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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE JUDICIARY COMMITTEE

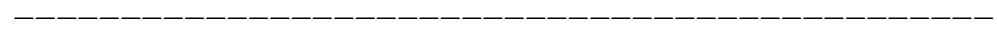
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MONDAY, SEPTEMBER 8, 2008
12:00 P.M.

PUBLIC HEARING ON
HOUSE BILL 513

BEFORE:

- HONORABLE THOMAS R. CALTAGIRONE, CHAIRMAN
- HONORABLE RON MARSICO
- HONORABLE JOHN EVANS
- HONORABLE BERNIE O'NEILL



BRENDA S. HAMILTON REPORTING
P.O. BOX 165
ELM, PENNSYLVANIA 17521
717.627.1368 FAX 717.627.0319

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(CONT'D)

ALSO PRESENT:

HONORABLE DAVID REED
HONORABLE CHRIS SAINATO
KAREN COATES, CHIEF COUNSEL
DAVID McGLAUGHLIN, SENIOR RESEARCH ANALYST
JETTA HARTMAN, LEGISLATIVE ASSISTANT

BRENDA S. HAMILTON, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

- - -

CHAIRMAN CALTAGIRONE: The House
Judiciary Committee meeting will come to
order. We're going to have testimony on House
Bill 513.

My name is Tom Caltagirone, 127th
Legislative District. I am co-chair with my
very, very dear friend, Ron Marsico. I'll let
him introduce himself, and then we'll do the
rest of the panel that's here.

REPRESENTATIVE MARSICO: Actually
this is the chair, and I am the minority
chair, though we work very well together, and
I represent the 105th Legislative District
here in Dauphin County.

MR. McGLAUGHLIN: Good morning.
David McGlaughlin is my name. I'm part of the
Judiciary Committee staff.

MS. COATES: I'm Karen Coates,
counsel to the House Judiciary Committee.

REPRESENTATIVE O'NEILL: Good
morning. Representative Bernie O'Neill from
the 29th District from Bucks County, and I was
informed that I'm acting counsel for the

1 chairman today.

2 REPRESENTATIVE EVANS: Good morning.
3 Representative John Evans from the 5th
4 Legislative District in Erie and Crawford
5 Counties.

6 REPRESENTATIVE SAINATO: I'm
7 Representative Chris Sainato. I represent
8 parts of Lawrence and a small section of
9 Beaver County.

10 CHAIRMAN CALTAGIRONE: Dave.

11 REPRESENTATIVE REED: Good morning.
12 Good morning. I don't think those are
13 working, but I think you should probably be
14 able to hear me. That's all right.

15 Mr. Chairman, thank you very much.
16 I'm obviously Representative David Reed from
17 the 62nd Legislative District in Indiana
18 County. And, Mr. Chairman, members of the
19 committee, I'd like to thank you very much for
20 hosting today's Judiciary Committee meeting
21 focused on House Bill 513, and I will be very
22 brief in my opening remarks, because I think
23 it's more important that we hear from the
24 folks who are going to testify after me who
25 have dealt with this issue in particular, both

1 from the side of law enforcement, from the
2 side of a prosecutor, and also from the
3 perspective of families who have dealt with
4 this issue unfortunately within their own
5 households.

6 House Bill 513 seeks to amend the
7 Vehicle Code Title 75 by increasing the
8 mandatory minimum term of imprisonment for a
9 hit-and-run fatality.

10 Currently if the driver is involved
11 in an accident resulting in an injury or death
12 of a person, he or she is required to stop at
13 the scene of the accident.

14 If the driver fails to stop and the
15 injured person dies, the driver is subject to
16 a one-year mandatory minimum sentence in
17 prison. However, if a person complies with
18 the law and stops after the accident, they can
19 be sentenced to a minimum three years
20 imprisonment if they're found to be under the
21 influence of drugs or alcohol.

22 House Bill 513 seeks to remedy this
23 loophole that currently exists in statute that
24 may encourage an intoxicated driver to flee
25 the scene of an accident to avoid being

1 prosecuted for DUI and then later turn
2 themselves in after they've sobered up thereby
3 receiving a lesser penalty.

4 It accomplishes that goal by
5 increasing the mandatory minimum sentence for
6 leaving the scene of an accident that results
7 in the death of the victim from one year to a
8 five-year prison term.

9 The end goal of this proposal is not
10 just to punish the criminal, but it is also to
11 encourage the individual to stop at the scene
12 of the accident and to render aid to the
13 victim hopefully thereby negating the death of
14 that victim.

15 Today, you will hear testimony from
16 the Pennsylvania State Police, Indiana County
17 District Attorney Tom Bianco, as well as two
18 families, the Dougherty family and the Pearce
19 family, who have experienced great tragedy in
20 their lives as the result of someone fleeing
21 the scene of an accident.

22 This bill may be short and simplistic
23 in nature, but I assure you the lives it
24 impacts are not. We may have over 13 million
25 people in the Commonwealth of Pennsylvania,

1 but we do not have a single one that we can
2 afford to needlessly lose as a result of
3 someone leaving the scene of an accident.

4 So, again, Mr. Chairman, I thank you
5 for agreeing to hold this hearing today. I
6 hope that in the coming weeks we can see the
7 committee vote on this proposal and move it
8 through -- forward through the legislative
9 process.

10 And I would be happy to answer any
11 questions if members would have them, or more
12 likely would wait until after the other
13 testifiers have presented their testimony at
14 the end of the hearing.

15 Thank you, Mr. Chairman.

16 CHAIRMAN CALTAGIRONE: Are there any
17 questions from members?

18 REPRESENTATIVE MARSICO: Just a
19 couple little bits. What's the current law
20 for -- I just -- just let me ask this.

21 REPRESENTATIVE REED: The current
22 mandatory minimum sentence for a hit-and-run
23 fatality is a mandatory one-year term of
24 imprisonment where -- whereby if you leave the
25 scene of an accident and you come back

1 actually -- let me rehash that.

2 If you stay and render aid and you're
3 found to be under the influence of drugs and
4 alcohol, that mandatory minimum is then three
5 years.

6 So the gist of it basically there's a
7 loophole in the statute that says if you leave
8 the scene of the accident and if you sober up,
9 either if you turn yourself in later or even
10 if you're caught later, you're subject to a
11 lesser penalty than if you had actually stayed
12 and helped the victim, which in my mind just
13 didn't make sense.

14 REPRESENTATIVE MARSICO: Okay. All
15 right. I guess we'll have the State Police
16 get up here. We can ask them some more of the
17 other questions I had in mind, the fact of how
18 many of these happen each year, how many
19 fatalities there are, things like that.

20 So I'll just save that for the State
21 Police so they can get ready for their
22 testimony. When they testify, those are some
23 of the questions that we -- we'll give them a
24 heads-up.

25 REPRESENTATIVE REED: You've

1 adequately prepared them for when they come
2 up.

3 REPRESENTATIVE MARSICO: Thank you.

4 REPRESENTATIVE REED: Thank you.

5 CHAIRMAN CALTAGIRONE: Please join us
6 on the panel.

7 REPRESENTATIVE REED: Thank you.

8 CHAIRMAN CALTAGIRONE: We'll next
9 hear from Sharon -- Shannon Anderson, the
10 sister of Sean Pearce, killed by a drunk
11 driver July 15th, 2005.

12 MS. PEARCE-ANDERSON: I am Shannon
13 Pearce-Anderson, the oldest sister of Sean
14 Pearce who was killed by a hit-and-run driver
15 July 15th, 2005.

16 I am honored to have this opportunity
17 to speak before you regarding House Bill 513,
18 which we hope will become Sean and Jim's law.

19 Before I begin, I would like to
20 introduce our family. Our mother Darla;
21 sister, Heather; her son, Jonathan Sean;
22 father, William; my husband, Scott; my
23 daughter, Abigail Sean; our three living
24 grandparents, Dorothy, George, Viola; our
25 uncle Bob; and Heather's mother-in-law

1 Jennifer.

2 Various things can happen to break a
3 family, and I never thought we were a family
4 that could be broken. We went through a lot
5 together, and it made us stronger. Until July
6 15, 2005.

7 My brother was riding his bicycle
8 home from a night out with friends. Around
9 4:00 a.m. Eastern Standard Time there was --
10 there were knocks on my mother's and sister's
11 doors. The Indiana County coroner came to
12 tell them that their son or brother was killed
13 that night.

14 For me, I was living in San Diego,
15 California at the time. I was awakened by the
16 ring of a telephone and a family friend's
17 voice over the speaker telling my husband of a
18 tragic accident.

19 I jumped out of bed and repeatedly
20 asked my husband who? I saw tears streaming
21 down his face, and I knew it was someone very
22 close to me. He said Sean. I stood there in
23 shock -- in shock, then asked, my baby
24 brother? He said, yes. And I fell to the
25 floor screaming over and over again. Anybody

1 but not Sean. Anyone but not my baby
2 brother.

3 Within hours I learned that the
4 person who killed Sean left him there alone on
5 the road that night without calling for
6 medical help. I could not believe that
7 someone would leave another human being on the
8 road to die alone.

9 How does the driver know that the
10 person they hit is, in fact, dead? How does
11 the driver know that the person they are
12 leaving there could or could not survive with
13 medical attention? They don't. Because they
14 don't stop.

15 My mother was home alone when the
16 coroner arrived at her door. He gave her his
17 -- Sean's wallet which she carries with her
18 everywhere she goes.

19 She has not slept well in over three
20 years, even with the aid of prescription sleep
21 medication. She is up at all hours of the
22 night just sitting in the darkness or pacing
23 in the living room.

24 My mother's physical health has been
25 affected. She was diagnosed with post

1 traumatic stress disorder. Her depth
2 perception was off and, as a result, she has
3 fallen down the stairs in our family home
4 several times.

5 Mom was in shock for a long time.
6 She's no longer in shock. After three years,
7 she is now in the real world and is just now
8 grieving the loss of her son. Her grief is as
9 real as if Sean was killed yesterday. My
10 mother has to drive past the scene every day
11 to work and back.

12 No matter what the occasion, whether
13 it be a holiday dinner, playing with her
14 two grandchild -- three grandchildren,
15 working, et cetera, her happiness is always
16 overshadowed by the loss of her son.

17 A few weeks ago my daughter Abigail
18 picked up a picture of that Sean, that one,
19 and said, oh, Sean. You see my mom walks
20 around and not even realizing it whispers oh,
21 Sean. So my daughter thinks his name is, oh,
22 Sean. She's 18 months.

23 She wonders -- my mother often
24 wonders if the person had stopped if she and
25 Sean could have been saved and if not -- thank

1 you -- would they have been -- would they have
2 been able to talk before he died.

3 I asked my father what he would like
4 for me to say today on his behalf and he told
5 me, quote/unquote, I cannot go there. He also
6 asked me not to say much today because he does
7 not want to relive his only son's death.

8 I hate to go against his wishes, but
9 I need to tell our story so everyone here
10 today can understand the devastation of this
11 crime.

12 I do want to say one thing that I
13 will never forget about my father the days
14 following Sean's death. Sean was in a closed
15 casket. Dad wanted everyone to touch the
16 casket. He then asked the funeral director
17 not to wipe the casket clean so our handprints
18 would remain with Sean.

19 Siblings are supposed to be forever.
20 We are supposed to grow old. Burying our
21 little brother at our young ages has been
22 unbearable. It has affected Heather and I in
23 so many ways.

24 My wedding was six weeks before Sean
25 was killed and Heather's was six weeks after

1 so you can only imagine the first year of
2 marriage that the two of us and our husbands
3 had. Surprisingly, we actually made it
4 through that.

5 Heather has a stepdaughter and was
6 unable to care for her as she felt she should
7 have as a result of her depression.

8 Sean's death affected mine and
9 Heather's jobs. Heather works with autistic
10 children and missed six months of work. I
11 work for a government consulting firm and was
12 unable to get out of bed most mornings.

13 Heather had to take anti-anxiety
14 medication every day to function with normal
15 household chores. She became bitter and
16 angry. Everywhere she went she wondered if
17 the person who killed Sean was near. Everyone
18 was a suspect. She drove around for hours
19 each day looking for the car the police
20 thought hit Sean. She put up posters all over
21 the county, spoke with news stations and local
22 papers to keep them updated on the
23 investigation.

24 She had to deal with so much on her
25 own since I was over 3,000 miles away living

1 in San Diego. It was also difficult for me
2 because I felt helpless and removed. Because
3 the months and years after Sean's death I
4 could not physically be there with my family
5 as much as I wanted.

6 The day I found out I was pregnant
7 with Abigail Sean, I cried because I could not
8 call and tell my brother that he was going to
9 be an uncle. I cried for the baby that would
10 never get the chance to be held by our uncle.

11 The night I delivered Abigail Sean, I
12 cried so hard that the doctor asked me if I
13 was in pain. I was in pain but not the kind
14 anyone could fix.

15 My daughter, she has these
16 magnificent dimples. She gets them from
17 Sean. Some days I love them since they're a
18 nice reminder of my baby brother, but other
19 days it feels like a knife in my heart. It's
20 a constant reminder of what has been taken
21 from us.

22 The day Heather first laid eyes on my
23 daughter she broke out in tears. It hit her
24 that Abigail is the only niece she will ever
25 have on our side of the family.

1 The day I first held my sister's son,
2 Jonathan Sean, it hit me so hard that I would
3 never be able to hold Sean's child. We will
4 never know the woman Sean would have married
5 and become our sister.

6 As we watch Abigail kiss Jonathan, we
7 wondered a lot of -- a lot of what ifs. What
8 if Sean had a child here as well? Would
9 Abigail be kissing his child? What would life
10 be like for all of our children to grow up
11 together?

12 We are all, including our innocent
13 children, missing out on so much because of a
14 coward who left my brother on the highway to
15 die alone.

16 Sean was a very kind-hearted young
17 man. I was in a car accident in college, and
18 he would drive up to see me at least once a
19 week to take me for therapy and grocery
20 shopping.

21 He was so excited the day I got
22 married. He could not stop going on and on
23 about how great it was to see our family grow,
24 and he did not just mean my husband, who he
25 delighted in calling bro, since he was the

1 only boy in our family, he also meant my
2 in-laws.

3 For a few summers, he babysat twin
4 boys who traveled quite a few hours to attend
5 his funeral to tell us that those were the
6 best summers they ever had.

7 An autistic boy in the neighborhood
8 told us how -- us of how Sean would stand with
9 him at the bus stop and sit with him on the
10 bus instead of with his own friends and that
11 he would never let anyone pick on him.

12 Over 600 people attended Sean's
13 funeral and we heard more stories that were
14 similar to those I just spoke of.

15 I could go on and on about my
16 brother, but no words could ever do my baby
17 brother justice. It is difficult to put into
18 words the torment we have endured -- endured
19 the past three-plus years.

20 As a tribute to our brother, my
21 sister and I decided we could not just sit
22 around and wait for Sean's killer to be
23 found. We hired a private investigator,
24 raised money for a reward, corresponded with
25 the media monthly to give them updates, worked

1 with State Representative Dave Reed to change
2 laws. The list goes on and on.

3 Our hard work paid off when there was
4 an arrest 13 months after Sean was killed. At
5 the time of Greg Wisneski's arrest, he
6 confessed verbally and on paper to being drunk
7 the night he killed Sean. Since then we have
8 seen him out drinking with his friends. When
9 we run into him, he smirks at us.

10 At the arraignment the State Police
11 officer read the arrest report and told
12 everyone in the courtroom that at the time of
13 the arrest he asked Greg Wisneski if he lost
14 any sleep. Wisneski's response, a few and
15 then I moved on.

16 These are actions and words of
17 someone with no remorse. His arrest was a
18 temporary relief for us because it has now
19 been more than two years since Greg Wisneski
20 was arrested and he has not seen a single day
21 in jail for killing my little brother.

22 It pains us to know that the judicial
23 system sided with the cold-hearted coward --
24 coward instead of with us, the victims.

25 I am the moderator of an online

1 support group for hit-and-run victims all over
2 the country. Many of us have changed laws
3 across this fine country of ours. New
4 Jersey -- New Jersey recently introduced
5 Skinner's Alert, which is similar to Amber's
6 Alert. Our website was on the movie
7 Reservation Road which starred Joaquin
8 Phoenix.

9 The stories of the people on this
10 site are so heartbreaking. They range from an
11 eight-year-old girl to an 87-year-old
12 grandmother. Some of the offenders have been
13 caught. Some are still at large.

14 There are a few crimes that have
15 occurred in western Pennsylvania over the past
16 few months that you might have read about. A
17 man hit a lady with his car, dragged her 50
18 feet and stopped. The lady survived and the
19 man received three years in prison.

20 A graffiti artist who caused
21 extensive monetary damage to the city of
22 Pittsburgh was arrested and given six years in
23 prison.

24 As the law stands today, the charge
25 for a hit-and-run driver causing a fatality is

1 only one year. It plagues me to think that a
2 person who strikes a man or woman with their
3 car could leave this person, who may be in
4 need of medical attention, on the side of the
5 road, alone, not having the decency or
6 humanity to stop and call for help. How this
7 person could receive a sentence less than the
8 aforementioned is beyond all comprehension.

9 I believe House Bill 513 would make
10 the people of Pennsylvania safer. As the law
11 stands right now, a year in prison for fleeing
12 the scene of a fatal motor vehicle accident is
13 less than if you stay and call for medical
14 attention.

15 According to research, fleeing the
16 scene is increasing at an alarming rate of 3.7
17 percent per year. Approximately four lives a
18 day are taken due to this cowardice crime. We
19 need to make this change. Maybe more people
20 would survive if people would stop and call
21 for help.

22 We will never know if Sean would have
23 survived with medical attention or if he would
24 have even lived just long enough for us to
25 talk to him one last time. The person who

1 killed Sean never cared to stop and check on
2 him.

3 House Bill 513 needs to be put into
4 effect. It will never take away the pain
5 caused from a cowardly act such as this. But
6 at the very least, it might change the
7 misguided thought that fleeing the scene might
8 be a lesser charge than stopping to help.

9 We were given a life sentence without
10 our brother, Sean. We love our brother. We
11 want him to be remembered. We feel that
12 making a change for the people of Pennsylvania
13 is the right thing to do and it would be an
14 honor to Sean and Jim.

15 Thank you.

16 CHAIRMAN CALTAGIRONE: Thank you,
17 Shannon. And I think I speak for the whole
18 committee. We're so deeply saddened by your
19 loss.

20 MS. PEARCE-ANDERSON: Thank you.

21 CHAIRMAN CALTAGIRONE: Are there any
22 questions?

23 REPRESENTATIVE O'NEILL: Thank you
24 for coming today. You said in your testimony
25 his name was Wisneski?

1 MS. PEARCE-ANDERSON: Uh-huh.

2 REPRESENTATIVE O'NEILL: He didn't --
3 he apparently admitted to everything and he
4 didn't serve any time. Why did he not serve
5 any time?

6 MS. PEARCE-ANDERSON: Well, we -- I'm
7 sorry. Go ahead.

8 REPRESENTATIVE O'NEILL: Does anybody
9 know why the judge didn't --

10 MS. PEARCE-KUNKLE: Yeah. They
11 couldn't --

12 REPRESENTATIVE O'NEILL: He didn't
13 serve any time or the D.A. --

14 MS. PEARCE-KUNKLE: They couldn't
15 determine whether or not he was the car that
16 killed my brother. Thus far. We are waiting
17 for another hearing on September 24th, but the
18 judge ruled that he -- we could not say that
19 he was the car that killed my brother.
20 They're saying more than one vehicle struck my
21 brother.

22 MS. PEARCE-ANDERSON: According to
23 Cyril Wecht in Pittsburgh, more than one
24 vehicle hit Sean. So if the first vehicle had
25 stopped, maybe he would be alive and not have

1 been killed, maybe, by the second vehicle.

2 And because of that, the judge in
3 Indiana County took the law as, well, since we
4 can't determine who was the fatal blow, he
5 just threw it out of court. But now we're up
6 before the Superior Court in Pittsburgh for an
7 appeal.

8 REPRESENTATIVE O'NEILL: So he just
9 admitted to drinking and drunk driving?

10 MS. PEARCE-ANDERSON: He admitted to
11 driving down State Route 119, which is down
12 the road from our house. If he had just been
13 a minute later, Sean would be here with us and
14 we wouldn't be here with you all today.

15 He admitted to driving down the
16 route, to feeling he hit something, looking in
17 his rear-view mirror, seeing a body on the
18 road. He admitted verbally and on paper that
19 he was drunk and on his way to buy drugs.

20 Yeah. He wasn't very smart. Sorry.

21 REPRESENTATIVE O'NEILL: I just --

22 MS. PEARCE-ANDERSON: Yeah.

23 MS. PEARCE-KUNKLE: Yeah.

24 REPRESENTATIVE O'NEILL: You said the
25 D.A. --

1 MS. PEARCE-KUNKLE: The written
2 confession was thrown out. So -- his oral
3 confession, I guess.

4 REPRESENTATIVE O'NEILL: Thank you.

5 MS. PEARCE-ANDERSON: Anyone else?

6 REPRESENTATIVE REED: I just want to
7 thank you Shannon and Heather and the entire
8 Pearce family for making the trip. Especially
9 your side, Shannon, for making the trip across
10 the country to be here for today's hearing.

11 And I think it really does say a lot,
12 not only about your family, but about the
13 governing process when we hear from the actual
14 family, the actual folks impacted by the laws
15 that we pass.

16 All too often we get caught up in
17 what happens inside the Capitol building and
18 we forget how it impacts the folks on the
19 outside.

20 So just thank you very much for
21 coming and sharing Sean's story, and hopefully
22 his legacy will live on by helping to prevent
23 such an act in the future.

24 So thank you.

25 MS. PEARCE-ANDERSON: Thank you.

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

3 We'll next hear from the Honorable
4 Tom Bianco, District Attorney, Indiana
5 County.

6 MR. BIANCO: Good afternoon, members
7 of the committee. My name is Tom Bianco. I'm
8 the District Attorney of Indiana County.

9 I'm proud to be here today with Sean
10 Pearce's family and on behalf of the citizens
11 of Indiana County.

12 Before I talk about the proposed
13 legislation, I want to talk a little bit about
14 my involvement with the Sean Pearce/Greg
15 Wisneski case.

16 I also want to talk or briefly detail
17 the procedural status of the case and maybe
18 clear up some of the questions that you may
19 have.

20 I took office as District -- District
21 Attorney on January 7th this year. So this
22 case was an ongoing case at the time I took
23 office, but prior to -- after the election and
24 prior to taking office, I spent some time with
25 Sean's family and quickly became aware of a

1 lot of the issues in the case.

2 Procedurally, as Shannon stated, Sean
3 was killed on July 15th, 2005. It was almost
4 13 months later Greg Wisneski, Jr. made a
5 confession. He was incarcerated on an
6 unrelated matter and made a confession or
7 statement to a fellow inmate that he had
8 struck Sean Pearce.

9 Based upon that statement and some
10 other physical evidence that was gathered,
11 charges were filed in September of 2006
12 against Gregory Wisneski. That case proceeded
13 to a preliminary hearing and was held for
14 court.

15 Gregory Wisneski's defense counsel
16 then filed pretrial motions. Those motions
17 were heard by the Honorable Gregory Olson, the
18 Court of Common Pleas of Indiana County, and
19 by an opinion and order Judge Olson
20 essentially stated that the Commonwealth could
21 not prove that Sean Pearce was alive at the
22 time that Gregory Wisneski struck Sean.

23 Judge Olson essentially in that
24 opinion stated that if the Commonwealth could
25 not prove that Sean was alive that we would

1 not be able to prove the elements of Section
2 3742 of the Vehicle Code, therefore, that
3 would be the end of our case against Gregory
4 Wisneski.

5 That opinion was written in early
6 December of 2007 and -- and chronologically
7 after the election, but before I took office,
8 so I spent some time with our District
9 Attorney at the time, Bob Bell, and we both
10 agreed that the appropriate thing and the
11 important thing to do would be to take an
12 appeal from Judge Olson's decision. So just
13 prior to taking office, the appeal was taken.

14 The appeal is currently pending
15 before the Pennsylvania Supreme -- excuse
16 me -- Superior Court and oral argument is
17 scheduled for September 24th in that matter.

18 I believe that the proposed
19 legislation is very important, very important
20 to the citizens of Indiana County as well as
21 the citizens of Pennsylvania, and I would
22 submit to the committee that individuals
23 involved in the criminal justice system or,
24 regularly involved in the criminal justice
25 system, they're -- they're aware of the

1 penalties involved with various crimes.

2 And an example I'd like to give to
3 the committee is dealing with the driving
4 under the influence and specifically the
5 refusal component of driving under the
6 influence. Individuals that are involved in
7 the criminal justice system realize or
8 understand that if they get pulled over and
9 they're suspected of driving under the
10 influence that it makes sense from a penalty
11 point of view to take the test because the
12 legislation is such and the provisions of the
13 Motor Vehicle Code are such that the -- the
14 penalty for the refusal, in most cases,
15 outweighs the penalty if you take the test and
16 are ultimately convicted of the driving under
17 the influence and the people know that.

18 So these individuals, when they're
19 pulled over, they -- they normally, regularly
20 take the test. And that's the culture that --
21 that is -- is present.

22 Unfortunately, the culture with
23 regard to being involved in a serious
24 collision is that it makes sense from a
25 penalty point of view to flee the scene.

1 And we see the reason for that in
2 taking a look at the relevant provisions,
3 Section 3735 of the Motor Vehicle Code,
4 Homicide By Vehicle While Driving Under the
5 Influence, provides for a mandatory minimum
6 sentence of three years.

7 The section that Gregory Wisneski is
8 charged with violating, Section 3742, provides
9 for a mandatory minimum of one year. And I
10 submit to the committee that individuals
11 involved in the criminal justice system know
12 that it makes sense from a penalty point of
13 view to flee the scene.

14 And it's my opinion that that needs
15 to change. And I believe that House Bill 513
16 goes a long way in changing -- changing that
17 culture.

18 And I'll go a step further and just
19 point out a few benefits that I believe would
20 be realized from the passing of House Bill
21 513.

22 The first benefit, I believe, is the
23 rendering of aid. And, as Shannon said, who
24 knows if Gregory Wisneski would have stopped
25 and rendered aid if Sean would be with us

1 today. To -- maybe not personally render the
2 aid but to make the phone call so that
3 emergency medical people could come on scene
4 and render aid.

5 The second benefit is that a lot of
6 resources are spent from an investigative
7 point of view and from a prosecution point of
8 view in trying to find the person that
9 committed the violation.

10 So, as Shannon detailed, she and her
11 family spent a lot of time and made a lot of
12 efforts to try to find the person that hit
13 their brother, Sean. And if the person would
14 simply stop, I submit that all those resources
15 involved in trying to find the correct person
16 would -- would not be spent.

17 And then finally, and probably most
18 importantly, sitting here taking -- and
19 listening to Shannon, I think the most
20 important benefit is to the families of people
21 that are killed in these types of collisions.

22 The family does not have justice,
23 does not have closure, and I believe that by
24 encouraging people to stop and to render aid
25 we avoid -- we avoid situations and avoid the

1 situation that the Pearce family finds itself
2 in at this time.

3 Thank you very much.

4 CHAIRMAN CALTAGIRONE: Thank you,
5 Tom. Questions from the committee?

6 Counsel.

7 MS. COATES: Was there a written
8 confession and was it thrown out in Greg's
9 case?

10 MR. BIANCO: There was a written
11 confession. I believe that the written
12 confession was suppressed. That did take
13 place prior to my taking office, so I did not
14 participate in the hearing that led to the
15 suppression of the confession.

16 MS. COATES: Do you know why that it
17 was suppressed?

18 MR. BIANCO: I do not.

19 MS. COATES: Okay.

20 MR. BIANCO: Yeah.

21 CHAIRMAN CALTAGIRONE: Counsel?

22 No other questions. Thank you.

23 MR. BIANCO: Okay. Thank you.

24 CHAIRMAN CALTAGIRONE: Thank you very
25 much. Appreciate your testimony.

1 We will next hear from Lieutenant
2 Jeffrey B. Hopkins, Commander of the Vehicle
3 Crash and Driver Safety Section, Pennsylvania
4 State Police, Bureau of Patrol.

5 LIEUTENANT HOPKINS: Good morning.
6 I'm Lieutenant Jeffrey B. Hopkins, Commander
7 of the Vehicle Crash and Driver Safety Section
8 for the Bureau of Patrol for the Pennsylvania
9 State Police.

10 On behalf of Lieutenant Colonel Frank
11 E. Pawlowski, the Acting Commissioner of the
12 Pennsylvania State Police, I would like to
13 thank you for the invitation to provide
14 testimony at this hearing concerning increased
15 penalties for hit-and-run crashes involving a
16 fatality.

17 In the Commonwealth, driving a
18 vehicle is a privilege and with privilege
19 comes responsibility. The proposed amendment
20 will have the effect on all drivers that
21 ensures that they are held responsible for
22 their actions if they are involved in a motor
23 vehicle crash which injures or kills another
24 person.

25 People generally leave the scene of a

1 crash to avoid apprehension and the penalties
2 for other offenses that they may have
3 committed with the prior knowledge that a
4 police officer's arrival is imminent. They
5 make a conscious choice to avoid taking
6 responsibility for their actions.

7 The other offenses that they may have
8 committed could have serious repercussions for
9 them, but nothing is as serious as the
10 preservation of life. Penalties for offenses
11 should be imposed which convey to everyone
12 that their duty as a citizen of humanity is to
13 remain at the scene of a crash and render
14 whatever aid they can and summon any
15 assistance they can in order to preserve life
16 or mitigate injuries.

17 When penalties are too lax, there's
18 little incentive for anyone to take
19 responsibility for their actions. Through the
20 judicious application of enhanced penalties,
21 people will be compelled to be responsible for
22 their own actions and will think twice before
23 choosing to put their own desires ahead of
24 others.

25 In conclusion, on behalf of

1 Lieutenant Colonel Pawlowski and the entire
2 Pennsylvania State Police, I want to again
3 thank you again for the opportunity to address
4 your committee. I'll be happy to address any
5 questions you may have.

6 CHAIRMAN CALTAGIRONE: Thank you,
7 Lieutenant.

8 REPRESENTATIVE MARSICO: I think you
9 know my question.

10 LIEUTENANT HOPKINS: I did not
11 prepare any statistical analysis, any
12 numbers.

13 REPRESENTATIVE MARSICO: Can you get
14 those?

15 LIEUTENANT HOPKINS: But I can get
16 those numbers and provide them to you at a
17 later time, yes, sir.

18 REPRESENTATIVE MARSICO: Do you have
19 any idea, any numbers at all?

20 LIEUTENANT HOPKINS: I do not, sir.

21 REPRESENTATIVE MARSICO: Okay. All
22 right. Thank you.

23 CHAIRMAN CALTAGIRONE: Members?
24 Counsel?

25 Thank you.

1 LIEUTENANT HOPKINS: Thank you.

2 CHAIRMAN CALTAGIRONE: Appreciate
3 your testimony. By the way, before you go,
4 has Major McHale taken a position on this
5 legislation as far as the State Police is
6 concerned? I mean I'm just curious. I mean
7 do they think -- I don't want --- I really
8 don't want to put you on the spot.

9 I see the Major sitting back there,
10 and I know it's not normal, unless they clear
11 it through the Governor's Office, as to -- and
12 maybe you want to run that by.

13 LIEUTENANT HOPKINS: I can check on
14 that for an official position, but I can't
15 speak on behalf of Colonel Pawlowski for
16 that.

17 CHAIRMAN CALTAGIRONE: Okay. Thank
18 you.

19 We'll next hear from Mary Dougherty,
20 mother of Jim Dougherty, killed by a
21 hit-and-run driver January 1st of 2003.

22 MS. DOUGHERTY: Just want to say
23 hello to everyone. My name is Mary Dougherty,
24 and this is my husband, Jim.

25 And before I start, I had written

1 quite a few letters and in one of the letters
2 I did have from AAA that there was over 1550
3 people, one thousand five hundred fifty
4 people, killed a year in the United States
5 with hit-and-run accidents. But that was in
6 2006, so I'm sure now it's even more.

7 And there's quite a few other states,
8 different people told me not to make this too
9 long, but there are quite a few other states
10 that have much higher hit-and-run penalties.

11 But I'll start out by saying it is an
12 honor to be here today to speak on such an
13 important issue that is so dear to our heart.
14 I would like to thank Representative Kenney
15 for remembering me and inviting us to speak
16 today.

17 A hit-and-run driver killed our son,
18 Jim, on January 1st, 2008 at 2:48 a.m. He was
19 36 years old. He and some friends were coming
20 home by train from seeing the fireworks at
21 Penn's Landing in Philadelphia. My son was
22 run down while crossing the street to his
23 friend's apartment. The 26-year-old woman
24 that hit him had just left a huge New Year's
25 Eve party and was driving to her boyfriend's

1 house.

2 The force of the impact caused my
3 son's body to be thrown up on the hood of the
4 car and the back of his head crashed into the
5 driver's side of the windshield. His neck was
6 almost severed from his spinal cord. The
7 bones in his legs just exploded.

8 The driver did not swerve. She did
9 not stop. She just kept speeding away while
10 her son -- while our son lay unconscious on
11 the side of the road.

12 When she got to her boyfriend's house
13 she was hysterical. She thought possibly she
14 hit a deer. She did not want to go back to
15 the scene, instead she decided to sleep it
16 off.

17 Her father, who owns his own body
18 shop, had her car towed to his shop on New
19 Year's Day. He started working on it
20 immediately and had it fixed for his daughter
21 so she could go to school on January the 1st
22 (sic). He then disposed of all the evidence.

23 They were arrested six weeks after
24 the death of our son.

25 Our family fought long and hard also,

1 only to see the killer given a pitiful
2 sentence. She was convicted of an Accident
3 Involving Death, Section 3742, and was
4 sentenced to 15 months in jail and one-year
5 probation. Although she should have served
6 her time in the state prison, the judge
7 allowed her to serve her time in a county
8 prison so her family could visit her more
9 often. She wanted immediate work release,
10 which was denied until the last three months
11 of her sentence.

12 Because her license was suspended for
13 the one year while she was in jail, she was
14 allowed to resume her driving privileges the
15 minute she stepped out of jail.

16 We sought to have this law changed
17 and thanks to Representative Adolph, about two
18 years after our son's death, House Bill 601
19 was passed to include Section 3742 with other
20 serious offenses where your driving suspension
21 cannot run concurrent with your jail time.

22 The father was convicted of Section
23 5105, Criminal Conspiracy and Hindering
24 Apprehension and prosecution. He received
25 only 30 days' house arrest, two years'

1 probation and community service. He still
2 went to work and continued with his life as if
3 nothing ever happened.

4 The death of our son, Jim, has caused
5 deep sadness and trauma for our whole family.
6 Our life has been an emotional roller coaster
7 ride that does not stop. It is hard to put
8 into words the anguish that is specific to
9 hit-and-run crimes. The tragedy itself is
10 a -- is a complete shock and you just can't
11 believe that another human being could leave
12 your loved one to die without stopping to
13 help, without stopping to care.

14 We are here today to ask for your
15 prompt consideration and support of House Bill
16 513. As lifelong Pennsylvania residents, my
17 family and I ask for the support of our
18 government to change the existing laws so that
19 hit-and-run drivers receive penalties that are
20 in proportion to the grievous crime that they
21 have committed.

22 Lawyers involved with the defense or
23 prosecution of hit-and-run drivers will tell
24 you that Section 3742 is a catchall for drunk
25 drivers that flee the scene of a traffic

1 accident. This makes tougher sentencing even
2 more critical.

3 House Bill 513 increases the minimum
4 sentence from one year to five years for
5 hit-and-run drivers if a victim dies or is
6 seriously injured. The stronger minimum
7 sentencing will not bring our son back; but
8 if -- if this law passes, we will know that
9 our efforts, in memory of our son, helped
10 provide for a more acceptable justice for
11 future victims and their families.

12 Hit-and-run drivers are serious
13 criminals. They are killing innocent people.
14 How can we not increase the minimum sentencing
15 on this type of horrific crime? You have the
16 power to make House Bill 513 happen. Please
17 support this much needed change.

18 Thank you.

19 CHAIRMAN CALTAGIRONE: Are there any
20 questions?

21 Staff members? Staff?

22 MS. DOUGHERTY: No? Okay. Thank you
23 very much.

24 CHAIRMAN CALTAGIRONE: And our
25 condolences to your family.

1 MS. DOUGHERTY: Thank you.

2 CHAIRMAN CALTAGIRONE: We'll adjourn
3 the hearing and thank you, each and every one
4 of you, for attending today and especially
5 coming as far as you have. We appreciate your
6 testimony. Thank you.

7 (The hearing was concluded at
8 12:47 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