

PENNSYLVANIA HOUSE OF REPRESENTATIVES

House Labor Relations Committee Hearing on HB 2585

Testimony of Sheriff Mark Lusk

August 23, 2010

Good afternoon Chairman Belfanti and members of the PA House Labor Relations Committee. On behalf of the PA Sheriffs Association, I thank you for committing time from your summer recess to listen to our sincere plea to reinstate powers to all 67 Sheriffs and over 2,000 Sheriffs' Deputies across this Commonwealth.

For over 200 years, from 1804 until the appellate Courts recently stripped the Sheriff of his power, Sheriffs have been doing their job day in and day out without private interest entities raising any issues regarding the Sheriffs powers considering the vast amount of work we undertake every day of the year. When the Kopko vs. Miller and Comm vs. Dobbins rulings were made, organizations of the thin blue line, in an opportunistic manner, began efforts to convince our legislature to oppose (the former) HB 466 and now HB 2585. As you carefully listen to the message from all interested parties, please separate fact from the fiction and the hypothetical from reality.

I am Lycoming County Sheriff Mark Lusk. Greetings from Williamsport, home of the Little League World Series – under way as we speak. Lycoming County is a 5th Class County with a population of 120,000 (that number increases daily by 20,000 – 50,000 during the 10 day LLWS). We are the largest geographical county in the Commonwealth, with 1,215 square miles and 1 city, 42 townships and 9 boroughs. There are 11 police agencies (6 providing 24/7 on-duty protection), 1 college PD and the Sheriff's Office. Although I am a first term Sheriff (blessed to receive 80 % of the vote), I have a unique perspective of the detriment caused as a result of Sheriffs losing their powers resulting from the Court rulings and how crucial passing HB 2585 is. I was a municipal police officer for 30 years – my last 5 as police chief in the 2nd largest municipal police department in Lycoming County. I have been very active in law enforcement as President of the Lycoming County Law Enforcement Association for 10 years, Chief Deputy Coroner for 3 years and now (God willing) my final career as Sheriff. I am a retired 30 year life member of the FOP and have held membership with the

Page 2

PA Chiefs of Police Association. Those who know me will tell you I speak frankly and truthfully, I do no mask issues nor do I attempt to distort the truth. My colleague and good friend, Sheriff Gerringer, spoke very candidly and truthfully. I will bolster his testimony with what I describe as “facts or fiction”. As we become embroiled in debate, many times we lose sight of the **common sense** in the issue and the need to do what is right for those who have elected us **in the interest of their safety**. Our forefathers said long ago, that government’s first responsibility is that of protecting its citizens. The criminal element knows absolutely no boundaries. They have no regard whether you and I are Democrat or Republican. Lycoming County Republican Rep. Garth Everett sums up HB 2585 so well when he states “It is a no-brainer” and I am proud to have both he and Democratic Rep. Rick Mirabito support and co-sponsor HB 2585.

I have prepared a “Fact or Fiction” list of the many “seemingly” legitimate reasons ***not*** to pass HB 2585. **With each issue, ask yourself as a member of the Labor Committee if I should vote NO for the Fiction or vote YES for the Facts:**

Fiction: Sheriff Deputies are inadequately trained to have police powers.
Fact: Sheriff Deputies receive their Deputy certification through the statutory provisions of Act 1984 - 2, which is administered by PCCD. Sheriff Deputy training is 760 hours in length (10 hours longer than MPOETC Act 120) and the MANDATORY Deputy Sheriff Certification, **IRONICALLY**, provides certification in Patrol Procedures and Operations, Motor Vehicle Code/Accident Investigation, DUI Enforcement, Criminal Investigation, and Drug-Related Investigations.

Fiction: Sheriff Deputies are inadequately trained.
Fact: SHERIFF Deputies are certified by PCCD if they are Act 120 certified and complete the 2 week Sheriff Deputy Update Course.

Fiction: If HB 2585 passes, Sheriffs could suddenly expand their Offices at will, taking over municipal police departments, which will result in loss of jobs for municipal police officers.

Fact: Within the past 60 days, I have been denied participation in the PA Turnpike E – Z Pass program I requested to eliminate my Sheriff Vehicles from having to handle petty cash at toll booths when transporting prisoners. This denial came from the Office of the County Commissioners with the reasoning there would be a \$ 5.00 monthly service charge that the County told me they were not going to pay. The point being this: the PA County Code provides very clear language that every expenditure, every budget, and appointment of additional Sheriff Office personnel is subject to County Commissioner approval and County Salary Board approval. Any expansion of any services (including the \$ 5.00 service charge for EZ Pass) is subject to the scrutiny and final approval of the Board of Commissioners. Additionally, HB 2585 clearly requires Salary Board approval for any additional Sheriff Deputies to be appointed by the Sheriff.

Fiction: Sheriff Powers should not include the need to INVESTIGATE.

Fact: Sheriffs HAD (until the Courts stripped our powers) the responsibility, by law, to investigate and inquiry a wide arrange of day to day services that NO police agency, quite frankly, would want to assume responsibility for: Sheriffs provide some level of investigation, for example, to: applicants who apply for gun permits, Precious Metal Sales Regulations Laws Applicants, Protection from Abuse Petition Service, investigating escapes of prison system inmates, assaults on CO Staff by inmates in our County Prison System and a gamut of crimes committed within our County Prison System, investigating and searching for fugitives (my County alone has approximately 1,950 active fugitive warrants). How can Sheriffs possibly do this day to day work without investigative powers? If we ask ONE INVESTIGATIVE QUESTION – we have initiated an investigation. It is impossible to perform the multitude of functions required of us without the remedy of HB 2585.

Fiction: CCAP opposes HB 2585 maintaining it would expand our powers well beyond powers the Sheriff should have rather than restore our powers.

Fact: County Code mandates that every expenditure of the Office of Sheriff must be approved by the Commissioners. County Commissioners are the legislative branch of County Government. The Sheriff of each County is the executive branch of County Government. If CCAP were asked to articulate what detriment HB 2585 would cause County Government, it is likely the response would have little, if any, relevancy.

Although municipal police departments and officers across Lycoming County (as well as across the Commonwealth) universally support restoration of the Sheriff's powers, the State FOP leadership, continues to oppose HB 2585. Their reasons are as follows:

Fiction: In quoting the June 30, 2010 letter to Rep. Belfanti, the Director of the FOP Legislative Affairs stated "The needs of many Deputy Sheriffs in the area of compensation, benefits, pension, and job security have been sorely lacking".

Fact: As members of the Labor Committee, ask your local police departments what they are paying their part time officers and even their full time officers. Many receive nominal pay and nominal benefits. I came from the ranks of municipal law enforcement. Many police officers are paid nearly minimum wage, given no health benefits and work hours just under 40 to keep them part time. Lycoming County Deputy Sheriffs, and the vast majority of County Sheriffs across the Commonwealth, have employment packages that rival and even exceed those of municipal officers. A Deputy Sheriff in Lycoming County has a starting salary of approx. \$ 31,000 (some Deputies are near the \$ 45,000 range), full coverage for family BC/BS with less than a \$50 monthly co-pay, and a very solid pension program. In the area of job security, the vast majority of Deputy Sheriffs statewide are career Deputies. I have Deputies serving with 1 year of service to 30 + years of service. The one year of service appointment was a result of a 32 year career Deputy retirement. My Deputy Group's average years of service are 13 years.

Fiction: Quoting the State FOP letter of opposition..... “We strongly believe the Sheriffs current duties and responsibilities should remain their principal focus. When our Sheriffs cannot adequately perform these duties, this imposes a burden on the law enforcement agencies which must step in to perform these functions. The additional duties imposed by HB 2585 would entail additional personnel and resources.

Fact: Respectfully, the State FOP leadership, nor the PSTA Leadership, nor PCPA Leadership, have any amount of reasonable understanding of what duties a Sheriff and his Deputies perform in the course of a day nor the time involved with each task. As a very active law enforcement officer and part of as many as 17 county, regional and state-wide law enforcement – related committees, I honestly had little understanding of the duties and responsibilities of the elected Sheriff until I assumed the office. For the last sentence of the FOP Leadership Letter to suggest there be a need for “.....additional personnel and resources” is a statement made with little understanding of the role of a Sheriff. If additional personnel and resources would suddenly be required with passage of HB 2585, why have we not had all of the current opposition to the Sheriff’s powers LONG before the Courts removed our powers? There never existed an issue of opposition regarding Sheriff Powers until the Court rulings. While part of this Sheriff could only wish that HB 2585 would suddenly give me “additional personnel and resources”, HB 2585 contains language (Sec. 2112) that clearly requires County Salary Boards to approve every personnel appointment that I would want to make. Any other “resources” must be approved within the confines of my annual budget which is, again, approved solely by the Board of County Commissioners.

Fiction: The FOP Leadership states our current duties should be our primary focus.

Fact: The FOP did not oppose what every Sheriff had done before the Court rulings. My Deputy Sheriff Group travels our County roads approximately 150,000 miles annually. Approximately half of our work is inside our Court buildings and half “on the road” and in every corner of the largest County in the Commonwealth – including every

neighborhood. In many cases, residents tell me that they see Sheriff Vehicles more frequently than police cars. This statement is not to cast any negativity on our law enforcement partners. Sheriffs simply serve thousands of civil and criminal documents yearly and we are out there every day. Our Deputies serve very dangerous PFA's – which remove spouses from their homes and their children – and remove their guns. Police Departments rarely assist our Deputies in the service of PFA's and related dangerous documents. In their routine travels, our Deputies observe drunk drivers, dangerous vehicle code violations, reckless drivers speeding past sheriff vehicles, and observe criminal behavior and conduct. With their powers stripped, are 2,000 Deputy Sheriffs really expected to turn their heads and look the other way or are they to local law enforcement to respond and investigate the incident when local law enforcement is asking our Deputies – why aren't you handling the incident since you were part of it from the beginning? The only burden that the FOP Leadership (and police departments across the Commonwealth) will face if HB 2585 does not become law, will be the burden created when Sheriff Deputies across the Commonwealth are required to call police departments to respond. The vast majority of PD's already face serious manpower shortages, increased call volume and reduced response times. I know this – I lived it as a police patrol officer and police chief. Reductions of Law enforcement Officers numbers state-wide, especially given the serious budget crises that have existed, is more prevalent than ever before. No one in law enforcement can deny the serious reality of having considerably less police officers and troopers on the street. Numerous departments have disbanded, stations have closed on selected midnight shifts (with officers having to get called out of bed to respond), and we have less uniformed personnel on our streets.

Scenario: You walk into your local Courthouse and your purse/wallet is forcibly taken from you. You yell for help. Sheriff Deputies respond from within the Courthouse, are at your side within a minute attired in a very visible uniform of authority, being highly qualified with statutory certification; annual firearms certification, CPR certification, medical certification, taser certification, pepper spray certification, self defense certification and criminal investigation training.[Additionally, Sheriff

Deputies are authorized by AOPC (Administrative Office of Pennsylvania Courts) to file, within our 570 + Magisterial District Judges Offices statewide, traffic/non-traffic citation as well as police criminal complaints.] Your expectation that the Deputies will help you and will immediately begin an investigation to locate the robbery suspect is met with “sorry maam or sir, you will have to tell your story again because we have to call the local police or the state police to respond and investigate your crime as we have no investigative authority”. How slow will the “secondary response by a “police officer with police powers” be to your crime? Deputies are prohibited from conducting any investigations even within our own Courthouses. This is a true public safety travesty with the possibility of apprehending the criminal who just assaulted you – diminishing by the minute. What message do you walk away with of **your** criminal justice system when the public, who, in a recent poll, by a great majority, believe that Sheriffs have full powers.

Lycoming County, alone, has lost more than 30 % of its uniformed sworn law enforcement officers to department reductions and departments being disbanded since I began my career in 1977. What happens when the criminal element of our public comes to realize that Sheriffs and Sheriffs Deputies “have no power”? How much more difficult will our career become when this occurs? Where is the common sense in all of this when we have a group of 2,000 Deputy Sheriffs state-wide (with training that equals or exceeds that of the PA State Police Officers and municipal police officers) who are told by special interest groups that we need to focus on doing our job inside our Courthouse setting? The elected Sheriffs of this Commonwealth and our Sheriff Deputy group have never faltered in the protection we have afforded our Courthouses, our Courts and the public who visit us every day. This is a core mission that would never be compromised by HB 2585. HB 2585, to the contrary, bolsters our ability to accomplish this core mission.

Each of us as residents of this Commonwealth, have many loved ones, friends and colleagues who face crime as a major headline everyday: illicit drug activity at epidemic levels, assaults, theft, robbery and murder more common than ever, DUI offenders responsible for hundreds of deaths of innocent victims, and Megan’s Law Offenders more common than ever. Crime affects each and every one of us personally. The cost for crime is astronomical and increasing every year. What realistic and tangible reasons

are there to reduce the powers of our Sheriffs? The PSA Leadership has sincerely sat at the “negotiating table” with every interested party who has expressed written opposition to HB 466/HB 2585. The PSA Leadership has agreed to virtually every change that is now HB 2585. It is clear that this is not about restoration of the powers of the Sheriff. It is about reducing the ability of having the eyes and ears of Deputy Sheriffs - 2,000 strong in 67 Counties of Pennsylvania in the effort by the opposition to strengthen their “turf” concerns that this issue is really about. The anti – HB 2585 organizations hierarchy are willing to paint doom and gloom and state all the negatives that will happen if HB 2585 becomes law, yet they do not offer any positive comment if HB 2585 were to become law. They offer little if any positive impact of any part of HB 2585.

Deputy Sheriffs, for years, have work tirelessly at : County Fairs, parades, DUI Checkpoints, local carnivals, US Marshal Fugitive Task Forces, election night voter services protection, 911 motorcycle rallies, funeral motorcades for our fallen military and emergency service personnel, and for routine requests for help from local police departments who just do not have the resources they need. I have assigned Deputies to the LLWS for the entire 10 day event. Shouldn't we all take credit for what we have done to have Deputies enforcing our laws at so many different events – when we are requested by local law enforcement to provide help? Are our Deputies to be expected to be present to look good and give the appearance that they are sworn officers expected to uphold the laws of the Commonwealth in a minutes notice BUT instead are, by law, security officers?

What sense does it make “Post 9/11” to further erode our sworn law enforcement contingent across this Commonwealth in the interest of a few special interests groups that have their own special interests in mind rather than the safety of our residents ?

One reading of HB 2585 clearly shows that passage of HB 2585 is a win for the “organization” that should come first – the organization known as the residents of the Commonwealth of Pennsylvania.

The PSA is not about turf battles. We never have been and never will be. The PSA is about working as a team and as a partner with all of law

Page 9

enforcement throughout the Commonwealth for the common good. Every day and in every County, the dispatch goes out to Sheriffs Deputies to provide immediate mutual aid and back-up to municipal officers, PA State Police Troopers, college police officers, and even US Marshals and FBI Agents who are in trouble, need help and Sheriffs deputies are many times the first law enforcement help on the scene. We respond without hesitation or delay, placing our lives on that same line (recall the murder of the two Bradford County Deputies) of those who have called for our help – yet we do not have the same law enforcement powers? What sense does that make? I would suggest absolutely no sense.

Even if HB 2585 were to cause increased costs somehow or in some manner, (which is simply not true), what is the cost for crimes committed statewide that your Sheriffs would otherwise, have been able to prevent and the numbers of criminals that your Sheriffs would have otherwise been able to apprehend had HB 2585 become law?

I would ask each of you, respectfully, after serious consideration of HB 2585, to support and vote for HB 2585. This about doing what makes sense, doing what is a “no brainer” and simply returning the powers that Sheriffs had for over 200 years.

Thank-you allowing me the time to provide this testimony.

Respectfully submitted,

R. Mark Lusk, Sheriff
Office of Sheriff
Lycoming County Courthouse
48 West Third Street
Williamsport PA 17701
Office 570.327.2280
Fax 570 327.2366
mlusk@lyco.org
HB 2585 Testimony Doc.1