 bill, is potential cost.

6 Now, if I might very briefly address  
7 some specific issues that Mr. Buehner brought  
8 up. He characterized the position of the  
9 executive committee and the D.A.'s Association  
10 as simply a roadblock to defeat the bill.

11 Well, I think if that were the case  
12 they would have picked somebody other than me  
13 to come here and testify, somebody other than  
14 a D.A. who has a great working relationship  
15 with his sheriff and has worked constantly  
16 with him over time.

17 The -- the membership, our  
18 membership, overwhelmingly voted against the  
19 bill as -- as written and our executive  
20 committee took our -- our cues from them.

21 Are there D.A.'s who share the  
22 position that Mr. Buehner does? Absolutely.  
23 There are D.A.'s who would tell me that I'm  
24 being too conciliatory. I think so.

25 You know, the -- the county

1 commissioners -- I don't think the D.A.'s can  
2 stand and stop this, and ultimately it's going  
3 to be between -- if this would pass -- between  
4 the county commissioners and -- and -- and the  
5 sheriffs and the county commissioners would  
6 have to provide funding for the sheriffs to do  
7 this in the counties, in any event.

8 But he addressed the issue of the  
9 divided loyalties with the cross-designation.  
10 And that may be an issue in some counties I  
11 would think. I would hope that we would get  
12 more credit as professionals, and I think the  
13 argument that Mr. Buehner made about charging  
14 approval sort of takes away from this issue of  
15 the divided loyalties.

16 You know, if D.A.'s were to refuse to  
17 cross-designate people, and, you know, if the  
18 response to that was, well, we'll just give  
19 sheriffs full law enforcement powers, we have  
20 the ability to approve the charges and go  
21 forward with the charges anyway.

22 I'm from a county that has extensive  
23 local charging approval. No felony, major  
24 felony, some misdemeanors or search warrant  
25 gets filed unless it's approved by a member of

1 our office. And that was something that was  
2 instituted under my predecessor, and I have  
3 kept, and that's a responsibility that D.A.'s  
4 take very seriously.

5 And I think you can argue that both  
6 ways. It can be argued as a reason maybe why  
7 we should give sheriffs powers. The D.A. can  
8 just cut the sheriff out if he doesn't like  
9 the charge. I think you can argue it the  
10 other way around, too, and I think you have,  
11 you know, to be concerned about those  
12 relationships.

13 And I think I did hit the issue of  
14 training comparison.

15 So I want to -- I want to be clear if  
16 I haven't been already. The position of the  
17 District Attorneys Association, based on the  
18 vote that was taken, is that we're opposed to  
19 the bill as written.

20 I think the reality that has ensued  
21 since that vote was taken, which was actually  
22 some time ago, I think it was not at our  
23 mid-winter in 2008. I think it was in 2007.

24 The reality that has intruded upon us  
25 since then are Kopko, which I think was

1 decided before that, and Dobbins. You can  
2 quibble about whether the court has -- has  
3 asked the General Assembly to act.

4 I think based on the decisions,  
5 whether the court has asked you to act or not,  
6 I think the issue is out there and more  
7 confusion will ensue if the General Assembly  
8 doesn't -- doesn't do something.

9 I think at this point -- and I can  
10 tell you, you know, from personal experience,  
11 I got that issue with my deputy. I need that  
12 body out there working. We're out there  
13 walking on a thin line.

14 I think I'm confident in my legal  
15 position and my ability to defend it, but it  
16 would certainly be helpful to have the  
17 imprimatur of the legislature on the position  
18 -- on the -- on the process that we're  
19 engaging in.

20 In conclusion, I'd like to thank you  
21 for allowing me to speak to you today on this  
22 very important issue. I appreciate that  
23 you're taking time to gather information about  
24 the way that sheriffs function within our  
25 Commonwealth.

1           We will continue to work with all  
2 members of the General Assembly and the law  
3 enforcement community to fight crime, protect  
4 victims, and bring offenders to justice. And  
5 we would strongly urge you to consider as part  
6 of your deliberations on this bill the system  
7 of cross-designation at this time.

8           Thank you.

9           CHAIRMAN CALTAGIRONE: Thank you.

10          Representative Dally.

11          REPRESENTATIVE DALLY: Thank you,

12          Mr. Chairman.

13          And thank you, District Attorney  
14 Freed, for presenting testimony this  
15 afternoon.

16          On the issue of civil liability,  
17 several other people have raised that today,  
18 and I hear you, what you said in terms of you  
19 think the legislature should act and do  
20 something by statute.

21          And it would seem to me then the  
22 issue of civil liability, I mean right now  
23 you're using that deputy sheriff that really  
24 doesn't have the authority to be there, I mean  
25 to me that creates a larger issue of civil

1 liability than something that we placed in the  
2 statute that -- that firmly defines the role  
3 of the sheriff.

4 MR. FREED: Well, if there's  
5 something in the statute that -- that -- I'm  
6 not sure that the bill as written firmly  
7 defines the role of sheriff.

8 REPRESENTATIVE DALLY: Okay. I'm not  
9 -- but any bill, but I'm just saying that if  
10 it's something placed in the statute that  
11 defines the powers of the sheriff --

12 MR. FREED: Yes.

13 REPRESENTATIVE DALLY: -- it would  
14 seem to me that that would give county  
15 commissioners more of a peace of mind than the  
16 existing flux of common law that's being  
17 developed by our courts.

18 MR. FREED: I agree. I agree. And I  
19 don't think that's inconsistent with what I've  
20 said.

21  
22 REPRESENTATIVE DALLY: Okay.

23 MR. FREED: My position on -- on the  
24 use of the deputy is that she's  
25 cross-designated as a county detective, that



1 falls under my office and I'm the one that has  
2 to stand or fall on it.

3 REPRESENTATIVE DALLY: Okay. And I  
4 don't know if you were here for District  
5 Attorney Buehner's testimony, and I think that  
6 from what I gather situations are somewhat  
7 different in more rural counties where he  
8 doesn't have the personnel to cross-designate  
9 and keep track of all these people where you  
10 have another elected official --

11 MR. FREED: Right.

12 REPRESENTATIVE DALLY: -- that is  
13 capable of doing that.

14 MR. FREED: Yeah.

15 REPRESENTATIVE DALLY: So I think  
16 that was his argument.

17 MR. FREED: And I think there are  
18 problems that are problems that are unique to  
19 the smaller counties in Pennsylvania.

20 You know, Representative Pickett, you  
21 know, we all know how active deputy sheriffs  
22 have been in Bradford County in particular.  
23 And I think they're doing that because  
24 somebody needs to fill the void.

25 I can tell you it's not the issue in

1 my county that it is in the more rural  
2 counties but it is an issue in my county. You  
3 know where I'm from. Cumberland County. You  
4 know, we're -- we're the heart of, you know,  
5 Republican Pennsylvania. Every elected  
6 official at the municipal level and at the  
7 county level is conservative and -- and wants  
8 to keep costs down and doesn't want to raise  
9 taxes and they don't want to pay for more cops  
10 and they want us to do more with less all the  
11 time.

12 And I think we're very good at that.  
13 But if we don't have the ability to use every  
14 tool in our arsenal, it makes it very  
15 difficult for us.

16 REPRESENTATIVE DALLY: Okay. Thank  
17 you very much.

18 MR. FREED: Thank you.

19 CHAIRMAN CALTAGIRONE: Representative  
20 Pickett and then Representative Gabig.

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

23 And thank you, D.A. Freed.

24 Yes, your -- your later comment there  
25 played into what I was thinking as you were

1 speaking.

2 Our counties are very different. You  
3 described yours as affluent and obviously more  
4 populated than the areas where I come from  
5 where it is not so affluent and many less  
6 people. So we do have to make sure we're  
7 using everybody possible.

8 On the top of Page 4 testimony you  
9 also noted that it seemed the duties had been  
10 clarified by our sheriff's department but you  
11 did modify that a little. You said, well,  
12 maybe not completely.

13 MR. FREED: Sure. Let me address  
14 that. That -- the testimony that I read was  
15 drafted by the D.A.'s Association and some of  
16 my -- some things in there were written by  
17 me.

18 I don't know that I would agree that  
19 Kopko clarified things. I think some people  
20 may take that position.

21 I think Kopko laid out the opinion of  
22 Justice Newman on what she thought. I guess  
23 if your position is that sheriffs don't have  
24 any powers to do anything, it clarified that  
25 position. I think it's more nuance than

1 that.

2 So I think it clarified maybe what  
3 the current state of things is in Pennsylvania  
4 regarding the Supreme Court's interpretation  
5 of common law. Does it help us going  
6 forward? I don't think so.

7 REPRESENTATIVE PICKETT: Thank you.  
8 One of things that one of my sheriffs just  
9 recently said to me is it really leaves us in  
10 a rather limbo situation. We -- we are afraid  
11 to react sometimes. We don't know exactly  
12 where we should take action and yet our  
13 training and our -- our dedication tells us to  
14 and we're really concerned about it, which may  
15 play a little bit into what Representative  
16 Dally just said about liability, which way are  
17 they going to be worse.

18 And also the survey, where the  
19 D.A.'s, that they -- they disagree with this  
20 bill, I'm -- I'm curious, and you probably  
21 don't know, on how that plays out on rural  
22 versus not so rural D.A.'s, but, interestingly  
23 enough, it is at odds with what the first  
24 sheriff testifying told us about how the  
25 general public sees this particular issue.

1           So it's quite different if you're  
2           saying the D.A.'s are opposed. So I was  
3           curious about the rurals. You may not know  
4           how that breaks out.

5           MR. FREED: I would think -- and I'm  
6           going to engage in a little bit of  
7           assumption -- but I would think that D.A.'s in  
8           counties such as an eighth class county, like  
9           Montour, might be a little more in favor of  
10          full law enforcement powers.

11          Now, the vote was overwhelming. And  
12          I -- I think it might have -- I think it may  
13          have even been a voice vote and the people who  
14          were opposed raised their hands. They were  
15          all from -- from smaller counties I can tell  
16          you.

17          There are some people from smaller  
18          counties I know who -- who are opposed to  
19          the -- to the bill as written. So I think it  
20          really depends on the county.

21          And, unfortunately, it sometimes  
22          depends on the relationship between the  
23          sheriff and the D.A. within that county. You  
24          know, that's just the reality of what we're  
25          dealing with.

1 I'm fortunate that I -- that I have a  
2 great relationship with my sheriff and we  
3 don't have those kind of issues. When Kopko  
4 came out, we had a meeting right away.

5 When the issues come up where  
6 confusion may arise the sheriff comes down or  
7 his chief deputy, Deputy Ronnie Anderson comes  
8 down, and -- and we figure out how we're going  
9 to deal with this.

10 But that's an extra level of work  
11 that we're doing now that we weren't doing  
12 prior to these decisions.

13 REPRESENTATIVE PICKETT: So did every  
14 DA get surveyed or was it who was -- who was  
15 attending?

16 MR. FREED: It was the ones who  
17 attended the mid-winter meeting and it was  
18 43 --

19 REPRESENTATIVE PICKETT: Okay.

20 MR. FREED: -- out of the 67.

21 REPRESENTATIVE PICKETT: Okay.

22 MR. FREED: There were some people  
23 who always come, some people never come.

24 REPRESENTATIVE PICKETT: Probably  
25 those rural guys. They're too busy. They

1 didn't get there.

2 MR. FREED: That's right.

3 REPRESENTATIVE PICKETT: And just one  
4 more comment. I do notice also in my rural  
5 areas where, you know, money is -- is always  
6 at issue and you got townships and boroughs  
7 that have very few people in them and the tax  
8 issue versus the services they're able to  
9 provide and so forth and the requests to be  
10 able to use the deputy sheriffs in a more full  
11 manner.

12 I also am worried about losing good  
13 trained people because typically people become  
14 trained as municipal officers and then sort of  
15 look for -- in some cases -- I won't say in  
16 all cases -- but in some cases they sort of  
17 look for that deputy sheriff position to  
18 become open because it may offer them more of  
19 an opportunity to look long range for their  
20 family.

21 So I worry with losing those people  
22 because I do not believe that our  
23 municipalities in -- in anything that could be  
24 described as the close future will find the  
25 money to put in more municipal police.

1 I don't know if you have a comment on  
2 that. But thank you.

3 MR. FREED: Well, I think that --  
4 that, again, shows, you know, the diversity of  
5 our -- our Commonwealth. I mean in some  
6 places a deputy sheriff is a better job than a  
7 municipal police officer or characterized as a  
8 better job than a municipal police officer.  
9 In some places it's not.

10 My county, I think, in terms of  
11 salary and benefits, it's about equal. And --  
12 and we have great people at both.

13 And I think I said relatively  
14 affluent. I don't want to -- you know, we're  
15 not Montgomery County.

16 But, you know, we -- we have some  
17 resources. It's just, you know, prying those  
18 resources away to be able to use them is  
19 sometimes a different story.

20 CHAIRMAN CALTAGIRONE: Will.

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

23 District Attorney Freed, hard not to  
24 say Dave. I don't want to get into a  
25 description of Cumberland County. It's a



1 diverse county itself as the Commonwealth is  
2 diverse and I represent the central and  
3 western part as a state representative.

4 And as Assistant District Attorney  
5 working together with Dave before he was  
6 elevated to his high status now, you know, I  
7 was able to see the entire county.

8 But the section that I represent  
9 is -- is the more rural, the western end, the  
10 second class township with no police  
11 departments, for example. I probably have  
12 about 14 of them. So my district is going to  
13 be similar, in parts of my district, to  
14 Representative Pickett, who also came in with  
15 me in 2000, and has done a great job  
16 representing her area, in case anyone is  
17 interested.

18 She's a former county commissioner.  
19 I always tell her she should say that. She's  
20 a former county commissioner from up there.  
21 And so she didn't say it, so I'll say it for  
22 her.

23 REPRESENTATIVE PICKETT: Thank you.

24 REPRESENTATIVE GABIG: But the issue  
25 about the -- the legal issue, since you were a

1 lawyer, and I was asking the State Policeman  
2 before about it, I'm going to ask you and  
3 especially since you're here, I guess, on  
4 behalf of the D.A.'s Association.

5 Weren't -- you know, the  
6 cross-designation, I agree, is a strong tool  
7 and has worked well in our county and across  
8 the Commonwealth.

9 But I'm assuming that the cases that  
10 have gone up for the Supreme Court recently,  
11 were they not cross-designated?

12 I mean the reason I ask that is  
13 because I don't think that's the solution to  
14 where we are now after these recent -- after  
15 these recent cases. There's always been this  
16 confusion, when I was in the D. A.'s Office,  
17 with these terms. Peace officer, is sort of  
18 an old common law term, I guess. Peace  
19 officer. And you see that in law. Police  
20 officer, which is not only a common law, the  
21 police powers, but it's a -- it's a -- it's  
22 also a statutory term. Law enforcement,  
23 you've used that term, law enforcement  
24 officer, and it's always been sort of somewhat  
25 confusing the way the courts have applied

1 those terms and particularly the way they've  
2 applied them to the sheriffs.

3 So then we have these people that the  
4 polls have shown and all of us, including you  
5 and I, you know, we see sheriffs in uniforms  
6 and we know they're trained and they have  
7 badges and, you know, everybody considers them  
8 to be some type of police officer or law  
9 enforcement officer or -- from a common  
10 perception standpoint.

11 But we get into these legal  
12 distinctions which create significant issues  
13 as we go forward.

14 Now, you know, having said all that  
15 and laid -- laid it out, my question is the  
16 same question that I asked the State Police.  
17 Don't you think that because of the recent  
18 court cases that as a legislature we need to  
19 do something to at least put us back to where  
20 we were prior to those cases in terms of  
21 defining the power and authority of the  
22 sheriffs?

23 MR. FREED: The short answer is yes.

24 The longer answer is, you know as a  
25 prosecutor, sometimes you have to -- you have

1 to try things. As long as it's within the  
2 bounds of discretion and the ethical rules,  
3 you know, you have to do what you need to do  
4 to get the job done.

5 And that's what we're doing currently  
6 with our sheriff's deputy. Cross-designation  
7 I think is an important thing. It's a -- it's  
8 a step that -- that we can take to try to  
9 solve some of the issues that the -- that the  
10 courts have raised.

11 Is it -- is it a solution to the  
12 court opinions in Kopko and extended by  
13 Dobbins? I don't think so.

14 You know, you're -- you're part of  
15 the county, Will, the 199th is the more rural  
16 part of our county, central and western part  
17 of the county, and -- and it is not dissimilar  
18 to the argument that my colleague, D.A.  
19 Buehner, made about the amount of -- of police  
20 that are out there in that -- in that part of  
21 the county at any given time.

22 We have a very -- Scott Perry  
23 represents South Middletown Township which is  
24 a very populous township. There's one car for  
25 that township of over 20,000 people, plus the

1 rest of the county, you know, in the nighttime  
2 hours.

3 Now, sure, it would be great to have  
4 more police out there. I could tell you, I  
5 don't think Tom Kline would disagree with me  
6 that at its current complement, the sheriff's  
7 not going to have people patrolling out there  
8 at night.

9 However, the sheriffs do have people  
10 on call at night who could respond to assist  
11 if they happen to be in that area of the  
12 county depending on how their powers are  
13 clarified.

14 REPRESENTATIVE GABIG: So I guess the  
15 D.A.'s do feel that we need to do something.  
16 There doesn't seem to be a consensus. In  
17 fact, there was, you said, a large majority  
18 that thought that Representative Dally's bill,  
19 466, the bill that we're here on, went too  
20 far, I guess you're saying, and -- and -- as  
21 written.

22 But is there -- is the D.A.'s  
23 Association at some point going to -- going to  
24 give us some positive input in the sense of  
25 here's some of the things -- you mentioned

1 some highlights of concerns, but are you -- is  
2 the D.A.'s at some point going to give us  
3 something that they'd like to see better, a  
4 counterproposal, so to speak?

5 MR. FREED: I don't know that a  
6 counterproposal will come. But I know that  
7 our legislative people, Kathy McDonald and  
8 Chris Mallios, intend to work with everyone.

9 I think they understand -- and I can  
10 confidently say that the position of the  
11 association is that at this point something  
12 needs to be done.

13 And we're happy to work with  
14 everyone, all the players, on that. I think  
15 the Chairman laid out those five things that  
16 he thought needed to be considered, and I  
17 think everybody involved will agree that those  
18 are some of the key considerations.

19 REPRESENTATIVE GABIG: I want to  
20 thank you very, very much, and I guess  
21 counterproposal might have been too strong,  
22 but to continue to work with the committee and  
23 the prime sponsor, Representative Dally, as we  
24 move through this process. I think the D.A.'s  
25 and the Attorney General's Office would be

1 big.

2           Because, just like you say, you've  
3 taken a different position than the -- than  
4 the Attorney General on that Drug Task Force.  
5 I -- I appreciate your position, and I'm sure  
6 you're right. Because I know how smart you  
7 are. But you can see that if the -- if the  
8 Attorney General has taken one position and  
9 then different district attorneys throughout  
10 the state are taking a different position on  
11 how they're utilizing sheriffs, that --  
12 that that's not where we want to be. We want  
13 to resolve that, I think, up here at the  
14 legislative end.

15           So --

16           MR. FREED: Well --

17           REPRESENTATIVE GABIG: -- again, I  
18 appreciate your service and continued  
19 friendship. I can guarantee my continued  
20 friendship on this, and that would -- that's  
21 all the questions I'd have.

22           MR. FREED: Thank you. Let me say  
23 one thing to address that. It -- it is  
24 certainly not the ideal situation.

25           And don't get me wrong. The -- the

1 use and the ability of -- of -- of our deputy  
2 who is cross-designated to serve and to -- to  
3 do what we need her to do has certainly been  
4 curtailed. She's not doing everything she was  
5 doing before.

6 CHAIRMAN CALTAGIRONE: Chief counsel,  
7 anything?

8 MR. ANDRING: Yes. How do you handle  
9 the salary and the supervision of the deputy  
10 that you cross-designate?

11 MR. FREED: We -- she's paid by the  
12 sheriff's department and her overtime is  
13 reimbursed by our forfeiture funds.

14 MR. ANDRING: And when she's working  
15 on the task force, how would the chain of  
16 command work? Who is considered her  
17 supervisor at that point?

18 MR. FREED: When she was doing task  
19 force work, she's under the chain of command  
20 of the task force, and the sheriff has agreed  
21 to that.

22 Ultimately the overarching position  
23 is that she works for the sheriff. When she's  
24 doing task force operations, she falls under  
25 the command of the task force commander.



1 MR. ANDRING: Okay. Thank you.

2 CHAIRMAN CALTAGIRONE: Thank you.

3 Are there any other questions?

4 Thank you.

5 MR. FREED: Thank you very much,  
6 Mr. Chairman.

7 CHAIRMAN CALTAGIRONE: I have a  
8 letter here that I'd like to submit for the  
9 record. It came to Chairman Marsico's office  
10 from the Attorney Robert G. Fleury, who is the  
11 attorney who argued in the Commonwealth versus  
12 Dobbins case, and I'd like to submit it for  
13 the record, if we could just pass that down to  
14 her.

15 EXECUTIVE DIRECTOR RYAN: I have a  
16 copy.

17 CHAIRMAN CALTAGIRONE: You have a  
18 copy? Okay. Thank you.

19 We'll next hear from Ellen Kramer  
20 Adler, Esquire, Director of the Legal  
21 Department of the Pennsylvania Coalition  
22 Against Domestic Violence.

23 DIRECTOR KRAMER ADLER: Good  
24 afternoon, Mr. Chairman and members of the  
25 committee.

1 I'd like to thank you for this  
2 opportunity to provide what will be some very  
3 brief remarks before you today. As the  
4 director of the legal department, I'm here to  
5 represent the Pennsylvania Coalition Against  
6 Domestic Violence and its 61 programs which  
7 serve the citizens of Pennsylvania throughout  
8 our 67 counties.

9 We're a private not-for-profit  
10 organization, and our statewide network is  
11 dedicated to ending domestic violence and  
12 helping victims and their children to regain  
13 physical safety, personal autonomy, and  
14 economic self-sufficiency.

15 On behalf of the coalition and its  
16 member programs, I'm here today to highlight  
17 for you what PCADV believes to be an important  
18 opportunity to use this legislative effort to  
19 enhance community safety and to provide  
20 critical protection for victims of crime  
21 throughout the Commonwealth of Pennsylvania.

22 Accordingly, PCADV supports the  
23 enactment of House Bill 466 to the extent it  
24 would clarify the powers of duly elected  
25 county sheriffs and their deputies in the

1 Commonwealth.

2 And we agree that this legislation is  
3 required in light of the Supreme Court's Kopko  
4 decision, which raised significant questions  
5 as to the scope of authority they hold.

6 Victim safety is of paramount concern  
7 in our work with victims of domestic violence  
8 and in our collaborative efforts to support  
9 other victims of crime.

10 For that reason in particular, we  
11 believe that the proposed amendments to Title  
12 42, Section 2921, granting sheriffs and their  
13 deputies the power to execute an arrest  
14 without a warrant is essential.

15 We note at the outset that  
16 Pennsylvania Protection From Abuse Act gives  
17 sheriffs that specific statutory authorization  
18 that we're talking about.

19 Pennsylvania sheriffs have arrest  
20 powers in the context of enforcing Protection  
21 From Abuse orders of court. They have the  
22 authority to arrest the defendant for  
23 violation of a protection order without a  
24 warrant.

25 And they're also charged with taking

1 possession of defendant's firearms when the  
2 court has ordered relinquishment in  
3 conjunction with the entry of a protection  
4 order.

5           Further, a sheriff may search and  
6 seize any firearms the defendant may have in  
7 his possession when the sheriff arrests the  
8 defendant for violation of the order if a  
9 firearm was used during the violation of a  
10 order or during a prior incident of abuse.

11           The sheriffs have exercised these  
12 powers, which were enacted in November of 2005  
13 with the passage of an omnibus package of  
14 amendments to the Protection From Abuse Act,  
15 with considerable consistency and  
16 professionalism.

17           The ultimate impact is an increased  
18 availability of law enforcement response and  
19 victims' assurance that the uniformed law  
20 enforcement official on the scene has the  
21 power and the authority to respond to the  
22 fullest extent necessary to secure their  
23 safety, including the arrest of the  
24 perpetrator.

25           By increasing the available law

1 enforcement response, these amendments to the  
2 PFA law have gone a long way to enhance the  
3 safety of victims of domestic violence and  
4 their children and hold offenders accountable  
5 for their acts of violence.

6 The enforcement of protection orders  
7 has been successful in this Commonwealth in  
8 part based upon a concerted effort by PCADV,  
9 in collaboration with the Pennsylvania  
10 Sheriffs' Association, to ensure the training  
11 and resource materials are delivered to  
12 sheriffs and their deputies in all 67  
13 counties.

14 Acknowledging the importance of  
15 training in this regard, we'd recommend that  
16 the language found in Section 2921 (b) of the  
17 bill predicating warrantless arrest powers on  
18 the successful completion of the same type of  
19 training as municipal police officers to be  
20 amended to require the same training as they  
21 provide to municipal police officers.

22 Comparable duties demand the same  
23 investment in the same resources available to  
24 each, as well as demonstration of the same  
25 knowledge and skills that would be especially

1 critical with regard to mandated training.

2 Further, PCADV attributes the success  
3 of the exercise of arrest powers pursuant to  
4 the Protection From Abuse Act to the  
5 collaborative efforts that are already  
6 underway in every county in Pennsylvania.

7 Through county criminal justice  
8 advisory boards and STOP teams, which are  
9 effectively operating in at least 46 counties  
10 across the state, policy boards and the like  
11 representatives of local law enforcement,  
12 prosecutors, the courts, and victims' service  
13 agencies come together on a regular basis to  
14 develop and enhance protocols that ensure  
15 seamless delivery of community and victim  
16 protections that include arrest and law  
17 enforcement procedures.

18 We note this only to suggest that the  
19 concept of collaborative identification of  
20 jurisdictional issues is not new to our  
21 Pennsylvania counties, and given the mandate  
22 and the opportunity, the -- the counties can  
23 well address and resolve questions of  
24 jurisdiction that have been raised by some of  
25 my colleagues today.

1                   On behalf of the Pennsylvania  
2 Coalition Against Domestic Violence, again,  
3 I'd like to thank you and the committee for  
4 this opportunity to testify.

5                   We would urge you to seize this  
6 opportunity to further strengthen protections  
7 for victims of crime and victims of domestic  
8 violence in this Commonwealth by ensuring that  
9 as a matter of law Pennsylvania sheriffs and  
10 their deputies are empowered to make arrests  
11 for all crimes and offenses as defined in our  
12 law.

13                  Such a declaration is soundly within  
14 the public interest to protect the safety of  
15 Pennsylvania citizens.

16                  CHAIRMAN CALTAGIRONE: Thank you.

17                  Questions?

18                  You laid it out perfectly.

19                  DIRECTOR KRAMER ADLER: Okay. Good  
20 enough.

21                  CHAIRMAN CALTAGIRONE: Thank you.

22                  DIRECTOR KRAMER ADLER: Thanks.

23                  CHAIRMAN CALTAGIRONE: We'll next  
24 move to Chief Thomas C. Armstrong, Easttown  
25 Township, vice president, Pennsylvania Police

1 Chiefs Association.

2 CHIEF ARMSTRONG: Thank you,  
3 Mr. Chairman. To present our testimony will  
4 be our Executive Director, Ms. Amy  
5 Rosenberry.

6 CHAIRMAN CALTAGIRONE: Certainly.

7 EXECUTIVE DIRECTOR ROSENBERRY: Good  
8 afternoon. My name is Amy Rosenberry and I am  
9 the Executive Director of the Pennsylvania  
10 Chiefs of Police Association and I'm joined  
11 today by Chief Tom Armstrong, who is the chair  
12 of our legislative committee and our third  
13 vice president.

14 We thank you for this opportunity to  
15 participate in the hearing regarding House  
16 Bill 466. Pennsylvania Chiefs of Police  
17 Association strongly opposes House Bill 466,  
18 which would grant deputy sheriffs the same  
19 powers as municipal police officers to make  
20 warrantless arrests if they have received the  
21 same type of training as municipal police  
22 officers.

23 It is our position that this  
24 legislation is flawed for several reasons.  
25 One of the most critical being wording in the



1 bill requiring only the same type of training  
2 as municipal police officers.

3 Municipal police officers in the  
4 Commonwealth must adhere to specific  
5 guidelines, which have been legislated and are  
6 managed by the Municipal Police Officers'  
7 Education and Training Commission, or MPOETC.

8 Municipal police officers must  
9 successfully complete an established  
10 curriculum at one of several certified police  
11 academies located across the state and must  
12 then pass a certification examination  
13 administered by MPOETC.

14 Examples of some of the key  
15 differences between MPOETC requirements for  
16 municipal police officers and deputy sheriff  
17 training requirements include:

18 The deputy sheriff training program  
19 provides no training in search and seizure, no  
20 training regarding the rules of evidence,  
21 substantially less criminal investigations  
22 training than MPOETC requirements for  
23 municipal police officers, and no training  
24 regarding how to conduct vehicle stops.

25 This is not to say that their

1 training is not worthwhile or good training.  
2 In fact, it is very good training. But it  
3 simply is not municipal police training and is  
4 not a substitution to perform the same  
5 duties.

6           Additionally, municipal police  
7 officers candidates who successfully complete  
8 the academy must then apply for certification  
9 only after successfully being screened in a  
10 number of areas, including a psychological  
11 exam, physical exam, agility testing, a  
12 background investigation, a criminal history  
13 check, credit examination, and personal  
14 interviews.

15           Municipal police officers must be  
16 United States citizens, cannot have been  
17 convicted of a serious felony or serious  
18 misdemeanor, must undergo a drug screening and  
19 must meet audio and visual acuity  
20 specifications as established by MPOETC.

21           For deputy sheriffs -- excuse me.  
22 They must undergo a -- there is no requirement  
23 for successfully passing a psychological  
24 examination in order to receive that  
25 certification.

1 MPOETC regulations also have  
2 enumerated reasons and a process for  
3 revocation of the certification of municipal  
4 police officers. There's no such enumerated  
5 process regarding deputy sheriff  
6 de-certification.

7 Municipal police officers candidates  
8 who cannot successfully pass the legislative  
9 screening and testing are not eligible for  
10 certification, cannot become certified police  
11 officers, and cannot exercise the powers and  
12 authority of a municipal police officer.

13 In order to maintain certification,  
14 minimally municipal police officers must  
15 attend annual mandatory training updates as  
16 developed and established by MPOETC.

17 And as I've previously mentioned,  
18 municipal police officers are also subject to  
19 de-certification for a variety of reason,  
20 including arrest and conviction for certain  
21 offenses through MPOETC.

22 To grant deputy sheriffs the same  
23 arrest powers as municipal police officers  
24 because they attend similar or same type of  
25 training would be a mistake and a disservice

1 to the citizens of the Commonwealth and to all  
2 certified municipal police officers who have  
3 successfully completed the mandated training  
4 program and screening process that the  
5 legislature and MPOETC has established in  
6 order to become municipal police officers.

7 To afford deputy sheriffs the same  
8 authority as municipal police officers without  
9 requiring them to undergo and adhere to the  
10 exact same, not similar or same type of,  
11 training requirements and testing,  
12 certification and de-certification  
13 requirements, including psychological and  
14 physical and background investigations, is in  
15 our opinion a huge mistake.

16 Last August, representatives from  
17 several law enforcement and other stakeholder  
18 organizations began meeting with the House  
19 Judiciary Committee legal staff to discuss  
20 this issue and to try to come to a consensus  
21 before legislation was introduced.

22 While I have touched only on the  
23 issues of concern regarding similar training  
24 and the lack of defined  
25 certification/de-certification processes for

1 deputy sheriffs, some of the other issues  
2 raised at those meetings included authority,  
3 jurisdiction, oversight, county input, costs  
4 and fees to name a few. I believe many other  
5 people here today have spoken on those  
6 issues.

7 Quite frankly, the Pennsylvania  
8 Chiefs of Police Association was quite  
9 surprised to see that while numerous critical  
10 and very valid problematic issues were  
11 discussed at those meetings, which was  
12 attended by representatives of the Sheriffs'  
13 Association, they have apparently chosen to  
14 ignore and instead have directed their efforts  
15 behind a legislative initiative which attempts  
16 to address a very important and complex issue  
17 with a very simply written solution.

18 An important point to be made is that  
19 in the media the police and others are made to  
20 look like bullies who are just trying to hold  
21 back the sheriffs for turf war reasons. This  
22 is hardly the case.

23 Sheriffs in Pennsylvania have a  
24 critical and important role in the criminal  
25 justice system as officers of the courts.

1 They struggle to meet those needs just as we  
2 all do in these difficult times. Oftentimes  
3 police officers are called upon to fulfill  
4 some of those functions due to the limited  
5 staffing and hours of operation of the Office  
6 of the Sheriff.

7           So how can enlarging the authority,  
8 and thereby the responsibility of the Office  
9 of the Sheriff address this situation? The  
10 Office of the Sheriff and their deputies  
11 provide a vital service to the citizens of the  
12 Commonwealth in its present configuration that  
13 is uniquely different from that of a police  
14 officer.

15           While we would happily recommend  
16 increasing the ability of the sheriffs to meet  
17 their existing obligations, we cannot justify  
18 or support expanding this configuration in  
19 this simple matter.

20           As you consider the testimony and  
21 other information being presented to you  
22 regarding House Bill 466, I would urge you to  
23 look beyond the simple solution being  
24 presented by those who are supporting this  
25 bill. This issue is much more complex than

1 what is contained in the proposed  
2 legislation.

3 I thank you again for affording us  
4 the opportunity to present this position of  
5 the Pennsylvania Chiefs of Police Association  
6 on this very important issue.

7 CHAIRMAN CALTAGIRONE: Questions?  
8 Representative Dally.

9 REPRESENTATIVE DALLY: Thank you,  
10 Mr. Chairman.

11 Just to correct the record -- I'm  
12 sorry. And your name was?

13 EXECUTIVE DIRECTOR ROSENBERRY: I'm  
14 sorry. I am Amy Rosenberry, the executive  
15 director.

16 REPRESENTATIVE DALLY: Amy. Okay.  
17 I'm sorry, Amy.

18 EXECUTIVE DIRECTOR ROSENBERRY:  
19 That's okay.

20 REPRESENTATIVE DALLY: Just to  
21 correct the record, I mean your testimony  
22 indicates that there was a meeting held last  
23 August, which was August of 2007, with the  
24 stakeholder organizations, and then you  
25 implied later in your testimony that you were

1 surprised that the sheriffs then took this  
2 tack.

3 Well, my bill was introduced in  
4 February of 2007.

5 EXECUTIVE DIRECTOR ROSENBERRY: Then  
6 perhaps the meeting was in 2006, sir. I may  
7 be mistaken on that.

8 CHIEF ARMSTRONG: It was before the  
9 legislation.

10 EXECUTIVE DIRECTOR ROSENBERRY: It  
11 was before the legislation. Immediately  
12 before it was.

13 REPRESENTATIVE DALLY: Okay. If I  
14 were to offer an amendment to my bill, on Line  
15 14 it says the same type of and strike out  
16 type of and just said same, is your  
17 organization willing to support the bill?

18 EXECUTIVE DIRECTOR ROSENBERRY: We  
19 believe that there are a lot of other issues  
20 that go along with it. However, that is the  
21 one that causes us the most concern and, yes,  
22 we would be more willing to -- to support it  
23 should the training be exactly the same.

24 REPRESENTATIVE DALLY: Okay. Also,  
25 there's been several parties that have



1 testified today. I'm looking for my notes  
2 here. Oh, there they are. And they raised,  
3 you know, several of the same issues that you  
4 did.

5 Who will protect the courthouse if  
6 the sheriffs -- if we give the sheriffs these  
7 powers? How are we going to resolve the  
8 jurisdictional issues? We can solve this by  
9 cross-designation.

10 What about civil liability?  
11 Training? I mean -- and a lot of these, as I  
12 said earlier, I view as red herrings because  
13 you're really not getting to the heart of the  
14 issue.

15 And I think a lot of these things can  
16 be dealt with either through legislation or  
17 through the 911 center in terms of  
18 jurisdiction.

19 Civil liability, I think, is totally  
20 incorrect because I think if the powers are  
21 enumerated from the statute, I'd rather have  
22 that from a -- as a civil attorney  
23 representing a municipality than -- than  
24 having to rely on common law that's always  
25 changing.

1           So I guess your -- your testimony was  
2 based primarily on training. So you're saying  
3 that if it said same training, then your  
4 opposition is tempered somewhat but you're  
5 still opposed? Is that what it is?

6           CHIEF ARMSTRONG: I think we have  
7 certification issues also. She enumerated a  
8 number of items that municipal police officers  
9 have to go through. Psychological exam. We  
10 can go down the list again. That needs to be  
11 the same, also.

12           REPRESENTATIVE DALLY: Okay.

13           EXECUTIVE DIRECTOR ROSENBERRY: And I  
14 think the Attorney General's Office alluded to  
15 that and the House Bill 167 discussed that  
16 specifically as well.

17           REPRESENTATIVE DALLY: Uh-huh. I  
18 also heard some remarks today as far as -- and  
19 it seems to be geared toward Drug Task Force,  
20 so what I'm -- what I'm understanding that to  
21 mean is let's just give deputy sheriffs the  
22 power to work on Drug Task Forces but nothing  
23 else.

24           I mean that really doesn't solve this  
25 issue of the -- of the powers of the sheriff.

1 So that was more of an editorial comment  
2 obviously. Thank you.

3 CHAIRMAN CALTAGIRONE: Okay. Any  
4 other questions?

5 Yes, Tina.

6 REPRESENTATIVE PICKETT: Thank you,  
7 Mr. Chairman.

8 And thank you, Ms. Rosenberry.

9 On the second page of your testimony,  
10 just this one little clause caught me. The  
11 Office of the Sheriff and their deputies  
12 provide a vital service to the citizens of the  
13 Commonwealth in its present configuration.

14 I distinctly feel, and with all due  
15 respect, that that configuration, that present  
16 configuration, changed with that court case,  
17 and -- and that is where I'm coming from  
18 today.

19 The -- the situation is different in  
20 my county. It's not the same as it was. And  
21 the opportunities that we had to use this  
22 manpower has been diminished.

23 I'll put my business hat on for just  
24 a minute. In brief, I had a business that was  
25 on one side of the Susquehanna River bridge in

1 a township and the borough on the other side  
2 of the Susquehanna River bridge has a police  
3 force. And I have a great respect for that  
4 chief of police and his staff there. They're  
5 good people. They do everything they can do.  
6 But guess what? They can't cross the bridge.

7 And so when I had an incident in my  
8 business. And I was there for many years and  
9 I certainly had incidents. We had -- we had a  
10 tavern. We had a -- a full hotel. We had a  
11 restaurant. And I had incidents.

12 And many times I had to put on my own  
13 sort of sheriff's badge. I do have one my  
14 grandfather had years ago. And I had to take  
15 care of that situation, just because the State  
16 Police were so far away. No fault of theirs,  
17 but they were someplace. I had an incident  
18 right now and that chief of police and his  
19 staff cannot cross that bridge even though  
20 it's probably -- I don't know if there's some  
21 of the golfers in here, they might be able to  
22 cross that bridge with a golf ball.

23 So that was -- that's the reality of  
24 what goes on in the field and why I feel we  
25 need to use this manpower.

1 Thank you.

2 CHAIRMAN CALTAGIRONE: Any other  
3 questions?

4 Thank you.

5 EXECUTIVE DIRECTOR ROSENBERRY: Thank  
6 you.

7 CHAIRMAN CALTAGIRONE: Thank you for  
8 your testimony.

9 We'll next hear from Sergeant David  
10 Ruberry, deputy sheriff, Northampton County,  
11 and the Deputy Sheriffs' Association of  
12 Pennsylvania.

13 SERGEANT DAVID RUBERRY: Good  
14 afternoon, Chairman Caltagirone,  
15 Representative Dally, honorable members of the  
16 committee.

17 My blood pressure is up a few hundred  
18 points, so, pardon me, I need to get a grip on  
19 things here.

20 I'm one of the guys that actually  
21 does this work obviously. I am where the  
22 rubber meets the road. I do face those people  
23 in those situations daily.

24 So listening to some of this  
25 testimony is insulting and offensive and

1       aggravating to say the least.

2               While it is impossible to address all  
3       the factors leading up to what brought us here  
4       today obviously in 20 minutes, I'll do my best  
5       to highlight some of the things that -- that  
6       I'd like to bring to your attention.

7               First of all, I am Sergeant David  
8       Ruberry, Northampton County sheriff. I'm a  
9       sworn, certified deputy sheriff in and for the  
10       Commonwealth, have been in this capacity for  
11       17 years now.

12               During this time I've also been  
13       involved as a member, a committee member and a  
14       county representative of the Deputy Sheriffs'  
15       Association of Pennsylvania on whose behalf I  
16       appear here today.

17               Additionally, I serve as the  
18       president of my own Northampton County Deputy  
19       Sheriffs' Association.

20               While I'm not speaking for the FOP,  
21       I've been an FOP member in Pennsylvania for  
22       some years.

23               While you will hear and have heard  
24       many and varied parties on this matter  
25       covering the whole gamut of opinions here, I'm

1 actually here to try to represent and advocate  
2 for the 2,500, approximate, men and women who  
3 faithfully protect and serve the citizens of  
4 our Commonwealth as sworn, certified deputy  
5 sheriffs every day.

6 While we sit here speaking, that is  
7 happening all over the Commonwealth by these  
8 men and women. These are the people who daily  
9 make sacrifices and place themselves in harm's  
10 way to protect and serve the citizenry.

11 These are the people who preserve the  
12 peace, enforce the law across the  
13 Commonwealth.

14 These are the people who preserve,  
15 protect, and defend the Constitutional  
16 right to keep and bear arms, while at the same  
17 time working to ensure that the legal  
18 requirements and safeguards for the citizenry  
19 are adhered to by investigating and licensing  
20 individuals who either carry, conceal or sell  
21 firearms.

22 These are the people who daily  
23 investigate, track and apprehend criminals,  
24 felons, and fugitives. My own county has  
25 approximately 2,500 outstanding criminal

1 warrants alone.

2           These are the people who daily serve  
3 and enforce many and varied orders of court  
4 for protection from abuse, child custody,  
5 weapon confiscation, removal and placement of  
6 dependent children, protection and possession  
7 of property, child support, adjunctive relief,  
8 et cetera, et cetera, et cetera.

9           These are people that daily protect  
10 the judges, the officers of the court, and all  
11 members of the Commonwealth's Judicial Branch  
12 to include those in the greater court family.

13           And I would like to say not only  
14 providing -- providing security at the  
15 courthouse. Providing judicial protective  
16 details, risk analysis and assessment at  
17 homes, en route, et cetera.

18           And honorable members of this  
19 committee, these are the people, who without  
20 any exaggeration, quite literally, risk life  
21 and limb and bleed and die in the performance  
22 of these duties for the citizens of this  
23 Commonwealth.

24           I have an attachment, two  
25 attachments, to the back of my testimony. One



1       refers to two Chester County deputies who --  
2       I'm sorry if you don't have it. I did have a  
3       box sitting up here. I apologize. Chester  
4       County deputies who went to do this serving  
5       process, which apparently is a very simple,  
6       easy thing to do. I believe one of them lost  
7       part of his thumb and another one lost vision  
8       in his eye after the shootout. So serving  
9       process is not anything simple at all.

10               The second is an exhibit that is in  
11       memory of Bradford County Deputy Sheriff Mike  
12       VanKuren and Deputy Chris Burgert, who  
13       unfortunately left their widows and fatherless  
14       children behind when they were killed,  
15       murdered serving warrants in Bradford County.

16               With regard to the bill before you  
17       for consideration here today, these are the  
18       people whose lives and safety are most  
19       directly affected. Deputy sheriffs are the  
20       dedicated public servants who actually  
21       discharge all these duties. They are where  
22       the rubber meets the road so to speak.

23               I have Attachment C to my testimony,  
24       which is an accommodation from Governor  
25       Rendell where Warren County sheriff deputies

1 captured a New York cop killer who shot three  
2 troopers and killed one of them.

3 These are the people that I am  
4 privileged to represent here today.

5 To start out with, while it pains me  
6 to say, my 17 years of experience as a  
7 Pennsylvania deputy sheriff have proven and  
8 taught me that we must acknowledge there are  
9 so-called -- I will call them sheriff haters  
10 at work here in the Commonwealth. They do --  
11 they're not concerned about the citizens.  
12 They are not concerned about public safety.  
13 They are not concerned about law enforcement.  
14 They're concerned about their own interests.

15 They may be fellow law enforcement  
16 officers, sad to say. They may be attorneys.  
17 They may be associations. They may be all  
18 kinds of people.

19 They are not looking out for the  
20 public's safety and they are not looking out  
21 for law enforcement. They're looking out for  
22 their own turf protection, their own concerns,  
23 their own incidents.

24 As just one example of how these  
25 things go, I -- this is me. I call these

1 dishonorable people, lacking integrity, who  
2 strictly for their own ends and perceived  
3 personal or professional advantage, would  
4 attack and undermine the oldest law  
5 enforcement officers in this Commonwealth.

6 While these individuals may proffer  
7 all manner of acceptable sounding spin,  
8 containing ostensible and plausible  
9 explanations and reasons and concerns and  
10 issues, et cetera, in opposition to this  
11 legislation, please do not be lulled into  
12 accepting or substituting such spin in place  
13 of factual reality.

14 As just one example of this  
15 disingenuous media management and spin, all  
16 one has to do is look at the title of  
17 headlines of recent newspaper articles  
18 addressing this very proposed legislation.  
19 Quote, House to address expanding sheriff's  
20 authority, end quote. Quote, proposed  
21 legislation to give sheriffs new powers, end  
22 quote, et cetera.

23 In reality, the fact of the matter is  
24 that we are asking you to enact this  
25 legislation as a restorative measure. We are

1 asking for this legislation to clarify the  
2 sheriff's long-standing, pre-existing power and  
3 authority and to defeat those who conduct  
4 these repeated attacks and nefarious  
5 efforts to reduce and limit the sheriff's  
6 power and authority.

7 Make no mistaken about it. That is  
8 what this is about. This is about power and  
9 authority. It's not funding. It's not about  
10 training. It's not about any of that. It's  
11 about power and authority.

12 If we look at the original facts of  
13 the situation, we find sheriffs were and are  
14 the original law enforcement officers of the  
15 Commonwealth. They came along with our entire  
16 body of common law and legal system.

17 Long before the inception of  
18 statutorily created municipal police forces  
19 across the state or the creation of the  
20 Pennsylvania state constabulary, now the PSP,  
21 the sheriffs' offices of the Commonwealth were  
22 preserving the peace, enforcing the law, and  
23 protecting the citizenry.

24 My own county of Northampton was  
25 established in 1752, and along with it the

1 Office of Sheriff of Northampton County.

2 The oldest warrant in our county  
3 archives is actually so old that it commands  
4 the Sheriff of Northampton County to arrest  
5 the within named defender in the name of the  
6 king. It actually predates the inception of  
7 the nation.

8 The first Northampton County deputy  
9 sheriff killed in the line of duty was Deputy  
10 Nathan Ogden, who was shot to death on January  
11 20, 1771 during the performance of his  
12 duties.

13 In the case of Northampton County,  
14 the sheriff was actively and continuously  
15 preserving the peace, enforcing the laws, and  
16 protecting the citizens of our county for some  
17 153 years prior to the initial establishment  
18 of the Pennsylvania State Police in 1905.

19 So, the factual reality on the ground  
20 was and is that the sheriff has performed the  
21 full spectrum of law enforcement duties from  
22 the very inception of the Commonwealth and  
23 even before.

24 As time has gone on, the Commonwealth  
25 has seen the statutory creation of various

1 municipal police forces, as well as the  
2 Pennsylvania State Police, along with various  
3 and sundry other specific law enforcement  
4 agencies, all subsequent to and in addition to  
5 the sheriffs of Commonwealth.

6           The sheriffs, as the original common  
7 law enforcement officers, continued in their  
8 roles and over the ensuing years some  
9 sheriffs' offices were more than happy to  
10 share or shift the burden of law enforcement  
11 to these newly established law enforcement  
12 agencies and seemed to almost retreat into  
13 only those areas where they were commanded by  
14 the court to perform.

15           It should also be clearly noted that  
16 some other sheriff offices did not. Some of  
17 the other sheriffs' offices retained much, if  
18 not all, of their law enforcement duties, and  
19 some sheriffs' offices continue to be active  
20 as full service law enforcement up until the  
21 present day, with a notation that things have  
22 changed with these last two court decisions  
23 and they do throw great questions and quandary  
24 into the process.

25           As time progressed, one of the

1 challenges to the authority of the Office of  
2 the Sheriff occurred in 1993. In a court case  
3 now known as Commonwealth versus Leet, the  
4 Pennsylvania Supreme Court ruled on the matter  
5 of the sheriffs' authority and power.

6 And several quotes from that case --  
7 these are quotes from the Supreme Court -- we  
8 hold, however, that the common law powers of  
9 the sheriff ... have not been abrogated by  
10 statute or otherwise.

11 Indeed, such powers are so widely  
12 known and so universally recognized that it is  
13 hardly necessary to cite authority for the  
14 proposition.

15 Thus, we search the statutes for  
16 authority abrogating the common law power of  
17 the sheriff, rather than statutory authority  
18 for the sheriff to enforce the law -- an  
19 authority he has always possessed under common  
20 law.

21 In short, it is not necessary to find  
22 a ... .. provision granting to sheriffs the  
23 power to enforce the code -- sheriffs have had  
24 the power and duty to enforce the laws since  
25 before the Magna Carta; rather, it would be

1 necessary to find an unequivocal provision in  
2 the code abrogating the sheriff's power in  
3 order to conclude that the sheriff may not  
4 enforce the code.

5           The whole issue here really comes  
6 down to the fact that we are a hold-over, a  
7 common law officer. We were not statutorily  
8 enacted, established, or enabled. There are  
9 no statutes. There are very few, obviously.  
10 Very few.

11           There is one which I'll take time out  
12 to bring to your attention since this is the  
13 Judiciary Committee. Under Title 42 of the  
14 Judiciary and Judicial Procedure, Section  
15 21115.

16           Interestingly enough, I heard  
17 testimony today that no one has ever heard  
18 that the sheriffs ever acted as a police  
19 officer.

20           Section -- Subsection 21115  
21 conservator of the peace. A: Sheriff.

22           For the services performed in the  
23 capacity or the conservator of the peace or  
24 police officer.

25           I wonder why we would have a law that



1 reimburses the sheriff for functioning as a  
2 police officer if he never acted as a police  
3 officer. But I digress.

4 Back to the Leet case. The Supreme  
5 Court disposed of the question of sheriffs'  
6 authority and power in the case at hand by  
7 addressing that saying that we would maintain  
8 all of our power and authority unless it was  
9 specifically abrogated by statute.

10 The sheriff haters, having apparently  
11 been stymied by the Supreme Court for the time  
12 being in the matter of authority, were not to  
13 be undone and once again, in 1998, they  
14 engineered a challenge to the Office of  
15 Sheriff. This time it was a matter of  
16 training.

17 In a subsequent case known as  
18 Commonwealth versus Kline, the anti-sheriff  
19 forces now claimed that sheriff's deputy  
20 training under Act 2 was not applicable and  
21 that only those law enforcement officers  
22 trained under Act 120, MPOETC, could enforce  
23 the law.

24 Several quotes from that case, and I  
25 won't go through it, but essentially the court

1 said we agree with the Commonwealth of  
2 requiring certification pursuant to Act 120 is  
3 erroneous.

4 In Leet, we did not require that  
5 sheriffs complete Act 120 certification...  
6 Rather, we held that sheriffs must complete  
7 the same type of training.

8 We noted our knowledge of the Deputy  
9 Sheriffs' Education And Training Act ... and  
10 the fact that it should be considered by the  
11 court when making its determination.

12 Thus, the Supreme Court disposed of  
13 the question of sheriffs' training in that  
14 particular case at hand.

15 The committee, I believe, is also  
16 aware that as a result of legislative  
17 overhaul, I believe in 1998, the old Deputy  
18 Sheriffs' Education and Training Act 1984, Act  
19 2, was replaced basically and updated by the  
20 new Deputy Sheriffs' Education and Training  
21 Act 1998, Act 10.

22 The training for Pennsylvania deputy  
23 sheriffs was vastly improved and now,  
24 unquestionably, effectively equivalent to or  
25 better than the Municipal Police Officers'

1 Education and Training Act, Act 120.

2 The Commonwealth now has a complete  
3 and professional Deputy Sheriffs' Basic  
4 Training Curriculum. Under the auspices of  
5 the PCCD and the Deputy Sheriffs' Basic  
6 Education and Training Board, none less than  
7 the Temple University Department of Criminal  
8 Justice developed our curriculum.

9 I believe those are eminently  
10 qualified folks.

11 In addition, the Pennsylvania State  
12 University Justice and Safety Institute  
13 develops and operates our very excellent  
14 deputy sheriff basic training in State  
15 College.

16 I believe they're very eminently  
17 qualified folks.

18 And I can personally attest to the  
19 members of the committee as to the top quality  
20 training delivered at the academy.

21 In fact, currently, to my knowledge,  
22 the MPOETC Act 120 course is some 750 hours  
23 while the deputy sheriff basic training  
24 course, Act 10 is 760. So they're  
25 approximately the same.

1           I have attached the entire curriculum  
2           for anybody that cares to look at it as  
3           Exhibit E in the back of my testimony that  
4           will show you exactly what is covered by the  
5           deputy sheriffs' basic training curriculum.

6           As a side note, I will say we had a  
7           gentleman who worked -- who come to work for  
8           our department who was certified under Act 120  
9           by a municipal police academy. I will not  
10          mention that.

11          He went to the sheriffs' academy,  
12          went through the entire academy, and flunked.  
13          He went back to the sheriffs' academy and  
14          flunked again, and it was determined he could  
15          not be certified as a deputy sheriff in  
16          Pennsylvania.

17          He was certified as an Act 120  
18          municipal police officer. So I'm not too sure  
19          about the quality of the programs and how  
20          they're -- the municipal police officer is so  
21          much more demanding because this guy was a  
22          municipal police officer but he couldn't be a  
23          deputy sheriff.

24          With regard to my own circumstance,  
25          it is a matter of local concern and issue, but

1 in my case in my sheriff's department you will  
2 come in and take a written test. You will  
3 have a medical physical. You will have a  
4 physical performance test. You will have a  
5 polygraph. You will have a background  
6 investigation. You will have an interview.

7 So I take no second seat to anybody  
8 in this Commonwealth in regard to the  
9 sheriffs, at least in our department, the  
10 requirements for certification and performing  
11 as a sheriff, as a deputy sheriff in  
12 Northampton County.

13 Unfortunately, not to leave any stone  
14 unturned, the sheriff haters yet again  
15 challenged the Office of the Sheriff in the  
16 year 2000. In a Superior Court case known as  
17 Commonwealth versus Lockridge, they challenged  
18 the sheriff's ability to prosecute or file  
19 cases on information received.

20 They seized upon wording in the Leet  
21 case that made references to breaches of the  
22 peace and on view arrests and attempted to  
23 turn that into some sort of prohibition  
24 against sheriffs being able to file any  
25 actions other than on view offenses for

1 breaches of the peace.

2 The Superior Court disposed of this  
3 attack upon the Office of the Sheriff by  
4 referring to the provisions of the Rules of  
5 Criminal Procedure regarding filing complaints  
6 upon information received and dismissed the  
7 breach of the peace argument as, quote,  
8 illogical and devoid of merit.

9 If the members of the committee are  
10 getting tired of this chronology of repeated  
11 attacks on the -- of the sheriff haters that  
12 have launched again and again against the  
13 Office of the Sheriff, imagine having to live  
14 that every day as a sheriff or their deputy.

15 The sheriff haters who attacked the  
16 chall -- attack and challenge the Office of  
17 the Sheriff at every opportunity have not and  
18 will not desist.

19 In 2004, in a case known as Miller  
20 versus Kopko, that you're aware of, the court  
21 seemed to develop judicial amnesia and reverse  
22 itself in opposition to the stare decisis of  
23 Leet.

24 In this case, the court determined  
25 that sheriffs and their deputies were not

1       statutorily authorized to attend -- to attend  
2       electronic surveillance training conducted by  
3       the State Police, because the Wiretap Act  
4       specifically referenced the need to be Act 120  
5       trained in order to be authorized, and  
6       sheriffs and their deputies were not  
7       statutorily authorized to investigate the  
8       predicate offenses for the Wiretap Act.

9               One case they're saying we have all  
10       this power and it has to be statutorily  
11       abrogated but in this case now we're looking  
12       for statutory authorization. So it's a bit of  
13       schizophrenia.

14              Needless to say, we were all now very  
15       confused and not at all sure what exactly  
16       happened to the court's prior reasoning in  
17       Leet.

18              Rather in this particular  
19       circumstance here, and yet another decision in  
20       Commonwealth versus Dobbins, that you're all  
21       familiar with, again the court acted against  
22       the stare decisis and reversed itself with  
23       regard to its own prior reasoning.

24              In this case, again, the court looked  
25       for statutory authorization, which we all know

1 is not there. We're not a statutory officer.  
2 We're a common law officer. So it's a futile  
3 search to look for that.

4 Things have now gotten so bad that in  
5 my own county several defendants that  
6 violently erupted in open court and had to be  
7 subdued, arrested, and removed actually  
8 appealed their conviction at trial to the  
9 Superior Court, partial -- partially on the  
10 basis that the deputy sheriffs had no  
11 authority to protect the court and/or subdue  
12 or arrest and remove them.

13 The decisions that are being made  
14 have far reaching effects that no one is  
15 paying attention to here.

16 So now they're questioning whether  
17 the sheriff can even protect the courts  
18 because, gee, apparently there's no statutory  
19 authorization. Just says we're supposed to  
20 serve courts and serve orders as directed by  
21 the court.

22 And I guess then that brings us to  
23 the fact that if the only statutory  
24 authorization says that we're just supposed to  
25 comply with the orders of court, if I went to



1 my president judge and got a court order in  
2 Northampton County to -- as I said, the  
3 sheriff is supposed to enforce all the laws, I  
4 guess we'd be okay.

5           There is no -- in the case that I am  
6 talking about, Commonwealth versus Love, the  
7 Superior Court, thank God, said there's no  
8 question that deputy sheriffs are law  
9 enforcement officers possessing the powers to  
10 enforce the laws.

11           The law enforcement powers of  
12 sheriffs and their deputies derive from the  
13 common law and have remained unabated to this  
14 day, unless specifically and narrowly limited  
15 by statute.

16           So all of this and more has brought  
17 us to where we are here and now today. It's a  
18 confused and a confusing mess. Even  
19 forgetting for the time about being in the  
20 legal limbo that some of these opposing court  
21 decisions may leave us in ... there's also a  
22 very real danger for deputy sheriffs in this  
23 whole legal quagmire.

24           Due to many factors, such as  
25 incomplete and erroneous news reporting or the

1 intentional stirring of the pot by those I  
2 refer to as sheriff haters, we have all manner  
3 of stories abounding about the power and  
4 authority, or lack of same, of Pennsylvania  
5 sheriffs and their deputies.

6           Although I am a sworn, certified law  
7 enforcement officer, a sergeant of 17 years,  
8 possessing very considerable advance law  
9 enforcement training and certifications, sworn  
10 in as special deputy U.S. Marshal, a special  
11 county detective, professional law enforcement  
12 instructor, et cetera, et cetera, I have  
13 actually had subjects and defendants tell me  
14 and my fellow deputy sheriffs, you can't do  
15 that. You're not a cop. Get your hands off  
16 of me.

17           All because of all this commotion  
18 that's going on. All because some knothed,  
19 reporting erroneously a partial line or  
20 incomplete concept that he or she read in a  
21 court opinion, or maybe was deliberately  
22 informed in comments by some other knothed,  
23 that one of our haters might be stoking  
24 along.

25           The bottom line is that now, as a

1 result, I or one of my fellow 2,500 deputy  
2 sheriffs may now be in some violent, physical  
3 confrontation, rolling around on the ground,  
4 trying to subdue a subject who refuses to  
5 submit and actively, violently resists arrest,  
6 all because he or she heard or read about this  
7 whole controversy somewhere that sheriffs,  
8 quote, aren't cops and they can't do that.

9 We certainly respectfully ask you to  
10 support House Bill 466 in order to provide the  
11 necessary legislative clarification and relief  
12 in this matter

13 We are aware that you may hear from  
14 certain elements of the District Attorneys  
15 Association in opposition to this  
16 legislation.

17 We respectfully suggest there is no  
18 issue between the Office of Sheriff and the  
19 Office of District Attorney. We are all aware  
20 of our respective roles and recognize the  
21 power and authority of the District Attorney  
22 and respect their dedicated work on behalf of  
23 the citizens of the Commonwealth.

24 Clarifying the power and authority of  
25 the Office of the Sheriff in no way impinges

1 on the power and authority or prerogatives and  
2 privileges of the Office of the District  
3 Attorney.

4 We are aware you may hear from  
5 certain elements of CCAP in opposition to this  
6 legislation.

7 We respectfully suggest that there is  
8 no issue between the Office of the Sheriff and  
9 the offices of elected officials of county  
10 government who are responsible for financial  
11 and budgetary affairs.

12 Clarifying the power and authority of  
13 the Office of the Sheriff in no way impinges  
14 upon the county commissioners, county  
15 councils, or county executives in discharging  
16 their responsibilities to authorize and  
17 control county budgets and finances.

18 As we experience increasingly  
19 dangerous times in our society with sad and  
20 tragic stories of random violence, such as  
21 shootings at schools, malls, and college  
22 campuses, and we're all looking to increase  
23 the number of local law enforcement available  
24 to protect and serve our citizens, does it  
25 make any sense at all to effectively decrease

1 the ranks by de-authorizing an existing pool  
2 of some 2500 well trained, already equipped,  
3 already sworn, certified law enforcement  
4 officers serving the Commonwealth as deputy  
5 sheriffs?

6 While there's more to discuss than  
7 the present time will allow, I will close my  
8 remarks here and just touch about a few that I  
9 need to rebut.

10 The issue of training, as one of the  
11 representatives said, is -- is bogus. It's a  
12 red herring. It's not about training. It's  
13 about control. It's about power.

14 If you look at who controls the  
15 MPOETC training and if you look at who  
16 controls the deputy sheriff training, that's  
17 the issue. That's the -- it's not about  
18 training. We're very well trained. It is a  
19 very good academy. I encourage you to stop  
20 out and visit with them sometime. They really  
21 are very good.

22 I gave you my example of a guy who  
23 successfully passed Act 120 training and was  
24 certified and couldn't be certified as a  
25 deputy sheriff because he couldn't meet those

1 requirements.

2 With regard to this  
3 cross-deputization and so forth and so on,  
4 that's about taking power away from the  
5 sheriff. Oh, you're okay as a second class  
6 officer. If you have somebody else to give  
7 you the authority, that's okay. But not on  
8 your own, God forbid.

9 We talked about rogue sheriffs. I  
10 don't know that we have had any rogue sheriffs  
11 or deputies, but certainly all of us have our  
12 knotheads. No question about it.

13 I'm certain that the Lieutenant  
14 Colonel could tell us of any number of  
15 Pennsyl -- ex-Pennsylvania state troopers who  
16 were prosecuted through the Bureau of  
17 Professional Responsibility for high crimes  
18 and misdemeanors.

19 That's not the point. The point here  
20 is about power and authority. That's really  
21 what it comes down to.

22 All we're asking the legislature to  
23 do is finally, for once and for all, to  
24 address this, to clarify it and to say, yes,  
25 these law enforcement officers who were the

1 original and have always been, still are, and,  
2 yes, they can perform their duties.

3 I chuckle when I hear people talk  
4 about returning to the traditional duties.  
5 I'm all for that. The only thing is my  
6 traditional duties don't go back just 20 years  
7 when most of the sheriffs were retreating into  
8 the courthouse.

9 My traditional duties go back to when  
10 the sheriff was the only law officer and had  
11 all the authority and responsibility. So,  
12 yeah, let's go back to the traditional duties,  
13 not to the select ones that certain people  
14 want to harp on because it suits their  
15 purposes and their needs.

16 With regard to those, quote,  
17 traditional duties, I got to tell you -- I got  
18 to tell you, and the deputies who lost their  
19 thumb and their eyesight serving a writ of  
20 possession, the traditional duties are very  
21 necessary and very dangerous. They can be  
22 life-threatening.

23 Deputy VanKuren and Deputy Burgert,  
24 may they rest in peace, can testify to that by  
25 their sacrifice that they made.

1           The traditional duties are nothing  
2 secondary. Nothing secondary. To protect the  
3 judiciary and the people that we deal with,  
4 I'm a graduate of the Federal Law Enforcement  
5 Training Center U.S. Marshals' Academy on  
6 judicial security and protection. It's not  
7 about just providing screening at the door.  
8 There's a lot more to that.

9           When you say, well, the guys in the  
10 courthouse don't have to worry about all the  
11 same things that a SWAT team might have to or  
12 this might have to, baloney.

13           On Monday morning of criminal court  
14 week all of the bad guys in Northampton County  
15 are in my house, all together at the same  
16 time.

17           We have a deputy in our department  
18 that does nothing but gang intelligence. He  
19 works with other law enforcement agencies. We  
20 have a lot of gang intelligence because the  
21 gangsters are in our courthouse. The  
22 gangsters are there. All of the bad guys are  
23 there. And not just the summary offenses that  
24 most troopers on the road and municipal  
25 offenses find with traffic tickets. No. No.



1           These are the big guys. These are  
2 the big boys that they are guaranteed that  
3 they're at least looking at misdemeanors or  
4 felonies. Not the little guys.

5           So when we have to worry about  
6 securing the court, providing protection for  
7 the judges, the court officers -- oh, that's  
8 another one.

9           Officers of the court, the Chief of  
10 Police Association says. We are not officers  
11 of the court. We do not work for the judicial  
12 branch of government. We are executive  
13 officers just like them. We do not report to  
14 the president judge and we're not court  
15 officers.

16           So many of these things -- I  
17 apologize. I could go on and on. I will  
18 close my comments.

19           I -- I thank you for your time and  
20 attention. I know there's a lot of politics  
21 involved here. There's a lot of issues.

22           But really it comes down to power and  
23 authority. That's what we're asking you to  
24 clarify. It will not put any more cost into  
25 anything. In fact, it will reduce liability,

1 as I believe Representative Dally said. It  
2 will clarify exactly where we stand and what's  
3 going on.

4 You don't think I have liability?  
5 I'm sitting here with a high capacity, large  
6 caliber firearm on my side that I could use at  
7 any moment to take anyone's life under the law  
8 of Pennsylvania.

9 Can we get any more liability than  
10 that? I don't think so.

11 In my particular county I'll also  
12 tell you in reference to my sheriff, to his  
13 credit, Sheriff Hawbecker, he has us all very  
14 well trained in first aid and emergency care  
15 and emergency management and response.

16 We've responded during the times of  
17 flooding in our area for not law enforcement  
18 purposes really but to provide emergency help  
19 and assistance.

20 We support the police agencies in our  
21 area, including the State Police, who in our  
22 county, like all other counties, at nighttime  
23 Belfast barracks has one car with two guys out  
24 in it.

25 When I worked in Sector 6, our

1 northeast corner of the county, the State  
2 troopers were very happy to see me come by and  
3 back them up when they had a situation or a  
4 circumstance where they were all alone and  
5 their nearest response was 20 or 30  
6 minutes away to back them up.

7 I find that the troopers and the  
8 officers and municipal police forces and the  
9 State Police are very good, hard-working,  
10 dedicated people and they do not share the  
11 politics of power and authority that a lot of  
12 the brass do.

13 No offense intended, Lieutenant  
14 Colonel.

15 LT. COLONEL PAWLOWSKI: None taken.

16 DEPUTY SHERIFF RUBERRY: At the road  
17 level, we don't seem to have this problem  
18 because when someone is pointing a gun at you  
19 or trying to kill you, it makes it very, very  
20 easy to understand who is the good guy and who  
21 is the bad guy. It's not hard to figure out  
22 at that point. And we're not too concerned  
23 whether it was MPOETC that certified you or  
24 the deputy sheriffs' board that certified you.

25 I stop. I could go on and on. I

1 apologize. I'm passionate about it because it  
2 affects me personally, and it affects all of  
3 the Commonwealth, all of our citizens, all  
4 of -- of the entire society, obviously. But  
5 particularly and directly, most directly,  
6 affects deputy sheriffs who do this work.

7 Thank you again and I would certainly  
8 answer any questions.

9 CHAIRMAN CALTAGIRONE: Thank you for  
10 your testimony.

11 Oh, I want to mention that  
12 Representative John Pallone has joined the  
13 committee.

14 And Beth.

15 REPRESENTATIVE MACKERETH: Thank you,  
16 Mr. Chairman.

17 I would just like to ask a question  
18 similar to the one Representative Dally asked  
19 the people from the FOP.

20 Would you have any opposition to  
21 changing the language in the bill to say same  
22 training? And, again, I do not have a copy of  
23 your testimony with the addendums to it so --  
24 where you attach that.

25 I would like to see that, because I

1 was concerned about the lack of criminal  
2 investigation training -- if there is one. I  
3 mean that's what was testified to. So I would  
4 like to see that.

5 But would have you a problem with  
6 changing that?

7 SERGEANT DAVID RUBERRY: I must  
8 clarify. I'm not speaking for the FOP.  
9 Although I'm a member of the FOP.

10 REPRESENTATIVE MACKERETH: Well, no.  
11 Craig Dally asked the FOP people if they would  
12 have a problem that. I'm wondering from a  
13 sheriff's perspective, would you have a  
14 problem with changing it to the same  
15 training?

16 SERGEANT DAVID RUBERRY: No.

17 REPRESENTATIVE MACKERETH: Okay. And  
18 also it sounds to me like a lot of the issue  
19 is a clarification issue and it sounds to me  
20 like we may not have -- you know, this is a  
21 very difficult issue. You got both sides.  
22 You got sheriffs wanting to have back the  
23 powers, it sounds like, that they used to have  
24 and police officers saying we don't want them  
25 to have that.

1 I'm just wondering whether or not we  
2 need to sit down and really clarify -- because  
3 I'm not even sure. What are the duties of the  
4 sheriff? What were the duties? Just lay it  
5 out so we have a better perspective on it.

6 Would you be willing and able to work  
7 with us to do that?

8 SERGEANT DAVID RUBERRY: I'm sure our  
9 association would happily be involved in that  
10 and certainly contribute to that effort  
11 without a doubt.

12 REPRESENTATIVE MACKERETH: I would  
13 also like to say, my sheriff is in the back of  
14 the room, Sheriff Keuerleber. He's  
15 phenomenal. He's a great sheriff. And we  
16 work very, very closely with him. I work very  
17 closely with him.

18 He's also one of my constituents, as  
19 well as my county commissioners from York  
20 County, Commissioners Chronister and Reilly  
21 are in the back of the room.

22 And they really care about this issue  
23 because, as you said, a lot of the crime  
24 problems that are occurring that our local  
25 police are not able to handle.

1           So thank you for your information.

2           SERGEANT DAVID RUBERRY: Certainly.

3           I will -- I will mention that the motto of our  
4           deputy sheriffs -- the Deputy Sheriffs'  
5           Association of Pennsylvania, the motto is  
6           improving the Office of Sheriff through  
7           training.

8           So we're advocating constantly for  
9           improved training and improved standards and  
10          quality assurance.

11          CHAIRMAN CALTAGIRONE: Are there any  
12          other questions from members?

13          Thank you for your testimony.

14          SERGEANT DAVID RUBERRY: Thank you  
15          very much.

16          CHAIRMAN CALTAGIRONE: We'll next  
17          hear from Doug Hill, Executive Director of the  
18          County Commissioners Association of  
19          Pennsylvania.

20          EXECUTIVE DIRECTOR HILL: Good  
21          afternoon. I'm Doug Hill, Executive  
22          Director -- excuse me -- of the County  
23          Commissioners Association of Pennsylvania.

24          We are a nonprofit, nonpartisan  
25          association providing legislative, education,

1 research, insurance, technology, and other  
2 services on behalf of all the Commonwealth's  
3 67 counties, and I appreciate the ability to  
4 appear before you today to present our  
5 comments on House Bill 466, clarifying the  
6 powers and duties of sheriffs.

7 By this hour of the day you've  
8 doubtless heard the full recitation of case  
9 law that is by turns established, and partly  
10 rescinded, sheriff arrest powers and has  
11 brought about this need for this legislation.

12 The Leet, Kline, Kopko, and Dobbins  
13 decisions have each dealt with the ambiguity  
14 inherent in defining the powers accruing to  
15 sheriffs in Pennsylvania, parsing between  
16 concepts of common law and concepts of  
17 government by specific legislative enactment.

18 I will candidly concede that our  
19 association has long fought the establishment  
20 of the law enforcement model of sheriff,  
21 common in most other states.

22 Instead, we have adhered to the  
23 settled and traditional, and I have to add  
24 statutory, role that sheriffs have  
25 historically held in Pennsylvania as officers



1 of the court.

2 The Leet decision presented the most  
3 significant challenge to this position, but  
4 over time we accepted the tacit recognition of  
5 sheriff arrest powers granted or affirmed,  
6 depending on your point of view, by the  
7 court.

8 This included acceptance of the  
9 notion that those arrest powers serve as the  
10 basis for law enforcement functions, although  
11 we don't grant that there was a concurrent  
12 duty or imperative to actively undertake those  
13 functions.

14 With the exception of some sheriffs  
15 and boards of commissioners at either end of  
16 the spectrum, this seemed to be an agreeable  
17 middle ground and particularly when qualified  
18 by the certification requirements of Kline and  
19 the increased training regimen mandated for  
20 deputies.

21 Kopko threw this understanding into  
22 disarray by seeming to reconsider the extent  
23 and breadth of Leet's common law arrest  
24 powers.

25 Our membership reviewed the issue

1 carefully and came to the conclusion that on  
2 its face there were enough vagaries in Kopko  
3 to call into question even such long-accepted  
4 traditional roles of sheriffs as service of  
5 criminal warrants.

6 From a broader public policy  
7 viewpoint, having become accustomed to some  
8 level of arrest capacity under Leet and  
9 recognizing the absurdity of questioning  
10 whether a trained and uniformed deputy could  
11 perform an arrest, we modified our public  
12 platform to read, quote, support clarification  
13 of sheriff powers in wake of the Kopko v.  
14 Miller decision. The Dobbins decision sealed  
15 the need for legislative intervention.

16 Still our members retain reservations  
17 about operation of the sheriff's office as a  
18 law enforcement agency, and so our resolution  
19 qualifies the call for clarification of arrest  
20 powers only to the extent necessary to restore  
21 powers generally accepted historically and  
22 only as supported by operating consensus in  
23 the years following the Leet and Kline  
24 decision. The association opposes any other,  
25 or any further, extension of police powers to

1 sheriffs, end quote.

2 The question then is our position on  
3 House Bill 466. We believe the bill certainly  
4 satisfies the requirements of the Dobbins  
5 decision by statutorily setting out the  
6 ability of sheriffs and deputies to perform  
7 arrests, and in the settings and circumstances  
8 we came to accept over time in the wake of  
9 Leet.

10 As such, we support its consideration  
11 as a means to resolve the Dobbins dilemma.

12 The open question, and something that  
13 you have clearly heard from others today, is  
14 whether the bill goes beyond that and  
15 sanctions fashioning a sheriff's department  
16 into a municipal-style law enforcement agency,  
17 either permissively or by duty.

18 We concede that we do not have a  
19 clear view on that point as the legislation is  
20 currently drafted, particularly given that the  
21 court's own changeable and, until recently,  
22 not altogether clear opinion on the matter  
23 fails to give us an indication of the scope of  
24 minimum language needed to address the issue.

25 We're open to consideration of other

1 suggestions for appropriate qualifying  
2 language that still meets the need of  
3 resolving the issue of basic arrest powers.

4 And, indeed, listening to some of the  
5 viewpoints expressed today, we think that it  
6 will be necessary to further revisit the  
7 language so that we're all clear what the  
8 legislation means.

9 Now, we have two related and  
10 important matters that have to be taken into  
11 account as part of the deliberations.

12 The first is whether the arrest  
13 powers are cast as permissive or as a duty.  
14 And while that might seem to be arcane  
15 distinction, it's an important one in the  
16 relationship between commissioners and any of  
17 the row offices, including the sheriff.

18 The commissioners are by statute the  
19 county's chief financial administrators, and  
20 possess exclusive budgeting, taxation, and  
21 contracting authority for the county -- for  
22 the county, powers that they, in turn,  
23 exercise on behalf of all the row offices.

24 Given that row offices are  
25 independently elected, this creates, shall we

1 say, a certain dynamic tension that the courts  
2 have resolved by holding the commissioners  
3 responsible for giving the row offices -- and  
4 this is a rough paraphrase -- giving them  
5 resources sufficient to perform their duties.

6 Duties is the operative word. Tasks,  
7 projects, and functions that fall outside the  
8 statutory duties, in other words, permissive  
9 functions, are matters for budget  
10 negotiation.

11 In the context of House Bill 466  
12 then, it is important to us that the arrest  
13 powers be cast as permissive rather than duty,  
14 preserving the generally balanced relationship  
15 that developed post Leet.

16 Second, we are emphatic that the  
17 issue of resolving Dobbins be kept separate  
18 from the larger and distinct discussion of the  
19 adequate -- the adequacy of police services  
20 generally, and creation of regional policing  
21 specifically.

22 House Bill 466, we believe, is  
23 intended to address one particular problem and  
24 should remained focused there.

25 Attempting to discuss the broader

1 question of police services raises a complex  
2 set of issues that have to be considered in  
3 their own separate context.

4 By way of example, our membership  
5 recognized that in that same resolution and in  
6 its policy statement notes a number of points  
7 that specifically need to be addressed if  
8 you're going to talk about overlapping  
9 jurisdictions, regional jurisdictions, or  
10 countywide jurisdictions.

11 In our testimony I have reproduced  
12 all the bullets that are part of that  
13 resolution. Given the context today and the  
14 amount of discussion you've had on regional  
15 policing and the scope of what would be  
16 granted to sheriffs and deputies under this  
17 legislation, I think I need to elaborate on  
18 each of these, at least some of these, a  
19 little bit farther.

20 They include things like providing  
21 for ultimate control by the county governing  
22 body.

23 The notion there is like a municipal  
24 police department, the policing functions  
25 should ultimately report to some civilian

1 authority. In the municipal model, that's  
2 reporting to a mayor and a council.

3 Specify that expanded powers are  
4 permissive but not a duty, making expansion of  
5 power discretionary on a county-by-county  
6 basis, rather than requiring expansion  
7 statewide.

8 I think that's self-explanatory.

9 Create a standardized procedure that  
10 could be followed in any county to delineate  
11 how decisions would be reached in the event an  
12 expanded scope of authority for our county  
13 sheriff's department is desired.

14 I think you could understand there  
15 could be a conflict between a sheriff and a  
16 board on whether that should occur and under  
17 what circumstances.

18 And, in fact, as someone suggested, a  
19 successor board and a successor sheriff might  
20 have a different point of view. So we need to  
21 have the rule book in place statutorily before  
22 that takes place.

23 Place review of the sheriff's  
24 department under some civilian review panel to  
25 assure immediate public accountability.

1           Granted the sheriffs are accountable  
2           every four years at the ballot box, the  
3           ultimate accountability; but that is every  
4           four years and we -- and we have to concede  
5           that there are circumstances that may require  
6           earlier intervention and earlier oversight.

7           Require training, with reimbursement  
8           for training costs on the same terms as  
9           municipal police officers.

10           We aren't going to hang our hat on  
11           whether training needs to be identical and, in  
12           fact, given certainly the number of hours and  
13           knowing what we know about the training our  
14           deputies receive, we think that training is  
15           certainly adequate. That bullet is probably  
16           met under current law.

17           Place the sheriff's department under  
18           statutes applicable to municipal police  
19           administration, including those relating to  
20           mutual response agreements, command and  
21           control, hot pursuit, Civil Service  
22           procedures, and the like.

23           That's an important question. When a  
24           call comes in, if there's competing  
25           jurisdiction, who do we dispatch? Who has



1 control of the crime scene or the incident  
2 scene?

3 None of that is addressed if you rely  
4 simply on the belief that the language of  
5 House Bill 466 authorizes that scope of  
6 service.

7 Provide for liability and  
8 indemnification. That is -- that is  
9 self-explanatory.

10 If patrol and other police services  
11 are to be provided to municipalities in the  
12 county, name the county governing body as the  
13 contracting agent with ability to establish  
14 reimbursement for services, or special taxing  
15 authority, for counties to cover costs.

16 Again, you take a look at the typical  
17 county in Pennsylvania. You have certain  
18 municipalities that have police departments  
19 that they fund fully, that are full-time  
20 24/7. You have other municipalities in the  
21 county that are 8:00 to 5:00 Monday through  
22 Friday, and then you have many municipalities  
23 with no service of any kind.

24 What is fair to the taxpayers of the  
25 county generally in terms of policing? Do you

1       serve just the areas that are underserved, in  
2       which case the -- you have some citizens  
3       paying for levels of police service? Do you  
4       serve the entire county? Those questions need  
5       to be resolved.

6                If patrol and other police services  
7       are to be undertaken within municipalities in  
8       the county and -- provide a mechanism  
9       requiring notice and municipal approval or  
10       acknowledgment.

11               I think that goes without saying  
12       under Pennsylvania statute and practice,  
13       municipalities, I think, very clearly have the  
14       first opportunity to create a police  
15       department.

16               Reserve the integrity of the county  
17       governing body's ability and prerogatives to  
18       execute contracts and to establish the budget  
19       for the sheriff's department.

20               I think that goes without further  
21       explanation.

22               And then last, and really the issue  
23       in this legislation, clarify the role of  
24       sheriffs in the service of criminal warrants.

25               Now, I don't want you to

1 misconstrue -- misconstrue our comments  
2 today. This, in our case, in deference to the  
3 prior testimony, is not about power and  
4 authority, and it certainly isn't about our  
5 county's commitment to public safety.

6 We support bringing whatever  
7 resources we have to bear for -- on behalf of  
8 public safety and to prevent, deter, and deal  
9 with crime when it occurs, and by testimony to  
10 that we put billions of dollars each year into  
11 the judiciary, the prisons, probation. We  
12 fund the District Attorney's Office, the  
13 Public Defender's Office, preventive services,  
14 Domestic Relations, the 911 system, and  
15 others. And so our commitment is there.

16 But I think it's also important by  
17 reciting that list to know that there are many  
18 roles to be played as a part of the provision  
19 of justice and provision of public safety and  
20 everyone has a role to play.

21 And so I'm -- if you construe House  
22 Bill 466 to essentially create regional police  
23 departments, then you really need to do much  
24 more than the bare bones language there and  
25 you need to take it up in a different context

1 because we can't do something like that on an  
2 ad hoc basis.

3 We're missing resources, financial  
4 resources certainly. It's been costly for  
5 municipalities. I think that's a large reason  
6 many of them don't have departments and many  
7 that do are scaling back.

8 If you put that at the county level,  
9 you're saying it's property taxpayers.  
10 Because that's the only tax base available to  
11 the counties at the moment.

12 Second, and the more important  
13 resource that we're missing, is statutory  
14 resources, and that gets to that whole set of  
15 issues that I framed as a part of that  
16 resolution. It can't be done on an ad hoc  
17 basis. It has to be on a considered basis.

18 And to just sum up our testimony  
19 then, we support movement on House Bill 466 in  
20 the very narrow context of restoring the  
21 arrest powers that were called into question  
22 by the Dobbins decision; and then if you want  
23 to have a discussion of regional and  
24 countywide police, do that in a completely  
25 separate context but do it on its own merit.

1           And I will be happy to answer any of  
2 your questions.

3           CHAIRMAN CALTAGIRONE: Questions?  
4 Craig.

5           REPRESENTATIVE DALLY: Thank you,  
6 Mr. Chairman.

7           Thank you, Doug, for your testimony.  
8 It was -- it was very sensitive and you  
9 covered a lot of points. And I think that  
10 really is the intent of 466, is -- is to  
11 restore.

12           We're not out looking to be expanding  
13 and creating county police forces. So I think  
14 you raised a lot of good issues if that were  
15 the goal.

16           And I think some of the things that  
17 you raised you could deal with internally in  
18 your individual county anyway. But certainly  
19 that was -- that was my -- my intention when I  
20 introduced the bill, was to address the  
21 concerns that you raised, so -- in terms of  
22 restoration.

23           Thank you.

24           EXECUTIVE DIRECTOR HILL: Right.

25           CHAIRMAN CALTAGIRONE: Yes, sir. I'm

1       sorry.    Sidebar going on here.

2                Are there any other questions?

3                Doug, thank you.  We're probably  
4 going to be working with you to try to get  
5 some of this language worked out.

6                EXECUTIVE DIRECTOR HILL:  I'll look  
7 forward to that, Mr. Chairman.  Thank you.

8                CHAIRMAN CALTAGIRONE:  Thank you,  
9 sir.

10               Dr. William G. Pettigrew, Jr., a  
11 member of the Deputy Sheriffs' Education and  
12 Training Board.

13               DR. PETTIGREW:  Good afternoon,  
14 everyone.  I wish to thank the chairman and  
15 the members of the House Judiciary Committee  
16 for allowing me to share information on the  
17 training that deputy sheriffs receive in  
18 Pennsylvania.

19               My name is Dr. William Pettigrew.  
20 I'm currently the superintendent of the Mars  
21 Area School District and a member of the  
22 Deputy Sheriffs' Education and Training  
23 Board.

24               The Deputy Sheriffs' Education and  
25 Training Board was created as an advisory

1 board to the Pennsylvania Commission on Crime  
2 and Delinquency by Act 2 of 1984.

3 The ten-member board has two common  
4 pleas judges, two sheriffs, three current or  
5 former deputy sheriffs, one educator, which is  
6 myself, one county commissioner, and a  
7 representative from the Pennsylvania Attorney  
8 General's Office.

9 Under Act 2 the board is charged with  
10 establishing and administering a program of  
11 basic and continuing education for deputy  
12 sheriffs.

13 The act requires newly hired deputy  
14 sheriffs to attend basic training in order to  
15 be certified by the Commonwealth as a deputy  
16 sheriff.

17 In addition, all deputy sheriffs are  
18 required to renew their certification through  
19 continuing education every two years.

20 In 1999 and 2000, the board and its  
21 training development contractor, Temple  
22 University's Department of Criminal Justice,  
23 produced and delivered a 560-hour curriculum.

24 In December 2002 the Independent  
25 Regulatory Review Commission approved the

1 regulations of the Deputy Sheriffs' Education  
2 and Training Board, which included expanding  
3 the deputy sheriffs' basic training program  
4 from 560 hours to 760 hours.

5 The increased hours included topics  
6 of patrol procedures and operations, motor  
7 vehicle/accident investigation, DUI  
8 enforcement, criminal investigation, and drug  
9 related investigations.

10 Today, all deputy sheriffs are  
11 required to take 760 hours, which, in turn,  
12 turns into approximately 19 weeks, of training  
13 at the Pennsylvania State University's Justice  
14 and Safety Institute in State College.

15 Under Act 2, deputy sheriffs have one  
16 year from the start of employment to obtain  
17 this certification.

18 As you know, and you've heard it  
19 probably many times today, municipal police  
20 officers in Pennsylvania are required to  
21 complete Act 120 training. This program is  
22 delivered at more than 20 locations across the  
23 Commonwealth, while Penn State is the only  
24 location for deputy sheriffs' training.

25 I believe this ensures continuity of



1 training for all deputy sheriffs who receive  
2 identical and consistent training from the  
3 same training source no matter where they are  
4 employed.

5 We have supplied members of the  
6 committee a comparison sheet on the Act 2 and  
7 Act 120 programs. You can see by the  
8 comparison the programs are very similar.

9 Deputy sheriffs need additional  
10 training for civil law procedures, courthouse  
11 security, and prisoner transportation.

12 Some of the training programs under  
13 Act 2 include introduction to criminal justice  
14 and civil law, approximately 12 hours.

15 Criminal law, 60 hours.

16 State and local anti-terrorism  
17 training, 16 hours.

18 Accident investigation/HAZMAT  
19 training, 24 hours.

20 Principles of criminal investigation,  
21 44 hours.

22 Family crisis/domestic violence,  
23 eight hours.

24 And lethal weapon proficiency, 80  
25 hours.

1           Clearly, the Act 2 training, as  
2           administered by the Pennsylvania Commission on  
3           Crime and Delinquency is a comprehensive law  
4           enforcement training program.

5           As a member of the Deputy Sheriffs'  
6           Education and Training Board, I have stressed  
7           the need for physical conditioning in basic  
8           training -- basic training and continuing  
9           education. Deputy sheriffs are required to  
10          take 48 hours of physical conditioning as part  
11          of training for certification.

12          During the 2005, 2000 (sic) training  
13          cycle, continuing education provides three  
14          separate courses of instruction, including use  
15          of force, prison transport, infectious disease  
16          prevention, legal updates, drug identification  
17          -- drug identification, cultural diversity,  
18          and domestic violence.

19          The deputy sheriffs who attend the  
20          training program and receive the Act 2  
21          certification from the Commonwealth through  
22          the PCCD have a wide knowledge of law  
23          enforcement issues and procedures. They're  
24          trained to handle law enforcement situations  
25          and can be a valuable asset in protecting our

1 communities.

2 As an educator, I know that there are  
3 school districts that rely on the deputy  
4 sheriffs as school resource officers. I  
5 myself at the Mars School District, we are  
6 located in Butler County and we have used  
7 Sheriff Dennis Rickard on numerous occasions  
8 when we have had problems within our school.

9 I urge the General Assembly to pass  
10 House Bill 466 to reaffirm, by statute, the  
11 authority of deputy sheriffs to perform law  
12 enforcement duties as needed in their  
13 communities.

14 The training they receive warrants  
15 their designation as law enforcement  
16 personnel.

17 I'll now answer any questions you may  
18 have on behalf of the deputy training  
19 program. If I can't answer them, I will get  
20 back with the PCCD -- PCCD staff and get the  
21 answers for you.

22 Are there any questions?

23 CHAIRMAN CALTAGIRONE: Thank you,  
24 doctor.

25 REPRESENTATIVE DALLY: Thank you,

1 Dr. Pettigrew.

2 Given your knowledge of -- of Act 2  
3 training and Act 120 training, as you were  
4 here through some of the testimony that we  
5 heard today, and the issue of same training  
6 was an issue raised by the chiefs of police.

7 Would it be difficult to incorporate  
8 all of 120 training into your sheriff  
9 curriculum so that -- your curriculum may go  
10 beyond that, but would it be difficult to have  
11 that curriculum as part of your Act 2 training  
12 so in essence it is the same even though you  
13 may go further with lot of these other issues  
14 as far as the civil end of your duties and  
15 things like that?

16 DR. PETTIGREW: No, I don't see any  
17 problems doing that. I do want to emphasis  
18 the fact though that there are 20 different  
19 training places, and with the deputy sheriffs  
20 it's just one.

21 So it's very, very easy, and more  
22 affordable, to take care of that training and  
23 make sure it's consistent.

24 Because I think consistency is what  
25 you need. There's no question about that. To

1 make sure everybody hears the same thing, the  
2 technique is done the same way, and there's no  
3 room -- no room for error.

4 REPRESENTATIVE DALLY: Yeah. I'm not  
5 changing your venue as far as the location of  
6 your school.

7 DR. PETTIGREW: No, I know you're  
8 not. I concur. I'm thinking that that's not  
9 a problem, especially in one location as  
10 opposed to several locations.

11 REPRESENTATIVE DALLY: I see. Thank  
12 you very much.

13 CHAIRMAN CALTAGIRONE: Any other  
14 questions?

15 Tina, I'm sorry.

16 REPRESENTATIVE PICKETT: Thank you,  
17 Mr. Chairman.

18 Without really understanding all of  
19 the aspects of the different trainings for  
20 each group, is it possible, upon merging, if  
21 this were to happen, the two trainings become  
22 the same and become merged in some way, would  
23 it upgrade possibly both groups of law  
24 enforcement people?

25 DR. PETTIGREW: I -- I personally am

1 not familiar verbatim with all the different  
2 curriculums. My background is curriculum  
3 instruction, not that that means anything.

4 But as far as programs are concerned,  
5 I think that would not be a problem. I think  
6 that probably would be a benefit for all  
7 parties concerned, and I think the biggest --  
8 the biggest winners in this whole situation if  
9 that would come to pass would be the citizens  
10 of Pennsylvania. There's no question about  
11 that.

12 I think we -- we are well aware of  
13 the need, especially in counties that do not  
14 have an urban center. The rural counties  
15 could -- definitely need the assistance by --  
16 of law enforcement, especially deputy  
17 sheriffs. I think they could be more of an  
18 asset more than anything else.

19 CHAIRMAN CALTAGIRONE: Thank you,  
20 doctor. Thank you for your testimony.

21 And this will conclude the hearing.  
22 Thank you for your testimony.

23 DR. PETTIGREW: Thank you.

24 CHAIRMAN CALTAGIRONE: If you can  
25 just introduce yourself for the record and

1 then proceed.

2 MR. STEVEN CHRONISTER: My name the  
3 Steve Chronister. I'm a present commissioner  
4 of the York County Board of Commissioners,  
5 York County, Pennsylvania, and I'm here with  
6 Commissioner Chris Reilly and also Sheriff  
7 Rich Keuerleber.

8 Thank you for having me and allowing  
9 me to testify. I appreciate it.

10 Pennsylvania's counties are facing  
11 two major problems, growing budgets and  
12 crime.

13 Many of Pennsylvania's counties are  
14 new homes to criminals forced out of New York  
15 City by accessing the Route 222 corridor. Two  
16 of these counties that have been hit the  
17 hardest is Berks County and York County.

18 They are setting up shop in the  
19 county seats of York and Reading where  
20 resources are stretched so thin it's difficult  
21 to maintain safety and order for our  
22 residents.

23 Two years ago during our county 2006  
24 budget session, I finally realized that most  
25 of our general fund money is being spent on

1 crime after the arrest is made.

2 The areas in county government most  
3 affected are the Court of Common Pleas, adult  
4 and juvenile processing, Clerk of Courts, the  
5 sheriff's department, District Attorney, Public  
6 Defender, 19 district magistrate offices,  
7 Children and Youth Services, York County Youth  
8 Development Center, and the York County  
9 Prison.

10 We estimated of the \$161 million of  
11 our general fund in the 2007 budget, 127  
12 million was spent on crime.

13 In 2007 I established a team of  
14 individuals, which included Sheriff Rich  
15 Keuerleber and myself, to research and develop  
16 a strategy to form an action plan to address  
17 crime in York County.

18 The county of York cannot rely and  
19 will not rely on you as House members to  
20 support our local financial and crime  
21 problems. We also cannot rely on our local  
22 police departments, who are stretched beyond  
23 their limits, to solve our budget and crime  
24 crisis.

25 Almost every day last summer you



1 would pick up a New York newspaper and read  
2 about another shooting, home invasion, bank  
3 robbery, drug bust, and just about every other  
4 crime imaginable.

5 In my crime report we looked to New  
6 York City and former Mayor Rudy Giuliani's  
7 success in reducing crime by 70 percent,  
8 closing down prisons and reducing their budget  
9 by \$185 million. He used the broken window  
10 theory of more police on the streets and the  
11 Guardian Angels.

12 We looked across the river to  
13 Lancaster County and Franklin and Marshall  
14 College. The college hired security guards to  
15 patrol the neighborhood around their campus to  
16 rid the streets of crime, which was a  
17 tremendous success.

18 We also invited nationally known  
19 Curtis Sliwa, the founder of the Guardian  
20 Angles, to York last Friday where he addressed  
21 elected officials, chiefs of police, and  
22 community stakeholders.

23 Mr. Sliwa stated that many  
24 Pennsylvania cities are now welcome --  
25 welcoming the establishment of the Guardian

1 Angel chapters in their cities and counties.

2 He stated that criminals are now migrating to  
3 smaller areas like York because they know our  
4 resources are stretched to combat them.

5 York County could use security guards  
6 like Franklin and Marshall College. York  
7 County could also use the services of the  
8 Guardian Angels and set up a chapter.

9 But York County already has within  
10 its own jurisdictions department -- a  
11 department already involved with law  
12 enforcement and the criminal justice system,  
13 and that is the York County Sheriff's  
14 Department, headed by Sheriff Rich Keuerleber,  
15 who is here today.

16 We will use, with or without your  
17 passage of your House Bill 466, this group of  
18 trained deputies to form our criminal response  
19 unit, along the same lines as our Drug Task  
20 Force and our County Quick Response Team.  
21 Allow them to have -- to have the power of the  
22 Pennsylvania police departments.

23 In the last month, I had a breakfast  
24 meeting with our county police chiefs'  
25 executive committee and after an hour of

1       laying out my plan, they were asking how they  
2       could help.

3                 Several weeks later, I stood in front  
4       of all the York County police chiefs and made  
5       my case. They now believe we are not creating  
6       a countywide police department. They now know  
7       we are only trying to help them drive crime  
8       out of our city and out of our county.

9                 This is a financial problem and a  
10       safety problem wrapped in one.

11                Please pass House Bill Number 466 so  
12       your Pennsylvania counties can receive the  
13       much needed help to drive crime out of  
14       Pennsylvania.

15                One -- one other note. We're not  
16       asking for money. The local counties have the  
17       money to do it because we're already spending  
18       it. In York County to the tune of a 127  
19       million.

20                I talked to the county administrator  
21       in Berks County. Our budget is made up of --  
22       almost 80 percent of our budget for crime, so  
23       is theirs. Dauphin County is over 70 percent,  
24       and I think if you look around, I think most  
25       counties you'll see are probably up close to

1 80 percent.

2 So if we're already spending the  
3 money to fight crime after the arrest is made,  
4 you know, we need to take our own money and  
5 fight this, so we can reduce the spending in  
6 York County.

7 Thank you.

8 CHAIRMAN CALTAGIRONE: Would you like  
9 to go next?

10 SHERIFF RICHARD KEUERLEBER: Yes.  
11 I'm here today to support my fellow brothers  
12 and sisters with House Bill 466.

13 Shortly after I took office, I sat  
14 down with all the legislators within my  
15 district and they asked me, what could we do  
16 for you, because they wanted to sit down and  
17 discuss what was concerns for York County.

18 And I told them, I said, well, within  
19 York County, we have a crime plan that we're  
20 talking about, and there's a House Bill 466  
21 that I need you to support.

22 I said, I really need you to support  
23 it for the little counties, and we heard  
24 testimony today where there's probably only  
25 four or six deputies that are out on the

1 streets within -- within their jurisdictions  
2 and there might not be a police -- State  
3 Police barracks within a 300-mile radius.

4 I believe we need to send a message  
5 to the criminals that we need House Bill 466  
6 for the small rural counties. We have a Drug  
7 Task Force and under this plan we could attach  
8 deputies to it.

9 But you heard the Cumberland County  
10 sheriff talk about things that are problematic  
11 about that. I sat down with my task force  
12 commander, Bill Graff. We have one individual  
13 that's 120. We have another one that's Act  
14 84, Act 2. He belongs to the QR2 team, and  
15 he's an excellent officer.

16 And the question came up, well, how  
17 do we get by PSP wanting to work with us since  
18 we're not 120?

19 I believe with the passage of this  
20 bill you can clarify our arrest powers once  
21 and for all and put this baby to rest.

22 Thank you.

23 CHAIRMAN CALTAGIRONE: Thank you.

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

1           I would just like to say that,  
2           Mr. Chronister, your presentation is probably  
3           one of the most enlightened and progressive  
4           thoughts on -- on law enforcement that I've  
5           seen in some time, and you're obviously  
6           looking at the problem from a much larger  
7           viewpoint and I think that -- that you're  
8           right on target.

9           And certainly the intent of this  
10          legislation isn't to create a countywide  
11          police department. It's to do things like  
12          you're talking about doing in York County.  
13          Exactly.

14                 MR. STEVE CHRONISTER: Thank you.

15                 REPRESENTATIVE DALLY: And I applaud  
16          you for this and I look forward to reading  
17          this compendium of information that you put  
18          together, that you put some time into, and I  
19          really appreciate your -- your efforts here.

20                 Just one question. And also I like  
21          the thought that I've been a legislator now  
22          for 12 years now and I don't ever recall  
23          anybody coming here and saying they didn't  
24          want any money.

25                 MR. STEVE CHRONISTER: Right. I was

1 hoping you picked that point up. Thank you.

2 REPRESENTATIVE DALLY: But is York  
3 County a home rule county?

4 MR. STEVE CHRONISTER: No.

5 REPRESENTATIVE DALLY: So you have  
6 three county commissioners?

7 MR. STEVE CHRONISTER: Yes.

8 REPRESENTATIVE DALLY: Okay. All  
9 right. Thank you.

10 Thank you, Mr. Chairman.

11 CHAIRMAN CALTAGIRONE: Thank you,  
12 gentlemen. I appreciate your testimony. And  
13 I do apologize. Thank you.

14 MR. STEVE CHRONISTER: I appreciate  
15 it.

16 CHAIRMAN CALTAGIRONE: Sorry. Wait.  
17 Okay. I'm sorry. I apologize.  
18 There is one more.

19 MR. HARRY SCHNEIDER: Chairman,  
20 members, and staff, I want to thank you for  
21 staying over. I very much appreciate it.

22 I'm Harry Schneider, legislative  
23 chairman of the Pennsylvania Sportsmen's  
24 Association. We're the other group that never  
25 asks for money.

1           I'm not just speaking on behalf of  
2           the -- the other PSA. We have the  
3           Pennsylvania Sheriffs' Association,  
4           Pennsylvania Sportsmen's Association.

5           But when I was asked to speak here by  
6           the Sheriffs' Association I checked with some  
7           of my colleagues.

8           I called Kim Stolfer, who is  
9           legislative chairman of the Allegheny County  
10          Sportsmen's League, vice chairman of the  
11          Pennsylvania Sportsmen's Association, and head  
12          of FOAC, Firearms Owners Against Crime, the  
13          large gun owners PAC in this case.

14          He is very enthusiastic about passage  
15          of House Bill 466 and supports it fully.

16          I called Melody Zullinger, executive  
17          director of the Pennsylvania Federation of  
18          Sportsmen's Clubs. Her board of directors  
19          met, discussed this bill, and support it  
20          fully.

21          In fact, Melody asked me to tell you  
22          that if it wasn't for the fact that she's in  
23          Arizona on vacation, she would be here today.  
24          She's visiting her parents. Good girl.

25          I called Jack Lee, president of the



1 Pennsylvania Rifle and Pistol Association.  
2 That's the NRA of competitive shooters. They  
3 fully support the bill.

4 And Stan Switzer from the  
5 Pennsylvania Gun Owners Association. They  
6 support it.

7 So I wanted to let you know that the  
8 people that interface a lot with the sheriffs,  
9 the law-abiding gunners who go in for a  
10 license to carry firearms, we support this  
11 bill.

12 This doesn't mean that we haven't had  
13 issues with one -- with one sheriff or another  
14 from time to time. But the beauty of the  
15 Office of Sheriff is it's an elected office  
16 and if a sheriff is not responsive to the  
17 needs of the people he serves, we can unelect  
18 him.

19 So when we have issues with a  
20 particular sheriff, we can address that and we  
21 like that.

22 And we very much want you to restore  
23 the powers that the sheriff had fully in the  
24 common law.

25 I was surprised to hear -- I'm a bit

1 of a historian and I was surprised to hear  
2 some testimony that the sheriff had no police  
3 powers, and I'm in -- I'm in full concurrence  
4 with the statements that the -- that they  
5 did. They're -- under the common law, in my  
6 county, Butler County, we had an incident that  
7 occurred 106 years ago and 20 days.

8 A woman from Allegheny County came to  
9 Butler County and created a bit of a ruckus.  
10 Probably not the first time it happened and I  
11 can assure it wasn't the last time it  
12 happened.

13 Her name was Mrs. Soffel. They made  
14 a little movie about it with Diane Keaton and  
15 Mel Gibson. The movie by Hollywood standards  
16 was extraordinarily accurate. This was the  
17 wife of the then Allegheny County Prison --  
18 Allegheny County Jail warden, fell in love  
19 with a convicted murderer who was sentenced to  
20 be hung and she used force to break him and  
21 his brother free and they made the mistake of  
22 coming to Butler County with Pittsburgh police  
23 chasing them.

24 The newspaper accounts of that era  
25 describe how they got a communication to the

1 Butler County sheriff, the chief law  
2 enforcement official of the county, and the  
3 Butler County sheriff led the Butler city  
4 police south where they intercepted these  
5 folks and it was a very -- the -- the scene  
6 depicted in the movie where they had a running  
7 sleigh gun fight with the bad guys with  
8 horse-drawn sleighs and the city of Pittsburgh  
9 police with horse-drawn sleighs and the Butler  
10 County sheriff leading the Butler County  
11 police and had a gun fight where they killed  
12 the bad guys.

13 Mrs. Soffel was wounded. She  
14 recovered from her wounds in the Butler County  
15 hospital and then was sent back to Allegheny  
16 County for a little jail time and then she led  
17 out the rest of her life as a seamstress on  
18 the south side.

19 In Butler County, I am the pistol  
20 range chairman of the largest gun club in the  
21 region. We have dozens of police officers  
22 from a variety of departments that are  
23 members, shoot there regularly.

24 I have never heard -- and I deal with  
25 a lot of federal agents, state people, county

1 people, and local municipal police officers --  
2 I have never heard anyone say anything about  
3 the Butler County sheriff as being anything  
4 less than highly professional.

5 In fact, the Butler County sheriff  
6 and his chief deputy have trained more than a  
7 thousand police officers, Act 120 trained  
8 police officers, and it's absurd to say that  
9 they can train the officers but they can't  
10 function as police officers.

11 Seeing a police car out there has a  
12 deterrent effect; but when you tell the  
13 criminal that that sheriff's officer -- maybe  
14 he's serving papers, but when you -- when you  
15 have the police presence, it has a deterrent  
16 effect on crime.

17 And when the sheriff is out there  
18 doing his regular functions, that is a police  
19 car out there unless you allow this court to  
20 say, no, that's not a police officer.

21 Then you lose that deterrent effect  
22 which costs nothing.

23 It flies in the face of reason to  
24 deny that fully trained and qualified  
25 deputies, deny them the ability to protect and

1 serve their communities.

2 The Butler County sheriff has lost  
3 over 70 deputies in the past eight years to  
4 the State Police, the Secret Service, the  
5 border patrol, and other higher paid law  
6 enforcement sources of employment.

7 Now, to say that these people can't  
8 hack it and yet the Secret Service comes and  
9 hires them, it's -- it's -- it's an absurdity  
10 and I ask you to correct that absurdity. You  
11 have the power to fix it.

12 That's all I have to say. Thank  
13 you.

14 CHAIRMAN CALTAGIRONE: Thank you,  
15 sir. And I think this does conclude it.

16 MR. SCHNEIDER: It does.

17 REPRESENTATIVE DALLY: Thank you.

18 CHAIRMAN CALTAGIRONE: Thank you all  
19 very much.

20 (The following are written remarks  
21 submitted for the record.)

22 WRITTEN REMARKS SUBMITTED BY PAUL W.  
23 LACURTS ARE AS FOLLOWS:

24 Speech on House Bill 466

25 What an honor it is to be here today.

1 Hello, everyone. My name is Paul W. Lacurts  
2 and I greet you all in the spirit of brotherly  
3 love.

4 I am here today to speak on House  
5 Bill 466, but, first, let me give you some  
6 background about myself. I joined the U.S.  
7 Army when I was 19 years old and served 11  
8 years in the combat arms branch. I am a  
9 traveling man, and I have been around this  
10 world a couple of times, and every country  
11 that I have visited I made it a point to learn  
12 of their culture and try their local foods.

13 While in the Army, I loved my  
14 soldiers and they love me. Why? Because you  
15 learn to become a family real fast in combat  
16 arms!

17 Now, speaking of the whole military  
18 force, when they work together as one team,  
19 they are unstoppable.

20 We as one team can also make a big  
21 difference in taking back our streets for the  
22 citizens of this great Commonwealth of  
23 Pennsylvania in which we are all sworn to  
24 protect and serve.

25 However, we can't if we are all here

1 in Harrisburg fighting each other. The  
2 sheriff and his deputies already possess  
3 Commonwealth powers, if properly trained. All  
4 we are asking is for it to be placed in stone.  
5 Because one day the authority is here and the  
6 next it is gone. There are a lot of counties  
7 who depend on the sheriff for protection.

8 Getting back to myself again, when I  
9 was honorably discharged FROM the Army, I  
10 became a police officer. My highest award was  
11 a police officer's purple heart.

12 I also received MADD awards to name a  
13 few.

14 Now I am a deputy sheriff serving  
15 Montgomery County, Pennsylvania under Sheriff  
16 John P. Durante.

17 Montgomery County is about 50 minutes  
18 south of the valley of Allentown and 25  
19 minutes west of Philadelphia.

20 Our sheriff is a retired county  
21 detective. Once, when a couple of boroughs  
22 laid off five of its junior police officers --  
23 within our county because of budget  
24 difficulties -- our sheriff hired them.

25 The reason I use this example is it

1 shows a family working together. We work  
2 closely with Norristown Borough Police  
3 Department because they are greatly  
4 understaffed.

5 Our sheriff's department has a patrol  
6 section. We assist Norristown in helping to  
7 patrol their business districts, and we also  
8 have a C.E.R.T., DUI, warrant/criminal  
9 section, a bomb unit who is trained by the  
10 F.B.I., K-9s, and civil section.

11 We love to help and protect our  
12 citizens. However, without this House Bill  
13 466 being passed, we would be jeopardizing the  
14 safety of our communities because we would not  
15 be able to respond to, let's say, an officer  
16 down call. Even if we just dropped off a  
17 prisoner and were close at hand. This could  
18 save an officer's life.

19 I informed you earlier how I loved my  
20 troops while I was in the Army. Now I love to  
21 train these new deputies fresh out of our fine  
22 academy. There are other deputies in our  
23 department who train. They are retired police  
24 officers who are deputies now. We also have  
25 part-time police officers.



1           A lot of us work part-time jobs  
2 because our pay is not as good as some police  
3 departments.

4           By the way, we lose a lot of our  
5 deputies to police departments. There is a  
6 piece of the pie missing, and we are that  
7 piece. If the sheriff and police commissioner  
8 of Philadelphia could work together, what a  
9 difference that would make.

10           A major city in California took back  
11 their streets working together. So can  
12 Philadelphia!

13           Let me ask you to picture yourself as  
14 the only police officer on duty in your  
15 jurisdiction. This is a reality for some  
16 police across this Commonwealth. Then you  
17 receive a call from your dispatcher to respond  
18 to a local bar for a large crowd fighting,  
19 shots fired, people injured. This was a real  
20 incident for me!

21           Well, I don't know if you would be  
22 thinking like myself, but I would be calling  
23 for the nearest back-up units arrivable. I  
24 would not care who they were at this point in  
25 time. I want help and I need it now!

1           If you tie our hands, we can do very  
2 little to help.

3           So this is the reason I have come to  
4 Harrisburg today, to see if we can reach a  
5 peaceful resolution by putting our minds  
6 together to better protect and serve this  
7 great Commonwealth of ours.

8           Thank you very much for your time.  
9 God bless and be safe out there.

10           WRITTEN REMARKS SUBMITTED BY ROBERT  
11 G. FLEURY, ESQUIRE, RR1, Box 68, Troy,  
12 Pennsylvania, 16947, ARE AS FOLLOWS:

13           In Re: H.B. 466

14           Dear Committee Members,

15           I just learned there are public  
16 hearings scheduled for consideration of the  
17 above House bill in granting additional  
18 investigative authority and arrest powers to  
19 the Commonwealth's sheriffs and their  
20 deputies.

21           I am in support of the Bill and I do  
22 write with some authority as I am the attorney  
23 who successfully argued for the defendant in  
24 the case of Commonwealth v. Dobbins before the  
25 Pennsylvania State Superior Court, decided

1 November 20, 2007.

2 I have not seen the actual bill, but  
3 I understand from Representative Matt Baker  
4 that the bill would grant 2,500 sheriffs and  
5 deputies with the authority to make arrest and  
6 do criminal investigations within the  
7 Commonwealth provided they have the equivalent  
8 training as state and municipal police  
9 officers.

10 It is ironic that in the Dobbins case  
11 all the sheriff's deputies involved did  
12 possess the Act 120 police officers' training  
13 as mandated by the local sheriff, Steve Evans.  
14 However, the Supreme Court simply saw it as a  
15 lack of legislative authority in suppressing  
16 all evidence obtained by the deputies.

17 I do realize there are some pockets  
18 of opposition, maybe over turf wars, but the  
19 bottom line is, there is no legitimate reason  
20 not to pass this legislation. With the ever  
21 increasing crime rate, mostly drug related,  
22 the citizens of the Commonwealth deserve and  
23 demand the extra protection.

24 In the late 1960s when I was a young  
25 Pennsylvania State Policeman on the northern

1 border in Bradford County, I recall there was  
2 similar opposition to the Chemung County, New  
3 York sheriff's department starting  
4 investigative functions. They all learned to  
5 co-exist and the citizens were the winners.

6 Thank you for your consideration of  
7 this opinion.

8 Sincerely,

9 Robert G. Fleury, Esquire.

10 WRITTEN REMARKS SUBMITTED BY BRUCE A.  
11 EDWARDS, President of the Pennsylvania State  
12 Troopers Association, ARE AS FOLLOWS:

13 I would like to thank Chairman  
14 Caltagirone and Chairman Marsico, as well as  
15 all members of this committee, for your  
16 leadership in helping to make Pennsylvania a  
17 safer place for our families.

18 Let me thank you for your support of  
19 the law enforcement community, specifically  
20 the Pennsylvania State Troopers Association.  
21 We appreciate the opportunity to work together  
22 with you on issues that are important to the  
23 safety and security of 12 million  
24 Pennsylvanians.

25 The PSTA represents more than 4,300

1 active men and women who have dedicated their  
2 lives to proudly serving their neighbors,  
3 relatives, and communities as Pennsylvania  
4 State Troopers.

5 Prior to addressing House Bill 466,  
6 the PSTA wants to make it clear that we  
7 believe our county sheriff departments serve  
8 an incredibly valuable role in upholding the  
9 law in our Commonwealth.

10 They are tasked each and every day  
11 with maintaining order and safety in our 67  
12 county courthouses. Our court system is the  
13 bedrock foundation of an orderly society.  
14 That mission is even more important as  
15 instances of violence have increased in our  
16 courts.

17 That is why we believe it is more  
18 important than ever that our county sheriffs'  
19 departments focus their energy and resources  
20 on this mission rather than expand their  
21 duties as set forth under House Bill 466.

22 As for House Bill 466, the PSTA  
23 believes more consideration should be given to  
24 expanding sheriff department personnel rather  
25 than expanding their duties. As I am sure you

1 know, a sheriff's department is a daytime  
2 force.

3 As a trooper, I can tell you that the  
4 State Police are often left to handle some of  
5 their duties after hours, such as serving  
6 Protection From Abuse orders.

7 With more personnel, our sheriffs  
8 would be better equipped to handle the tasks  
9 granted to them by statute.

10 Additionally, the PSTA is concerned  
11 that county sheriffs are elected individuals  
12 and would be the only law enforcement  
13 officials to have no direct oversight if House  
14 Bill 466 is enacted.

15 Police chiefs answer to the mayor.  
16 Our State Police colonel answers to the  
17 Governor. Sheriffs would answer to no one.

18 Again, while we have a great deal of  
19 respect for sheriffs, we do not believe a  
20 special circumstance should exist for one law  
21 enforcement official and not others.

22 With that, let me thank you again for  
23 your leadership and the opportunity to submit  
24 this written testimony.

25 WRITTEN REMARKS SUBMITTED BY MARK

1 KOCH, President of the Pennsylvania State  
2 Lodge, Fraternal Order of Police, ARE AS  
3 FOLLOWS:

4 On behalf of the more than 40,000 law  
5 enforcement officers comprising the membership  
6 of the Pennsylvania Fraternal Order of Police,  
7 I thank Chairman Caltagirone and Chairman  
8 Marsico, the members of the committee, for  
9 your support in our mutual goal of protecting  
10 and serving the citizens of the Commonwealth.

11 I speak today in support of the  
12 brave, hardworking and dedicated deputy  
13 sheriffs who make up such a valuable part of  
14 Pennsylvania's law enforcement community and  
15 the membership of the Pennsylvania Fraternal  
16 Order of Police.

17 It is through their efforts that the  
18 governments and courts of our 67 counties are  
19 able to function in a safe and orderly manner.  
20 Because I support deputy sheriffs and their  
21 important mission, I must voice objection to  
22 House Bill 466 presently under consideration  
23 by the committee.

24 With the growth of our society, our  
25 criminal justice system has been required to

1 grow and adapt to many new challenges.  
2 Recently, United States Supreme Court Justice  
3 Sandra Day O'Connor highlighted these  
4 challenges by observing that attacks upon our  
5 courts, both physical and political, is  
6 developing into a disturbing trend.

7 More and more, the courts have had to  
8 rely upon the constitutional office of county  
9 sheriff, and the deputies that make up the  
10 workforce of that office, to ensure the safe,  
11 stable operation of our criminal and civil  
12 justice systems. For the deputy sheriffs of  
13 the Commonwealth, this is a task to which they  
14 have risen and excelled.

15 House Bill 466 does a disservice to  
16 these dedicated employees by potentially  
17 detracting from their critical mission to  
18 satisfy the personal ambitions of 67 row  
19 officers.

20 In a force already stretched thin,  
21 House Bill 466 would divert time, resources,  
22 and manpower from the critical duties of  
23 deputy sheriffs throughout the Commonwealth in  
24 ensuring the safe and stable operation of our  
25 judicial system.



1           Aid to these law enforcement officers  
2 will only come in expanding their numbers and  
3 funding, not in expanding their mandate.

4           It is therefore with the interests of  
5 the men and women of the Fraternal Order of  
6 Police who serve as deputy sheriffs in the  
7 Commonwealth of Pennsylvania that I urge the  
8 committee to recognize the important work they  
9 do and to provide real assistance to them.  
10 The first step in providing that assistance is  
11 to reject the provisions of House Bill 466.

12           With that, let me thank you again for  
13 your leadership and the opportunity to submit  
14 this written testimony.

15           WRITTEN REMARKS SUBMITTED BY SHERIFF  
16 CRAIG WEBRE, President, National Sheriffs'  
17 Association, 1450 Duke Street, Alexandria,  
18 Virginia, 22314, ARE AS FOLLOWS:

19           Chairman Caltagirone and members of  
20 the committee:

21           On behalf of more than 3,000 of  
22 America's sheriffs, I thank you for taking up  
23 what has become a critical question not only  
24 for law enforcement in your fine state, but  
25 for all residents of Pennsylvania.

1           House Bill 466 will erase all  
2           questions and ambiguities once and for all  
3           relating to the enforcement abilities of  
4           Pennsylvania sheriffs and the National  
5           Sheriffs' Association hereby offers its  
6           unequivocal support for House Bill 466.

7           Across America, sheriffs are seen as  
8           the preeminent law enforcers in the majority  
9           of counties and parishes and as partners with  
10          others who wear the badge, whether they are  
11          municipal officers, highway patrol, or state  
12          police.

13          This was also the case in  
14          Pennsylvania until the decision was made to  
15          move away from common law to statutory law.  
16          Somehow sheriffs were lost in the legislative  
17          process.

18          I can assure you the law-abiding  
19          citizens of Pennsylvania, however, do not draw  
20          a distinction when it comes to which badge can  
21          or will do the job of protecting them and  
22          their families. They understandably look at  
23          the person, no matter what color the uniform,  
24          as one who will protect their communities  
25          against violent crime and drugs.

1                    Pennsylvania sheriffs and their  
2                    deputies take their duties quite seriously and  
3                    are willing to risk their lives protecting and  
4                    serving. As long as those officers are  
5                    properly trained, in my humble opinion, there  
6                    should be no distinction.

7                    Ironically, it appears that the  
8                    criminals have helped to bring this issue to  
9                    the forefront. The Pennsylvania courts,  
10                   because of a loophole, have recently released  
11                   some dangerous people back into your  
12                   communities, because of a technicality that  
13                   you now have the ability to clarify once and  
14                   for all.

15                   As President of the National  
16                   Sheriffs' Association, I urge you on behalf of  
17                   the men, women, and children of Pennsylvania  
18                   to take a stand against those who would put  
19                   your families in jeopardy. Please vote for  
20                   House Bill 466.

21                   Sincerely,

22                   Craig Webre, Sheriff, NSA President.

23                   WRITTEN REMARKS SUBMITTED BY ANDREW  
24                   HOOVER, legal assistant, American Civil  
25                   Liberties Union of Pennsylvania ARE AS

1       FOLLOWS:

2                   Chairman Caltagirone, Chairman  
3       Marsico, and members of the committee, thank  
4       you for the opportunity to submit testimony  
5       regarding the expansion of police powers to  
6       county sheriffs' departments, as articulated  
7       in House Bill 466.

8                   The American Civil Liberties Union of  
9       Pennsylvania opposes the legislation. We have  
10      significant concerns about this expansion of  
11      power, and I will articulate those concerns  
12      here.

13                  All Pennsylvanians owe a debt of  
14      gratitude to those in law enforcement,  
15      including officers and civilians in our county  
16      sheriffs' departments. They take on a  
17      difficult job that presents daily challenges,  
18      and we are grateful to those officers who  
19      carry out their duties with great care for all  
20      residents of their communities and with  
21      respect for the rule of law.

22                  Unfortunately, history is filled with  
23      examples of some members of law enforcement  
24      disrespecting the boundaries of the rule of  
25      law and violating the civil rights of ordinary

1 Americans.

2 Famous examples include attacks on  
3 African-American protesters in the 1950s and  
4 1960s. Closer to home, the ACLU of  
5 Pennsylvania represented many individuals in  
6 Philadelphia and Pittsburgh in the 1990s after  
7 their rights had been violated through police  
8 misconduct.

9 These cases led to reforms in the  
10 police departments of both cities.

11 These example are not indicative of  
12 the way most law enforcement officers carry  
13 out their duties, but, sadly, these incidents  
14 reflect poorly on the entire law enforcement  
15 community.

16 In December, The Philadelphia  
17 Inquirer published a three-part investigative  
18 series on police behavior in the southeastern  
19 suburbs and elsewhere in Pennsylvania.

20 Specifically, the series focused on  
21 the enforcement of so-called nuisance laws,  
22 like loitering and jaywalking, and the  
23 unconstitutional use of strip searches on all  
24 persons in police custody.

25 The conclusions reached in the series

1 were the following:

2 Local ordinances on minor crimes are  
3 poorly written and likely unconstitutional.

4 Most of the municipalities that have  
5 used high-arrest tactics to deal with crime  
6 have nearly all-white police departments in  
7 towns with diverse populations.

8 The enforcement of these nuisance  
9 laws disproportionately affects racial and  
10 ethnic minorities, leading to strained  
11 relationships with the community.

12 High-arrest tactics have little  
13 impact on crime rates. Suburban towns that  
14 have used these tactics have actually seen a  
15 rise in crime.

16 Some departments and county jails are  
17 strip searching all defendants. This practice  
18 is unconstitutional.

19 In this environment, the ACLU  
20 believes Pennsylvania should focus on  
21 addressing these kinds of problems rather than  
22 expanding police powers to county sheriffs.

23 The Inquirer series also emphasized  
24 the effectiveness of community policing. This  
25 form of law enforcement allows officers to

1       become an integral part of the fabric of the  
2       community.

3                 Rather than patrolling from a  
4       vehicle, officers walk the streets of a  
5       neighborhood and build relationships with  
6       residents and community leaders. All  
7       stakeholders become familiar with each other  
8       and respectfully recognize the roles played by  
9       each.

10                The ACLU has long advocated for the  
11       increased use of community policing in  
12       Pennsylvania. Based on academic theory and  
13       real-life examples like High Point, North  
14       Carolina and San Diego, we believe that the  
15       end result of this form of law enforcement is  
16       less community tension and a decrease in  
17       accusations of civil rights violations.

18                Law enforcement officers play an  
19       important role in Pennsylvania's cities,  
20       boroughs, and townships. Their power is most  
21       effective when it is respected and limited in  
22       scope with proper checks on how it is being  
23       used.

24                The ACLU of Pennsylvania believes  
25       that House Bill 466 is an unnecessary

1 expansion of police powers to the  
2 Commonwealth's county sheriffs.

3 If you have further questions, you  
4 are welcome to contact me.

5 (This concludes the written remarks  
6 submitted for this record.)

7 (The proceedings were concluded at  
8 2:33 p.m.)

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I hereby certify that the proceedings  
and evidence are contained fully and  
accurately in the notes taken by me on the  
within proceedings and that this is a correct  
transcript of the same.

\_\_\_\_\_  
Brenda S. Hamilton, RPR  
Reporter - Notary Public