

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JUDICIARY
COMMITTEE HEARING

STATE CAPITOL
HARRISBURG, PA

205 MATTHEW J. RYAN
OFFICE BUILDING

THURSDAY, AUGUST 22, 2013
10:30 A.M.

PRESENTATION ON
HOUSE BILL 1154
TO AMEND TITLE 18 OF THE
PENNSYLVANIA CONSOLIDATED STATUTES

BEFORE:

HONORABLE RONALD MARSICO, MAJORITY CHAIRMAN
HONORABLE BRYAN CUTLER
HONORABLE JOSEPH T. HACKETT
HONORABLE MIKE REGAN
HONORABLE RICK SACCONI
HONORABLE TODD STEPHENS, MAJORITY SECRETARY
HONORABLE THOMAS CALTAGIRONE, DEMOCRATIC CHAIRMAN
HONORABLE VANESSA LOWERY BROWN
HONORABLE DOM COSTA
HONORABLE JOHN SABATINA

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

ALSO IN ATTENDANCE:

HONORABLE RON MILLER
HONORABLE CHRIS SAINATO

COMMITTEE STAFF PRESENT:

THOMAS DYMEK
MAJORITY COUNSEL, EXECUTIVE DIRECTOR JUDICIARY,
REPUBLICAN RESEARCH

JEN DURALJA
MAJORITY COMMITTEE SECRETARY, REPUBLICAN
RESEARCH

MICHELLE MOORE
MAJORITY ADMINISTRATIVE ASSISTANT JUDICIARY,
REPUBLICAN CAUCUS

MIKE FINK
MAJORITY REPUBLICAN RESEARCH

ELIZABETH LAUREN ORAZI
DEMOCRATIC EXECUTIVE DIRECTOR JUDICIARY, DEMOCRAT
CAUCUS

DAVID VITALE
DEMOCRATIC LEGAL COUNSEL, DEMOCRAT CAUCUS

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

P R O C E E D I N G S

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3 MAJORITY CHAIRMAN MARSICO: Good morning. I'm
4 Representative Marsico, Chair of the Committee. Welcome,
5 everyone. We have a great turnout with the Members,
6 appreciate that, as well as our audience, so thank you very
7 much for being here.

8 We're going to obviously speak about House Bill
9 1154, this public hearing to discuss the Bill. And we have
10 a very good turnout of witnesses, first-rate witnesses, and
11 our prime sponsor, Ron Miller, is here.

12 House Bill 1154 deals with the criminal offenses
13 of harassment, stalking, and threats to use weapons of mass
14 destruction. Each of these, of course, is a very serious
15 criminal offense, yet each of these criminal offenses
16 includes special exemptions for parties to an organized
17 labor dispute. The effect of these exemptions is that law
18 enforcement is not allowed to bring criminal charges
19 against a party to an organized labor dispute for conduct
20 that would otherwise be criminal in nature. House Bill
21 1154 deletes those exemptions.

22 I'm sure we'll hear much from our witnesses today
23 about the rationale for these exemptions and how they came
24 to be part of Pennsylvania law in the first place, as well
25 as information and opinion about whether the time has come

1 for the exemptions to be repealed.

2 I'm very pleased to say that again we have a
3 first-rate group of witnesses with us here today, including
4 Leon Sequeira from the United States Chamber of Commerce;
5 Mary Tebeau from the Eastern Pennsylvania Associated
6 Builders and Contractors; Frank Snyder, Treasurer of the
7 Pennsylvania AFL-CIO; Christian Leinbach, Chairman of the
8 Berks County Commissioners; Sarina Rose, Vice President of
9 Development for Post Brothers Apartments; Barry and Deborah
10 Schlouch, founders of Schlouch, Inc.; Robert Reeves, Jr.,
11 President of E. Allen Reeves, Inc.; Alex Halper, Director
12 of Government Affairs for the Pennsylvania Chamber of
13 Business and Industry; and David Taylor, Executive Director
14 of the Pennsylvania Manufacturers' Association.

15 We look forward to all of your testimony, and
16 before I turn things over to Representative Miller for his
17 opening remarks and comments, let me just add two small
18 notes: the first, everyone is aware that this hearing is
19 being recorded; and second, that we do invite anyone to
20 submit comments or testimony to the Committee and the
21 record will be open after this hearing in order to receive
22 those comments.

23 With that, I recognize Representative Ron Miller,
24 prime sponsor of the Bill, for opening remarks. Welcome,
25 Chairman Miller. You may begin when you're ready.

1 REPRESENTATIVE MILLER: Good morning, Chairman
2 Marsico, Chairman Caltagirone, and thank you for holding
3 this very important public hearing on statutory loopholes,
4 which I believe favor organized labor.

5 This issue was first brought to my attention when
6 I served as Chairman of the House Labor and Industry
7 Committee. A report issued last summer by the U.S. Chamber
8 of Commerce exposed several portions of Pennsylvania Crimes
9 Code where criminal actions are immunized from prosecution
10 or conviction simply because they occur during, in the
11 course of, or in connection with a labor dispute.

12 The loopholes contained in Title 18 specifically
13 exempt parties of a labor dispute from the crimes of
14 harassment, stalking, and threatening to use a weapon of
15 mass destruction if the perpetrator is involved in a labor
16 dispute as defined in the Labor Anti-Injunction Act. My
17 legislation, as currently drafted, expressly repeals
18 Sections 2709(e), 2709.1(e), and 2715(c)(2) of Title 18.

19 A General Assembly must always recognize the
20 importance and necessity of fostering economic development
21 and job creation and further recognize that employers and
22 employees have a wealth of legal rights governed by the
23 National Labor Relations Act and assorted State statutes.
24 Employers, employees, labor organizations, and their
25 respective representatives and agents must exercise such

1 rights so as not to commit criminal violations that can
2 make the Commonwealth an unwelcoming or dangerous place for
3 employee/employer relationships, harm existing businesses,
4 or suppress job growth.

5 Mr. Chairman, I appreciate and again thank you
6 for your willingness to hold a public hearing on this
7 issue, and I look forward to hearing from our panels of
8 testifiers this morning. Thank you.

9 MAJORITY CHAIRMAN MARSICO: Well, thank you,
10 Chairman Miller. You're certainly welcome to join the
11 panel.

12 And also, I'd like to have the Members and staff
13 introduce themselves starting over here to my left.

14 REPRESENTATIVE BROWN: Representative Vanessa
15 Lowery Brown from Philadelphia County.

16 REPRESENTATIVE HACKETT: Representative Joe
17 Hackett, Delaware County, 161st District.

18 REPRESENTATIVE REGAN: Representative Mike Regan,
19 92nd District, York and Cumberland County.

20 REPRESENTATIVE CUTLER: Good morning, Brian
21 Cutler, 100th District, Southern Lancaster County.

22 MR. DYMEK: Tom Dymek, Executive Director of the
23 Committee.

24 MINORITY CHAIRMAN CALTAGIRONE: Tom Caltagirone,
25 Berks County.

1 MS. ORAZI: Lauren Orazi, Democratic Executive
2 Director.

3 REPRESENTATIVE SABATINA: John Sabatina, 174th
4 District, northeast Philadelphia.

5 REPRESENTATIVE COSTA: Representative Dom Costa,
6 21st District, Allegheny County.

7 REPRESENTATIVE SAINATO: Representative Chris
8 Sainato. I represent the 9th District, which is in
9 Lawrence County.

10 REPRESENTATIVE SACCONI: Representative Rick
11 Saccone from the fighting 39th District of southern
12 Allegheny County and northern Washington Counties.

13 MAJORITY CHAIRMAN MARSICO: We have a late
14 arrival but not really that late.

15 REPRESENTATIVE STEPHENS: Todd Stephens from the
16 151st District.

17 MAJORITY CHAIRMAN MARSICO: Well, welcome again,
18 Members and staff.

19 Our first testifier is Leon Sequeira. Leon is
20 with Seyfarth Shaw and he is here on behalf of the U.S.
21 Chamber of Commerce. You may begin.

22 MR. SEQUEIRA: Good morning, Mr. Chairman,
23 Members of the Committee. My name is Leon Sequeira. I'm
24 Senior Counsel at the law firm of Seyfarth Shaw in
25 Washington, D.C., and I formerly served as the Assistant

1 Secretary of Labor for Policy in the George W. Bush
2 Administration. I appreciate the invitation today to
3 testify on behalf of my client, the U.S. Chamber of
4 Commerce, regarding House Bill 1154.

5 Last year, I assisted the U.S. Chamber of
6 Commerce in an examination of various State laws and
7 regulations relating to labor policy, and particularly
8 those provisions that provide special treatment of, or
9 special exemptions for, labor unions and labor organizing
10 activity. That research became the basis of a report that
11 was released in August of 2012 by the U.S. Chamber
12 entitled, "Sabotage, Stalking & Stealth Exemptions: Special
13 State Laws for Labor Unions."

14 Labor union membership in the United States has
15 been steadily declining for decades. The Federal Bureau of
16 Labor Statistics reports that in 2012, just 11.3 percent of
17 wage and salary workers in the U.S. were members of a labor
18 union. Thirty years ago, more than 20 percent of workers
19 were union members. And today, in the public sector, about
20 35 percent of workers are unionized, while just 6.6 percent
21 of private sector workers belong to a union.

22 Union membership in the U.S. is
23 disproportionately concentrated in a handful of States. In
24 2012, 31 States had union membership below the national
25 average and about one-half of all union members in the

1 country live in one of just seven States: California, New
2 York, Illinois, Pennsylvania, Michigan, New Jersey, and
3 Ohio. Although those seven States account for nearly half
4 of all union members, they account for just about one-third
5 of all wage and salary workers in the country.

6 Pennsylvania in 2012 had 734,000 union members
7 out of a total workforce of 5.4 million employees. That
8 gives Pennsylvania the 4th highest number of union members,
9 but just the 16th highest percentage of union to nonunion
10 employees.

11 The Chamber's 2012 report highlights several
12 examples of State laws around the country that provide
13 special consideration for labor unions, their members, and
14 for activities relating to labor organizing. As one of the
15 States with relatively high union membership,
16 Pennsylvania's laws were included in that analysis and
17 specifically, the State's stalking law was cited in the
18 Chamber's report as an unusual example of how union members
19 can be exempted from a criminal statute of general
20 application.

21 Every State in America has declared stalking to
22 be a crime and in many cases it's considered a felony.
23 Pennsylvania of course includes stalking in its list of
24 crimes and offenses in Title 18, and the Commonwealth
25 defines the crime of stalking in Section 2709.1.

1 Paraphrasing that provision, stalking occurs when a person
2 engages in a course of conduct towards another, including
3 repeatedly communicating or following the person under
4 circumstances which demonstrate either an intent to place
5 the other person in reasonable fear of bodily injury or to
6 cause substantial emotional distress to the other person.

7 As the Chamber notes in its report, declaring
8 stalking to be a crime is unsurprising given that "few
9 things are more unsettling than being followed or
10 maliciously harassed, threatened, or intimidated." But
11 despite being considered a crime in every State, only a few
12 States have gone so far as to exempt from the definition of
13 stalking acts perpetrated by an individual in the course of
14 a labor dispute. Pennsylvania is one of the few States to
15 do that.

16 In that same provision describing the crime of
17 stalking, paragraph (e) specifies: This section shall not
18 apply to conduct by a party to a labor dispute as defined
19 in the Act of June 2, 1937, known as the Labor Anti-
20 Injunction Act. The Chamber report mentions the exemption
21 to the State's stalking law again as a notable provision
22 providing protection for actions that would otherwise be
23 considered criminal if they were not committed by a party
24 to a labor dispute.

25 Pennsylvania also provides the same exemption in

1 two other criminal provisions: harassment and the threat
2 to use a weapon of mass destruction. The Commonwealth
3 defines harassment in Section 2709. Paraphrasing that
4 provision, one commits the crime of harassment when, with
5 intent to harass, annoy, or alarm another, the perpetrator:

- 6 • strikes, shoves, kicks or otherwise subjects
7 the other person to physical contact, or
8 attempts or threatens to do the same; or
- 9 • follows the other person in or about a public
10 place; or
- 11 • communicates to or about the other person any
12 lewd, lascivious, threatening or obscene words,
13 language, drawings or caricatures; or
14 communicates repeatedly at extremely
15 inconvenient hours

16
17 And in Section 2715 the Commonwealth defines the
18 crime of threatening use of a weapon of mass destruction.
19 Paraphrasing that provision, the crime occurs when a
20 person:

- 21 • reports without factual basis of knowledge the
22 existence or potential existence of a weapon of
23 mass destruction; or
- 24 • threatens by any means the placement or setting
25 of a weapon of mass destruction

1 Again, both of those provisions also contain the
2 same language found in the stalking definition, which
3 exempts from the crime conduct by a party to a labor
4 dispute.

5 State and Federal legislatures declare certain
6 activities to be crimes because society has determined that
7 such activities are harmful to the victims and to the
8 community at large. When someone engages in a course of
9 conduct designed to cause substantial emotional distress to
10 another (the definition of stalking) or threatens to
11 subject another to physical contact with the intent to
12 annoy (the definition of harassment) or falsely claims the
13 existence of a bomb (the definition of threatening to use a
14 weapon of mass destruction), the perpetrator of such
15 conduct intends to cause psychological or even physical
16 discomfort to his victim.

17 The victim of such conduct is injured regardless
18 of the reason for the crime. Someone who is concerned for
19 her safety as a result of being continually threatened,
20 followed and harassed by strangers takes no comfort in her
21 situation simply because there happens to be a labor
22 dispute at her place of work. Likewise, a business full of
23 employees and customers who are forced to evacuate a
24 building because of a bomb threat are not any less
25 frightened or inconvenienced simply because a business and

1 a union happen to have a dispute in the course of their
2 collective bargaining negotiations.

3 It is not clear why parties to a labor dispute in
4 Pennsylvania need such broad special exemptions from the
5 commonsense criminal laws that apply to everyone else.
6 Federal law already guarantees ample protections for
7 workers to engage in lawful activities relating to labor
8 organizing and collective bargaining.

9 In conclusion, I will leave it to others to
10 discuss what action the legislature should take on House
11 Bill 1154, but it appears that the Bill would simply remove
12 the special criminal exemption for parties to a labor
13 dispute that currently exist in the State code, and that
14 would make Pennsylvania's treatment of these crimes similar
15 to the way virtually all other States in the country treat
16 the crimes.

17 Thank you again for the opportunity to testify.
18 I'd be pleased to answer questions.

19 MAJORITY CHAIRMAN MARSICO: Okay. Once again,
20 thank you for your testimony. I have a question. You had
21 mentioned a few other States have exemptions. What are
22 those States?

23 MR. SEQUEIRA: Specifically, in the Chamber
24 report I believe they mentioned California and Nevada, and
25 there are a couple of others as well and I'd be pleased to

1 provide the Committee with---

2 MAJORITY CHAIRMAN MARSICO: Okay. Thank you.

3 MR. SEQUEIRA: ---follow-up information on those.

4 MAJORITY CHAIRMAN MARSICO: Okay. Do we have any
5 questions, Members? Chairman Caltagirone.

6 MINORITY CHAIRMAN CALTAGIRONE: How would this
7 apply to nonunion activists, as an example, church groups
8 where they picket specific groups, peoples, individuals?
9 What application would that have with religious groups as
10 an example? Because you know they do picket on both sides
11 on a lot of different issues. I mean, my God, this past
12 week or two that's all you've seen all over the country
13 with specific issues, especially Montgomery County with
14 what's been going on down there in our State.

15 MR. SEQUEIRA: Sure. The way the Pennsylvania
16 law is drafted, as I understand it, it applies to a party
17 to a labor dispute, so if a church or a religious
18 organization was party to the labor dispute, presumably
19 they would enjoy the protection of this exemption as well.
20 If they are not a party to the labor dispute, then
21 presumably they wouldn't be covered by the exemption.

22 MINORITY CHAIRMAN CALTAGIRONE: Okay. Because
23 there are other instances with other groups that may not
24 have the application of a labor situation but would be
25 involved indirectly, sometimes even directly on a given

1 issue and they'll take a side. And I'm just wondering what
2 application in law would that have for them?

3 MR. SEQUEIRA: I think standard, run-of-the-mill
4 picketing activity, which is protected free speech
5 activity, would not fall within the ambit of this law. I
6 mean, we're talking about narrow or specific crimes of
7 stalking and harassment. Again, garden-variety picketing
8 would be protected and these particular laws wouldn't come
9 into play in that case.

10 MINORITY CHAIRMAN CALTAGIRONE: Thank you. Thank
11 you, Mr. Chair.

12 MAJORITY CHAIRMAN MARSICO: Representative
13 Hackett for questions.

14 REPRESENTATIVE HACKETT: Thank you, Chairman.
15 Thank you, Leon, for your testimony today and for showing
16 up here at the hearing.

17 I just have two real quick questions. Number
18 one, to the best of your knowledge, were there any
19 roundtable meetings to bring together labor and maybe the
20 Chamber on this issue specifically?

21 MR. SEQUEIRA: I don't have knowledge of that. I
22 would defer to the State Chamber or the U.S. Chamber.

23 REPRESENTATIVE HACKETT: Thank you. How about
24 with statistical data as to these incidents happening
25 across the State of Pennsylvania? Would you know of any

1 place or would you be able to supply that to the Committee
2 or to my office so I could take a look at that to see these
3 actual events if they have happened, if this is an issue?

4 MR. SEQUEIRA: As part of the work that I did for
5 the Chamber in 2012, we didn't specifically look at the
6 number of instances or prosecutions or lack of
7 prosecutions. Again, we did a very broad survey of all 50
8 States and just identified the laws. We didn't then
9 proceed to follow up on every law and provision. Again, I
10 would defer to the State Chamber. They may have done some
11 more additional research in that regard.

12 REPRESENTATIVE HACKETT: Thank you, sir, for your
13 time. And thank you, Mr. Chairman.

14 MAJORITY CHAIRMAN MARSICO: Representative Costa
15 for questions.

16 REPRESENTATIVE COSTA: Thank you, Mr. Chairman.
17 And thank you for being here, sir.

18 A question for you, a former law enforcement
19 officer, stalking and terroristic threats are very, very
20 hard crimes to prove, especially if you can't pinpoint the
21 person who's it doing it, let alone an organization. In
22 the States that do not have the exemptions, can you tell me
23 how many people have been prosecuted or if it's reduced the
24 number of this kind of activity?

25 MR. SEQUEIRA: I can't. Again, we didn't follow

1 up on each law and track how many prosecutions occurred or
2 didn't occur.

3 REPRESENTATIVE COSTA: Okay. Then why do we
4 think there's a need for a change here if we don't see a
5 problem elsewhere?

6 MR. SEQUEIRA: Well, I would respectfully leave
7 that to the General Assembly to determine if there needs to
8 be a change. I've simply highlighted the law and pointed
9 out that it's unusual as compared to other States in the
10 U.S.

11 REPRESENTATIVE COSTA: Okay. Well, again, I
12 reiterate that these crimes, and there's other law
13 enforcement officers here on the panel, are very difficult
14 to prove unless you can pinpoint who's doing them, and I
15 think if you cross the line, no matter what exemptions
16 there are, you're going to see a prosecution.

17 Okay. Thank you, sir. I appreciate it.

18 MAJORITY CHAIRMAN MARSICO: Representative
19 Sabatina for questions.

20 REPRESENTATIVE SABATINA: Thank you,
21 Mr. Chairman. And thank you for your testimony,
22 Mr. Sequeira.

23 MR. SEQUEIRA: Sure.

24 REPRESENTATIVE SABATINA: Along those lines, I
25 was wondering if you're aware of any instances in the

1 Commonwealth where a bomb threat was called in and
2 prosecution was declined because it had to do with a labor
3 dispute?

4 MR. SEQUEIRA: No, sir, I'm not aware---

5 REPRESENTATIVE SABATINA: Okay.

6 MR. SEQUEIRA: ---again of any prosecutions or
7 lack of prosecution related to these laws.

8 REPRESENTATIVE SABATINA: Okay. Thank you.

9 MAJORITY CHAIRMAN MARSICO: Representative
10 Stephens for questions.

11 REPRESENTATIVE STEPHENS: Thank you. Thanks for
12 your testimony today. We appreciate you being here.

13 You don't have to go into too much depth, but
14 what are the constitutionally protected Acts that exist
15 federally? I mean, I think you made mentioned that there
16 are still protections in place, and I'm not aware of what
17 they are and I was hoping you might be.

18 MR. SEQUEIRA: Well, I think it's probably easier
19 to say in general picketing, bannering, passing out
20 leaflets, general protesting, that type of activity is
21 generally permissible and constitutionally protected. So
22 either there's a constitutional free-speech right or it's
23 protected activity under the National Labor Relations Act.

24 REPRESENTATIVE STEPHENS: So I guess in terms of
25 some of the communicative prohibitors, "communicates to or

1 about such other person any lewd, lascivious, threatening,
2 or obscene words, language, drawings, or caricatures,"
3 other than the threatening, are saying bad things about
4 someone in the context of a labor protest constitutionally
5 protected in your opinion?

6 MR. SEQUEIRA: It generally is going to be a very
7 fact-specific inquiry.

8 REPRESENTATIVE STEPHENS: Right.

9 MR. SEQUEIRA: As a general principle of freedom
10 of speech, there are broad protections. Short of making a
11 threat, people are free as a general rule to express their
12 opinions. And that would apply in a labor dispute.

13 REPRESENTATIVE STEPHENS: I guess I'm just
14 wondering if we have a broader problem with that particular
15 section of the statute, and I'm just curious there may be
16 something we need to look into just in terms of are we
17 infringing upon free-speech rights with just that very
18 narrow piece of language there? What's your opinion on
19 that?

20 MR. SEQUEIRA: I don't have an opinion on that
21 particular question. That's not something I've looked at.
22 Again, every State in the country has a stalking law. Most
23 of them are similar or have similar elements. I believe
24 Pennsylvania separated out stalking from its general
25 harassment provision---

1 REPRESENTATIVE STEPHENS: Right.

2 MR. SEQUEIRA: ---some years ago. Again, it's
3 relatively common. All 50 States have done it.

4 REPRESENTATIVE STEPHENS: Okay. Thank you.

5 MAJORITY CHAIRMAN MARSICO: Any other questions?
6 Okay. Thank you for your time again and your expertise on
7 this issue. Thank you very much.

8 MR. SEQUEIRA: Thank you, Mr. Chairman.

9 MAJORITY CHAIRMAN MARSICO: Next testifier is
10 Sarina Rose. Sarina is Vice President of Development for
11 Post Brothers Apartments; and also Alex Halper, Director
12 for the Chamber of Business and Industry.

13 So welcome and I appreciate you being here. You
14 may begin.

15 MS. ROSE: Good morning.

16 MR. HALPER: Good morning.

17 MS. ROSE: Thank you, Chairman Marsico and
18 Chairman Caltagirone, for allowing me to testify today.

19 Post Brothers is a vertically integrated,
20 multifamily development and management company. Post's
21 exclusive focus is the creation of large-scale Class A
22 apartment buildings and multifamily-oriented, mixed-use
23 developments. Post will continue acquisition of
24 permanently adaptive reuse and infill development sites on
25 existing apartment projects.

1 We take great pride in taking distressed
2 properties and undertaking full-scale renovations. We
3 strive for energy efficiency and in every project bringing
4 something new and exciting to the Philadelphia market. Our
5 investments have led to over 500 construction jobs and over
6 150 permanent jobs. These investments have brought
7 millions of tax dollars to the City of Philadelphia without
8 taking any subsidies whatsoever. We consider ourselves
9 local market experts with full in-house general
10 contracting, development, property management, leasing, and
11 capital markets expertise.

12 Our first interactions with the Building Trades
13 Councils and construction labor unions where it
14 significantly interfered with one of our projects was in
15 Center City, Philadelphia, in March of 2011 when we began
16 renovating an old factory building, which we called the
17 Goldtex Apartments Project. We were starting construction
18 primarily performing demolition, building stabilization,
19 and preparing the site for full construction to begin. At
20 the same time, we were actively bidding the project for the
21 balance of the construction trades which would begin in the
22 next six months.

23 We began to receive increasing pressure to commit
24 to 100 percent union workers on the project. Many union
25 business agents would routinely patrol the site so that

1 they would know if any open shop or nonunion-affiliated
2 contractors were even looking at the project. We had
3 active contracts with four large union subcontractors on
4 the site. These subcontractors were actively working. We
5 brought a few carpenters who were associated with an open
6 shop contractor to build a small model unit for marketing
7 purposes. The union contractors on the site immediately
8 walked off the project.

9 We pulled the open shop contractor off the
10 project and asked our union contractor to come back. They
11 said that they could not. Their men were being harassed,
12 threatened. They said they just couldn't come back. Some
13 of these union contractors told us their men were scared.
14 Others threatened us.

15 Discussions with Post and the heads of the local
16 Building Trades Council continued and they insisted we
17 commit to 100 percent union contractors for the project.
18 We told them that we could not do that. We award contracts
19 on the basis of merit. Our primary focus at that time was
20 to make the budget work on the project. The union
21 contractors who walked off the job had at least two months
22 of work to be completed. They never completed that work by
23 their own choice.

24 We believe that the way the negotiations and
25 pricing was going, union contractors probably would have

1 been awarded about 60 percent of the work on that project.
2 We ultimately felt that because the contractors refused to
3 return to the project that we had no choice but to hire
4 primarily nonunion-affiliated contractors on that site.

5 Months of negotiations with selective union
6 subcontractors ended in disappointment for both parties.
7 The union contractors we had been negotiating with told us
8 that they could not and would not "cross the line" unless
9 we worked something out with the Building Trades Council.
10 The Building Trades Council increased their resolve. They
11 made their requirements very clear: commit to 100 percent
12 or we will do everything to stop your projects.

13 Picket lines and violent protests ensued on the
14 Goldtex site. The pickets and blocking of contractors and
15 deliveries at our properties became a routine issue to deal
16 with. Many of those properties were occupied with people
17 living in them. Even if there was no active construction,
18 protesters would not leave any of our properties alone.
19 The picketers for the last two years have incessantly tried
20 to intimidate and harass our contractors, families, staff,
21 and at times our residents. They attempt to vilify the
22 entity of Post Brothers for "destroying communities" and
23 for being "unfair" to contractors. The bannering and hand-
24 billing, which is their typical practice of protest which
25 we have basically no issue with, has now extended, however,

1 to random sites all over the city which have no association
2 to our projects.

3 A day in the life on the Goldtex site includes
4 protesters linked together arm-in-arm at gates stopping our
5 contractors from entering, protesters blocking cranes,
6 flattening tires, disabling large concrete trucks with
7 homemade tire spike strips, vandalizing contractors'
8 vehicles by welded nail balls, broken windshields, smashed
9 cars, punched and hitting our security and contractors and
10 other staff.

11 A security guard and another Post staff member
12 were attacked with a crowbar in the middle of the night
13 when simply entering our gates. In another incident, a
14 contractor was entering our site, and as he walked between
15 the fence and a stone wall, a mob of protesters pinned him
16 against the wall and began slamming themselves against the
17 fence, crushing him repeatedly while he was screaming until
18 he fell to the ground.

19 We plan deliveries as if they were entering a war
20 zone. Our delivery companies, vendors, and suppliers were
21 called and threatened one after another. Many concrete and
22 crane contractors and suppliers were called and told them
23 that someone would blow up their plant or shop if they
24 worked for us. Finding contractors to come to our projects
25 at that time was extremely difficult.

1 I myself have been a target of this harassment.
2 I'm involved in a case where a prominent leader of one of
3 the trade unions assaulted and threatened me. My children
4 have been photographed at their bus stop. Myself and my
5 children have been also videotaped at my children's
6 sporting events all by union-affiliated contractors.

7 Our contractors' and employees' wives have been
8 harassed and videotaped, followed and harassed while
9 entering and dropping their young children at classes,
10 childcare, home all by local trade union members. They go
11 through our garbage, follow us home, and have enlisted a
12 campaign of videotaping our residents, including women,
13 children, and seniors on all of our sites all day, almost
14 every day. The protesters scream and yell if ignored.

15 The solutions to these matters, well, we quickly
16 ramped up a security force in response to this unlawful
17 behavior unlike any private security force within the City
18 of Philadelphia. We instituted a policy of 24/7
19 surveillance and recorded many of these incidents of the
20 protesters breaking the law. At one point, we began
21 posting incidents on a website called Phillybully.com.
22 Videos of many of these incidents I described are on this
23 site.

24 We hire the sheriff's office on a routine basis
25 to enforce the injunctions. This costs several thousand

1 dollars a day per site. Unfortunately, we are extremely
2 limited in the amount of officers available. Additionally,
3 the injunctions are limited to our sites, which is helpful,
4 but unfortunately, the harassment goes well beyond the
5 fortresses we have created at those locations.

6 Each step along the way we found creative
7 solutions to continue all of our projects and we continue
8 to deliver what we feel to be an incredible, world-class
9 product. We are committed to increasing the class and
10 quality of apartment projects in the City of Philadelphia.

11 Once we proved that we could and would do what we
12 needed to do to keep our contractors safe on the sites, the
13 contractors became increasingly interested and eager to
14 work for us. These are good contractors, contractors that
15 are well-trained and qualified to perform this work despite
16 the claims of the Building Trades Council. We even offered
17 and provided occasional security or surveillance to
18 contractors' offices and homes when needed.

19 We support HB 1154 because although we catch
20 these violators conducting these frightening and dangerous
21 acts against our family members, residents, contractors,
22 and staff, there is what seems to be a special dispensation
23 that these persons attain due to their involvement in a
24 current self-proclaimed "labor dispute or conflict." Even
25 though we have evidence of what are certainly criminal

1 acts, law enforcement routinely gives the union-affiliated
2 violators what we consider to be a pass on laws that every
3 other American citizen must follow. If there was a
4 pedophile photographing my children or if I had an ex-
5 husband who threatened to shoot me with a gun, I could
6 certainly implore law enforcement to do something about it,
7 but because there are certain trades in this self-
8 proclaimed active labor dispute with my company, the DA's
9 Office self-admittedly treats these cases differently.

10 Despite the activities I speak of organized by
11 union leadership, we are not an antiunion company. Post
12 Brothers routinely uses building trade union-affiliated
13 contractors. We support the basic principles of the
14 unions, which include fair treatment of their workers. The
15 majority of our crews are Philadelphia residents. Our
16 hiring goals are based on representing the community in
17 which we work. We are proud to employ men and women of a
18 racial mix similar to that of Philadelphia, which would be
19 impossible to do if we hired solely union contractors. We
20 continue to be committed to our investment in Philadelphia
21 and this wonderful State.

22 Thank you very much again for the opportunity to
23 testify today. I would be happy to answer any questions
24 you may have. I also have video of many of these incidents
25 along with me.

1 MAJORITY CHAIRMAN MARSICO: Alex, would you
2 prefer to go next or do you want to go with the questions?

3 MR. HALPER: I defer to the Chairman.

4 MAJORITY CHAIRMAN MARSICO: All right. I have a
5 few questions. The first incident was March of 2011? Is
6 that---

7 MS. ROSE: Well, that's when we started to
8 actually perform demolition.

9 MAJORITY CHAIRMAN MARSICO: Right. Okay. And
10 what's the status? Is the project complete?

11 MS. ROSE: It's almost complete.

12 MAJORITY CHAIRMAN MARSICO: Okay.

13 MS. ROSE: We have residents living there.

14 MAJORITY CHAIRMAN MARSICO: Okay.

15 MS. ROSE: It's probably 90 percent complete at
16 this point. There are delays.

17 MAJORITY CHAIRMAN MARSICO: The problems still
18 exist?

19 MS. ROSE: Yes.

20 MAJORITY CHAIRMAN MARSICO: Okay. And you
21 mentioned initially that this started because you were not
22 using union workers?

23 MS. ROSE: Actually, on the contrary, we were
24 using union workers.

25 MAJORITY CHAIRMAN MARSICO: Okay.

1 MS. ROSE: Our demolition contractor was a union
2 contractor---

3 MAJORITY CHAIRMAN MARSICO: Okay.

4 MS. ROSE: ---so were three different contractors
5 onsite.

6 MAJORITY CHAIRMAN MARSICO: So what was the
7 initial---

8 MS. ROSE: We had one small carpentry contractor
9 come in to build a model unit.

10 MAJORITY CHAIRMAN MARSICO: Okay.

11 MS. ROSE: We had him in there for a couple days
12 and things blew up.

13 MAJORITY CHAIRMAN MARSICO: Okay.

14 MS. ROSE: So---

15 MAJORITY CHAIRMAN MARSICO: When you called law
16 enforcement, the initial call, what was the response?

17 MS. ROSE: Well, with regard to local law
18 enforcement, they delegate this to a civil affairs
19 department.

20 MAJORITY CHAIRMAN MARSICO: Okay.

21 MS. ROSE: And what they tell us is that
22 enforcing the injunctions is not within their purview so---

23 MAJORITY CHAIRMAN MARSICO: Right.

24 MS. ROSE: ---they're very delicate about---

25 MAJORITY CHAIRMAN MARSICO: Okay.

1 MS. ROSE: ---pushing or moving guys away. So I
2 have video kind of showing what they do do.

3 MAJORITY CHAIRMAN MARSICO: Yes. How long would
4 that video take?

5 MS. ROSE: It's pretty short.

6 MAJORITY CHAIRMAN MARSICO: Okay.

7 MS. ROSE: I made them very short.

8 MAJORITY CHAIRMAN MARSICO: All right. We're
9 going to allow you to present that video, but another
10 question, other developers, companies, your competitors,
11 are they experiencing the same problems?

12 MS. ROSE: I can't speak for them.

13 MAJORITY CHAIRMAN MARSICO: Have you heard of any
14 issues?

15 MS. ROSE: I don't think to this extreme. I
16 don't think to this extreme. We're unusual. We have no
17 public dollars in our project so---

18 MAJORITY CHAIRMAN MARSICO: Right.

19 MS. ROSE: ---a lot of times there's an attempt
20 to get to the dollars. So if you can slow up the money,
21 you can stop the project. And in this case, we were able
22 to continue and we did.

23 MAJORITY CHAIRMAN MARSICO: Okay. Okay. I want
24 to ask if Representative Costa has a question.

25 REPRESENTATIVE COSTA: Yes, Mr. Chairman. Thank

1 you. Thank you for being here.

2 You actually equate them taking pictures in the
3 unions or whatever, organized labor groups taking pictures
4 to a pedophile or an ex-husband. That's apples and
5 oranges, you know, because a pedophile is court-ordered to
6 stay away from people. An ex-husband with a PFA would
7 cover you under that, okay. You had an injunction. You
8 say that law enforcement blew it off. Twenty-eight years
9 in law enforcement I never blew off anybody that called.
10 And did you go to the District Attorney's Office? Did you
11 go back to the courts with the injunction asking for
12 protection, or did you just assume that they were blowing
13 you off? Did you take any other action?

14 MS. ROSE: Absolutely.

15 REPRESENTATIVE COSTA: Like what?

16 MS. ROSE: I mean, local law enforcement is
17 different in every community. In my case, they took
18 pictures of my children at their bus stop on a routine
19 basis and our sporting events. So I don't know. When you
20 have someone taking pictures of your children, that's
21 wrong. There's no reason for that. That's intimidation
22 and there's some reason. The motivating factor for that, I
23 can't speak to. I don't know what they're doing with those
24 pictures as I don't know what a pedophile would do with
25 those pictures.

1 REPRESENTATIVE COSTA: Well, it's not illegal to
2 take pictures. I was a police officer and people took
3 pictures of my children, okay, and it's not illegal. If
4 you didn't think you are getting satisfaction from the
5 police itself, then you should have gone to the district
6 attorney or you should go to the district attorney and see
7 what can be done there or back to the courts to remedy this
8 not just to say that this is happening because it is legal
9 to take pictures of people.

10 MS. ROSE: Well, in the case of the situation I'm
11 in with regard to the harassment and a violent offense
12 against me, the District Attorney's Office said that we
13 treat these cases differently.

14 REPRESENTATIVE COSTA: You mean cases with unions
15 or---

16 MS. ROSE: Or other contextual issues that we
17 take into consideration.

18 REPRESENTATIVE COSTA: Okay. Thank you.

19 MS. ROSE: Whatever that means, I can't tell you,
20 but that's what they tell us.

21 MAJORITY CHAIRMAN MARSICO: Okay. If I can ask,
22 Representative Saccone, I think, had a question.

23 REPRESENTATIVE SACCONI: Yes, thank you. Thank
24 you, Mr. Chairman. And thank you for your testimony.

25 Yes, well, taking pictures and so forth, that

1 might be a gray area you could say is legal but what about
2 some of these other things: homemade tire spike strips,
3 vandalizing contractors, welded nail balls, broken
4 windshields, smashed cars, security officers being hit?
5 Did you report all those to the police?

6 MS. ROSE: Yes.

7 REPRESENTATIVE SACCONI: And what was the
8 reaction of the police to those?

9 MS. ROSE: There's no reaction. There's no
10 prosecution. We have them on video. A lot of these things
11 we don't have the guys on video doing it or it's a mob
12 doing it, so it's difficult for them, they say, to
13 prosecute or they choose not to prosecute. We have the
14 evidence. We have the guys putting them there. And
15 sometimes these are five blocks away from our site;
16 sometimes they're very close to our site; sometimes they're
17 right in front of it. So we do have video to the contrary
18 of what you might think. They don't prosecute.

19 REPRESENTATIVE SACCONI: So you said in your
20 testimony that the DA's Office self-admittedly treats these
21 cases differently. Do you have a specific statement, a
22 written statement by the DA or do you have any---

23 MS. ROSE: He said that to me.

24 REPRESENTATIVE SACCONI: He just said that you on
25 the phone?

1 MS. ROSE: Yes.

2 REPRESENTATIVE SACCONO: I don't know. I think
3 it's the right of union members to walk off a job if they
4 want 100 percent of the people on that job to be union.
5 That's fine. They can walk off the job if they're showing
6 solidarity. It's different if they're doing it because
7 they're being intimidated to do it. That's a different
8 story.

9 MS. ROSE: We agree.

10 REPRESENTATIVE SACCONO: And I think hopefully
11 that's what we're here to address today. Nobody's trying
12 to infringe on the right of the unions to stick together
13 and try to get union jobs in the City of Philadelphia
14 but---

15 MS. ROSE: These are my friends, these
16 contractors---

17 REPRESENTATIVE SACCONO: ---people shouldn't be
18 intimidated to do that.

19 MS. ROSE: ---that walked off the job.

20 REPRESENTATIVE SACCONO: Okay.

21 MS. ROSE: I know them very well.

22 REPRESENTATIVE SACCONO: All right. Thank you
23 very much for your testimony and your courage to come in
24 here today.

25 MAJORITY CHAIRMAN MARSICO: Representative

1 Hackett.

2 REPRESENTATIVE HACKETT: Thank you, Mr. Chairman.
3 I'll try and be very brief.

4 Sarina, thank you for your testimony today. Am I
5 saying that right? It is Sarina, right?

6 MS. ROSE: Yes.

7 REPRESENTATIVE HACKETT: Okay. Sarina, I, too,
8 spent my career in law enforcement, over 26 years, pretty
9 much all phases of law enforcement. I've dealt with many
10 labor issues with the sheriff upholding injunctions, et
11 cetera. What gets me in all kinds of testimony and all is
12 when people use the word "they," and I guess we're a little
13 cautious to be critical of who the "they" is, and I
14 understand that probably from a legal standpoint. But
15 sometimes I really want to know who the "they" is because
16 no one on this committee will stand for any type of
17 bullying. I'll tell you that right now. This is a great
18 group of folks up here and we do a lot of work.

19 Also, though, we want to let you know that there
20 are other avenues. I took particular offense, though, in
21 your statement where you talked about law enforcement
22 routinely gives union-affiliated violators what we consider
23 a pass. In my lifetime enforcing these laws I've come
24 across that and I've arrested members of a union and we've
25 prosecuted them in Delaware County and they have gone away.

1 Okay? This whole law sitting so deep back where immune
2 from certain prosecutions was really a shock to me when I
3 first saw it because as far as I know our cases went
4 forward. And hopefully, we did that right in Delaware
5 County.

6 But you do have other avenues. And if you're
7 finding yourself hitting those walls, you really have to
8 reach out. You have to take that next step further to the
9 District Attorney and then go to the Attorney General and
10 then go to the FBI if you have to. Believe me, a lot of
11 union labor folks that live within my neighborhood and all
12 don't condone any of this behavior. Okay? You know, we
13 have good butchers, good bakers, good candlestick-makers.
14 At times it still comes down to that individual. Did John
15 Smith videotape your kids where you felt intimidated, then
16 we're going after John Smith as John Smith and we'll put
17 him away. But I would be cautious about taking a group as
18 a whole and---

19 MS. ROSE: Yes, I didn't mean to do that
20 honestly. And actually, the police have definitely stepped
21 up their assistance to us and they understand this a lot
22 better, that we're not trying to reset a paradigm or
23 anything like that.

24 REPRESENTATIVE HACKETT: Right.

25 MS. ROSE: We're not trying to reengineer what

1 Philadelphia is doing. We just want to build projects.

2 REPRESENTATIVE HACKETT: And I think Rep.
3 Saccone actually asked the question that I was also
4 thinking about in my mind where, you know, did you report
5 these incidents, and so a lot of your testimony here was
6 affiliated with the City of Philadelphia?

7 MS. ROSE: That's correct. A lot of it, not---

8 REPRESENTATIVE HACKETT: Most of it there? Okay.

9 I look forward to working with you in the future
10 and we'll see how these things go, but unfortunately, with
11 this Bill I think we're really going to have to narrow down
12 and start saying who. Who is the "they?"

13 MS. ROSE: Understood. Thank you.

14 REPRESENTATIVE HACKETT: Thank you.

15 MAJORITY CHAIRMAN MARSICO: Representative Cutler
16 for questions.

17 REPRESENTATIVE CUTLER: Thank you, Mr. Chairman.

18 Sarina, in your testimony you had commented that
19 at times this even impacted your residents. And my
20 question is actually a little more specific. Were the
21 threats and the different items that you listed, you know,
22 the disruptions being directed at the residents? And if
23 so, do you know did they call the DA or where they're at as
24 far as their complaint process?

25 MS. ROSE: Some residents do call the police.

1 They call the police.

2 REPRESENTATIVE CUTLER: And do you know how those
3 situations were resolved? Because my question is,
4 understanding how the law currently reads since it could
5 potentially involve a party to the labor dispute, are there
6 also exemptions in place even though it's impacting the
7 residents, not necessarily you as the other co-party in the
8 dispute?

9 MS. ROSE: To be honest with you, I would have to
10 defer to our property management people as to how that
11 might result in sort of a police report or something like
12 that, but my concentration is sort of getting the job done.

13 REPRESENTATIVE CUTLER: Understood.

14 MS. ROSE: My focus is there so if I see that the
15 truck gets through or the crowd moves so people can get in,
16 that shows that that would be effective.

17 REPRESENTATIVE CUTLER: All right.

18 MS. ROSE: And that's us calling the police.

19 REPRESENTATIVE CUTLER: Thank you. And I'll
20 follow up with legal counsel because my concern actually
21 lies in not between the two parties that are rising from
22 the labor dispute but more so does it impact innocent third
23 parties who simply happen to be living there and what that
24 overall impact is as well.

25 MS. ROSE: What I can say is that it definitely

1 impacts residents, and the problem with this is is that
2 it's a group so we'll have 18 people at properties taking
3 video every day of incoming and outgoing residents, and so
4 if they were to call and say it's one particular person or
5 a guy in a chicken mask taking videos of me entering and
6 exiting the properties, they can file a police report and
7 then another guy will show up the next day. The sheer
8 volume of people that are doing this is pretty great.

9 REPRESENTATIVE CUTLER: Thank you.

10 MAJORITY CHAIRMAN MARSICO: Sarina, do you want
11 to show the video?

12 MS. ROSE: Sure.

13
14 (Video presentation)

15
16 MS. ROSE: This is a contractor entering the
17 building between a fence and a wall trying to go in in the
18 morning to work. For those of you who can't see, they're
19 laughing at him and he's on the ground. I'm going to turn
20 it off. He dials 911 after this.

21 MAJORITY CHAIRMAN MARSICO: Could you say that
22 again in the microphone? What did you say? Pull the mike
23 closer.

24 MS. ROSE: Oh, okay. Sorry. He dialed 911 after
25 this. I was going to turn it off and put it on the other

1 view real quick so you can see---

2 MAJORITY CHAIRMAN MARSICO: So he was trying to
3 enter the worksite?

4 MS. ROSE: He was entering the worksite. You can
5 see it from this other view.

6 MAJORITY CHAIRMAN MARSICO: Okay.

7 MS. ROSE: So him entering---

8 MAJORITY CHAIRMAN MARSICO: Okay.

9 MS. ROSE: ---the gentleman in the blue shirt is
10 coming in. His wife is behind him who works with him.
11 There's probably eight guys pushing him up against the
12 fence.

13 MAJORITY CHAIRMAN MARSICO: And you showed this
14 to the police---

15 MS. ROSE: Yes.

16 MAJORITY CHAIRMAN MARSICO: ---and what did they
17 say then?

18 MS. ROSE: There were charges put on, I think,
19 three individuals in this case. They didn't get very far.
20 Let's move to the next. In that case they pushed his wife
21 as well.

22 MAJORITY CHAIRMAN MARSICO: Could you say that
23 again?

24 MS. ROSE: I'm sorry. They pushed his wife as
25 well during that.

1 MAJORITY CHAIRMAN MARSICO: Okay.

2 MS. ROSE: I know you weren't paying attention.

3 This is kind of a---

4 REPRESENTATIVE STEPHENS: I'm sorry. If I

5 could---

6 MS. ROSE: Sorry.

7 REPRESENTATIVE STEPHENS: I missed one aspect of
8 what you said. Did you say they were charged?

9 MS. ROSE: They were charged in that case. There
10 were three individuals, I think, out of the group.

11 REPRESENTATIVE STEPHENS: Go ahead.

12 MAJORITY CHAIRMAN MARSICO: What were they charged
13 with? Assault?

14 MS. ROSE: I think it was assault.

15 MAJORITY CHAIRMAN MARSICO: Yes. Yes.

16 MS. ROSE: I think it was simple assault---

17 MAJORITY CHAIRMAN MARSICO: Okay.

18 MS. ROSE: ---if I'm not mistaken.

19 This is a quick video of -- I wanted to play this
20 one because it shows there were police here. There were
21 civil affairs police onsite or outside the gates. This is
22 about the time where people kind of come to work on one of
23 the gates.

24 MAJORITY CHAIRMAN MARSICO: So they would not
25 allow them into the gates. Is that what's going on here?

1 MS. ROSE: Yes, I mean, it just kind of shows
2 what they do to an individual coming up real quick, just
3 kind of don't let him in.

4 MAJORITY CHAIRMAN MARSICO: Right. Okay.

5 MS. ROSE: Unless the sheriff's there, they
6 wouldn't get in.

7 And in two seconds here you'll see pushing and
8 shoving with the construction manager coming in, which is
9 just kind of standard. I'll go a little faster. There's a
10 policeman behind.

11 MAJORITY CHAIRMAN MARSICO: So the gentleman in
12 the white hat is the construction manager in the back?

13 MS. ROSE: That's correct.

14 MAJORITY CHAIRMAN MARSICO: Okay.

15 MS. ROSE: So on this day they were able to get
16 in. There were two police there.

17 MAJORITY CHAIRMAN MARSICO: Okay.

18 MS. ROSE: This is a typical blocking scenario
19 when we bring in a delivery. This was like a daily thing.
20 Deliveries would take a couple hours generally to get in.

21 These are just images of the sheer amount of
22 people.

23 This is a flattened tire of a concrete truck.
24 It's a homemade device that they use. They would wrap it
25 in a paper bag so you wouldn't see it, throw it under the

1 tire. This could be four or five blocks away when they
2 would do this, so pretty well beyond the cameras.

3 This is just a typical sort of, you know, all the
4 time, just pushing and shoving every, you know---

5 MAJORITY CHAIRMAN MARSICO: Was that a security
6 officer?

7 MS. ROSE: That was one of our outer perimeter
8 guards, yes.

9 I wanted to show a couple things because you
10 asked about the residents. This was an open house that we
11 had. There's probably 250 or 300 individuals that showed
12 up. It was louder than a Phillies game. It was pretty
13 loud.

14 These are individuals that take pictures of our
15 residents. They dress up in masks, walk around the
16 properties. That's a chicken mask, you know, Daffy Duck,
17 Shrek, whatever it might be. And then they come up pretty
18 close to everybody and take video of whether it be
19 residents or -- they're everywhere. There's cameras
20 everywhere, every property, every entrance. And they say
21 they're not taping residence but they clearly are.

22 I don't know if you can see this. Let me see if
23 I have a better image. I mentioned the one where the guys
24 were attacked by a crowbar in the middle of the night. The
25 video is kind of dark but these are the police with the guy

1 at gunpoint after he was disarmed by one of our security
2 guys.

3 I know you think we might not have evidence. If
4 it's done properly, we can have evidence in these cases but
5 prosecution is very difficult. The DA's office doesn't
6 seem inclined at this time.

7 MAJORITY CHAIRMAN MARSICO: Yes. I think
8 Representative Sabatina had a question.

9 REPRESENTATIVE SABATINA: I'm going to waive off.
10 Thank you, Mr. Chairman.

11 MAJORITY CHAIRMAN MARSICO: Well, okay. Then
12 we'll have Alex. And do you want to give your testimony?
13 Go ahead.

14 MR. HALPER: Thank you. Chairman Marsico,
15 Chairman Caltagirone, and Members of the Committee, thank
16 you for holding this hearing today and inviting me to
17 testify. Again, my name is Alex Halper. I'm the Director
18 of Government Affairs at the Pennsylvania Chamber of
19 Business and Industry. And again, thanks for the
20 opportunity to testify.

21 The PA Chamber does support House Bill 1154, but
22 I think it's important to acknowledge that the majority of
23 unions and the majority of the organized labor community in
24 Pennsylvania, at least I believe, are well-intentioned,
25 fair, responsible members of the community who represent

1 members of their union just as most members of a union are
2 good, hard-working Pennsylvanians just doing their job,
3 striving to maintain a positive relationship and positive
4 interactions with their employers, with other unions, with
5 other workers who are not affiliated with the union. So
6 generally, I believe that these issues we're talking about
7 in this legislation really does not apply or has really
8 very little to do with the majority of the organized labor
9 community in Pennsylvania.

10 But I think that many businesses, especially some
11 in certain areas of the State, organizations that work with
12 businesses, and really anybody that's been paying attention
13 for the past few decades has seen that there's also a dark
14 side to the organized labor community in Pennsylvania and
15 it's an element that uses intimidation and harassment and
16 stalking and these other tactics to try to pursue their
17 objectives. And that's clearly the element. And again, I
18 do think it's a minority within the organized labor
19 community but it's clearly something that we believe needs
20 to be addressed and we think House Bill 1154 is one
21 important way to go about doing that.

22 We see examples that Ms. Rose shows and we've
23 heard of other examples, and the question that's always the
24 natural follow-up is how does this happen? How do they get
25 away with it? And we do think that these provisions within

1 the Crimes Code are at least a part of it, which is why we
2 do support Representative Miller's Bill.

3 The report from the U.S. Chamber certainly helped
4 provide some national context and to show that there are
5 other ways that States approach these issues, and we are in
6 an extreme minority of States that provide these exemptions
7 and we believe hamper the ability of law enforcement to go
8 after some of these extreme cases.

9 For Pennsylvania to be one of just a few States
10 to be highlighted, really singled out in a national report
11 like this, certainly, and Representative Miller touched on
12 this, it does not help Pennsylvania's reputation as being a
13 State that is fair in labor disputes and that is generally
14 friendly to and open for businesses who, again, as Ms. Rose
15 talked about, these are not businesses that are looking to
16 launch an antiunion campaign. They're not trying to change
17 any dynamic in a city like Philadelphia or anywhere else.
18 They're simply trying to get the job done. They oftentimes
19 use union labor, use a combination of union and nonunion
20 labor, and these are businesses that really deserve the
21 protection of law enforcement.

22 So, again, we do support House Bill 1154. I
23 don't think anyone believes that passing this Bill is going
24 to solve all these problems but law enforcement, including
25 police departments, sheriffs' departments, and the district

1 attorneys ought to at least have discretion to enforce laws
2 as they see fit. So if a DA believes that taking pictures
3 or some activity is constitutionally protected, then they
4 should have that discretion not to take action. But if
5 they're seeing a pattern that results in the type of
6 activity that we've seen on video today and that we hear
7 about and have heard about, we believe they ought to have
8 that discretion to take some action.

9 So again, I appreciate the opportunity to
10 testify. I've tried to keep my remarks short. I did
11 submit written testimony that I'd ask to be included in the
12 record, and I'd be happy to take any questions.

13 MAJORITY CHAIRMAN MARSICO: Okay. Well, thank
14 you very much for your time in being here.

15 I think Representative Costa first has a
16 question.

17 REPRESENTATIVE COSTA: Thank you, Mr. Chairman.
18 Thank you, Alex, for being here.

19 Again, I go back to what Representative Hackett,
20 who was a police officer, and myself said: Everything that
21 we saw on the video where someone was assaulted, they were
22 arrested, okay? There were allegations of things laid in
23 the street and stuff like that. Without a suspect, the
24 police can do nothing. Can you name one time for me
25 anywhere where these exemptions that have let someone off

1 there was a suspect in any of the things we saw on the
2 video?

3 MR. HALPER: Well, the actions that we saw in the
4 video that did result in prosecutions for a violent action,
5 our view is that these actions happened because just an
6 environment is made to be conducive to an ongoing campaign
7 of harassment. So I would think in most cases the first
8 action is not an assault on a contractor but it is a
9 campaign and a pattern of this type of harassment,
10 intimidation, blocking entrances and exits for contractors
11 and vendors and customers. And ultimately, I think you see
12 these types of actions occur.

13 If we can improve the law to at least trust our
14 law enforcement and our district attorneys to take action
15 at an earlier stage if they think it's necessary, I would
16 hope it might not get to the point where you're seeing
17 these violent actions take place.

18 REPRESENTATIVE COSTA: Well, I don't know what
19 law you're referring to but under current law we can arrest
20 on every incident that has occurred. When a court says do
21 not block an exit and we come in and they're blocking it,
22 as long as they're moving, they're not blocking it. If
23 they're told to move aside and they don't, then they've
24 blocked the exit, so then they're in violation of that
25 injunction and they can be arrested. And they will be.

1 So these exemptions have nothing to do with the
2 things -- or prevent law enforcement from doing their job.
3 So this is what I don't understand, all due respect to
4 Representative Miller. As a law enforcement officer,
5 there's not an exemption here that would prevent me from
6 doing my job if someone breaks the law, none.

7 MR. HALPER: Well, you hit on an important topic,
8 and as I said, we don't believe House Bill 1154 is the
9 silver bullet to solve all these problems and to address
10 this dark side of the labor community. There's another
11 piece of legislation, House Bill 1470 I believe it is, that
12 would improve the enforcement of the Anti-Injunction Act.
13 So right now, union members or any protesters or anybody is
14 allowed to protest or picket a site during the context of a
15 labor dispute. If they commit some unlawful act, then an
16 injunction is then allowed to be issued.

17 The problem we see is that these injunctions
18 often require ongoing if not 24-hours-a-day, 7-days-a-week
19 enforcement. And most sheriffs' offices, from what we've
20 heard, do not have the manpower or the capacity to
21 constantly enforce injunctions, so what ends up happening,
22 and Ms. Rose touched on this, is the company has to expend
23 what can amount to thousands, tens of thousands, hundreds
24 of thousands of dollars not only for the sheriff's
25 department but if they need to hire their own security just

1 to enforce these injunctions. The legislation I reference
2 would say that a judge can order the offending party to be
3 responsible for those additional costs.

4 So again, I don't think removing these exemptions
5 for parties to a labor dispute from harassment and stalking
6 -- I don't think that solves all the problems but I think
7 it's a big reason why this type of situation has been
8 allowed to exist for so long in Pennsylvania. And if we
9 give law enforcement the chance to address harassment
10 that's perpetrated on accompanied by a union, by organized
11 labor, then maybe it doesn't get to the point where an
12 injunction has to be issued or where there's some kind of
13 violent action against a contractor.

14 REPRESENTATIVE COSTA: Well, I agree with you to
15 the point that these exemptions will do nothing or little,
16 okay, to stop this, but maybe in the future a word of
17 advice is when you go for injunction, ask the courts to
18 supply security to enforce that injunction and see if the
19 judge will do that. Thank you.

20 Thank you, Chairman.

21 MAJORITY CHAIRMAN MARSICO: Representative
22 Sabatina.

23 REPRESENTATIVE SABATINA: Thank you,
24 Mr. Chairman. Thank you for your testimony.

25 Just building on what Representative Costa just

1 said, and I just want to first state that I by no means
2 condone threats or intimidation or force, but a couple of
3 the instances that the previous testifier Ms. Rose
4 testified to and the video that she showed, the crimes that
5 I saw were assault, criminal mischief, and possibly theft,
6 and there is not a labor dispute exemption in any of those
7 crimes so they're fully able to be prosecuted.

8 It sounds to me like there's a disconnect in
9 prosecution and not for the crimes that we're talking
10 about, stalking and harassment and bomb threats. The
11 crimes that are testified by Ms. Rose and you referred to,
12 they're very, I want to say, prosecutable but I don't know
13 if that's a word, but they're able to be prosecuted. So
14 I'm still trying to find a connection between the stalking
15 and harassment that removing these exemptions would help
16 solve any problem.

17 MR. HALPER: Well, again, I mean I think some of
18 the testimony that Ms. Rose provided and I think that we'll
19 hear throughout the hearing, again, I think do point more
20 to harassment and stalking. Those are fairly ambiguous
21 terms. They're defined in the Crimes Code, but we are
22 putting our trust, like we do with any law, into our law
23 enforcement and into our district attorneys, into our
24 judges to interpret that law.

25 And again, this is all that Bill does. Maybe

1 removing these exemptions would not have much of an impact.
2 Maybe you would still find DAs, judges, law enforcement
3 saying, no, this does not meet our criteria for harassment,
4 but maybe it would. When the situations we're seeing are
5 as serious as we have, I would say, with all due respect,
6 that law enforcement should have the discretion to make
7 that judgment on their own because, you're right,
8 harassment, stalking, these are ambiguous terms. There are
9 gray areas. But the fact that we handcuff law enforcement
10 now to not enforce these crimes when they're perpetrated in
11 the context of a labor dispute is what we have a problem
12 with.

13 And I would also add that when we talk about a
14 labor dispute this is not over disagreements on a
15 collective bargaining agreement; this is not unfair wages
16 or unfair working conditions. This is an example of
17 someone who just decided to not exclusively use union
18 workers on a project, which they're allowed to do. I don't
19 think that that is the labor dispute that authors of this
20 law had in mind necessarily. I don't know what they were
21 thinking to be frank, but I don't think it was someone
22 deciding to use a combination of union and nonunion and
23 were afraid that this exemption has been interpreted too
24 broadly in some cases.

25 REPRESENTATIVE SABATINA: And I also wanted to

1 bring up the photographing of someone's children at a
2 sporting event. I don't agree with that at all but I don't
3 see how that's as part of a labor dispute. In other words
4 if somebody's at a soccer field playing soccer, that's not
5 part of a labor dispute. So in my mind the exemption
6 that's already in the Bill would not apply. It's not part
7 of a labor dispute. It's at a soccer game.

8 MR. HALPER: Our concern is that when you have
9 that exemption included, then there is room for that
10 interpretation where if it's just harassment and if someone
11 is in a different type of argument and was taking pictures
12 of your kids at a sporting event, a judge or a DA may call
13 that harassment, and in this case, they may also not be
14 able to because of this provision.

15 REPRESENTATIVE SABATINA: Thank you for your
16 testimony.

17 MAJORITY CHAIRMAN MARSICO: Okay. I think our
18 last question for this panel is Representative Saccone.

19 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.
20 You know, I think the broader question would be,
21 for example, those men that were charged in that video, it
22 was a very compelling video, where they prosecuted? And I
23 think it would be valuable to know how many people were --
24 because law enforcement can charge these people. They can
25 arrest him there or whatever but are they actually

1 prosecuted? So it would've been helpful, and I don't know
2 if you have this information, how many of these cases are
3 reported and how many have actually been prosecuted so we
4 could determine whether the DAs are just looking past these
5 cases or not because I often hear not just this issue but
6 other issues people say, well, there's no prosecutions; we
7 don't have a problem. Well, no, that is the problem that
8 we don't have prosecutions sometimes so we need to look at
9 why aren't people prosecuting as they should be?

10 But I think the real core of this whole question
11 is why do they have exemptions in the first place? I mean,
12 why would one group need an exemption from stalking,
13 harassment, and intimidation? And I'm sure being an old
14 investigator there's multiple sides to every story so I'm
15 sure we're going to get that hopefully toward the end when
16 we get the opposite side who's going to testify here, but I
17 think that's the core question here. Why does one group
18 need an exemption from stalking and harassment? If they
19 can be prosecuted under that currently, then they don't
20 need to be exempt from it. If they're breaking the law
21 that everybody else follows, then they should be
22 prosecuted. Why would they get an exemption from that?
23 And can you answer that or do you---

24 MR. HALPER: No, we don't believe they should
25 have that exemption.

1 And to address, you know, the point you made
2 about statistics and how many times have instances like
3 this occurred, we find -- and I've been in this position
4 for just over two years, but talking to predecessors, we've
5 heard for years and for decades these types of instances
6 occurring, and oftentimes, the victims are reluctant to
7 bring any attention to it for fear of retribution or for
8 fear of being victimized again and again because if these
9 exemptions occur, you know, if they do attempt to bring
10 action from law-enforcement or a DA's office and are not
11 able to, which we think is more often the case because of
12 these exemptions, then they risk the problems just becoming
13 exacerbated.

14 Or you have cases where an employer has been
15 victimized; they've reached a truce or kind of a detente
16 with the company or what the union and they don't want to
17 rock the boat so they just let it go away, and we've talked
18 to them and we've asked, well, can we even just use your
19 story as an example? And it's, no, absolutely not. We've
20 had these problems but we don't want to risk having a
21 repeat of the kind of harassment campaigns that we've dealt
22 with. We'll just let it go. So I think it's because
23 you've seen these cases not be prosecuted in the past, and
24 this is just my suspicion that there is a reluctance for
25 certain companies to report it or really take any action

1 for fear of that retribution.

2 REPRESENTATIVE SACCONI: Thank you.

3 MAJORITY CHAIRMAN MARSICO: Well, thank you very
4 much once again for your testimony. And also, Sarina,
5 thank you for your time and your testimony.

6 Our next panel is Barry and Deborah Schlouch, the
7 Honorable Christian Leinbach, Berks County Commissioner
8 Chair, and Mary Tebeau, President of the Associated
9 Builders and Contractors, the Eastern Pennsylvania Chapter.
10 You may begin. Whoever wants to go first, go ahead.

11 MR. SCHLOUCH: Well, thank you for inviting us
12 here and for listening today and hearing us out. I'm Barry
13 Schlouch.

14 MS. SCHLOUCH: I'm Deb Schlouch.

15 MR. SCHLOUCH: And the gentleman on the end the
16 said something about your area, we are from the great Berks
17 County, Pennsylvania. I just wanted to let you know that.

18 MAJORITY CHAIRMAN MARSICO: We're very familiar
19 with Berks County, believe me.

20 MR. SCHLOUCH: Excuse me, it's the great Berks
21 County.

22 MAJORITY CHAIRMAN MARSICO: The great Berks
23 County, Representative Caltagirone.

24 MR. SCHLOUCH: Yes, Deb and I came today and we
25 appreciate the invitation to share what's going on at our

1 personal home. And our complaint isn't so much what's on
2 the posters that get put on our home and distributed in our
3 community but it's the tactics that are used to come on to
4 our home, into our property, and around our home against
5 our permission.

6 The area that we live in in Berks County, it's
7 across from the Berkshire Mall, and I put this in the
8 packets but it's highlighted and it's kind of like the area
9 that is targeted. It's 151 homes in addition to ours. So
10 that's kind of the area that we're talking about.

11 Deb and I live on 35 Timberline Drive in
12 Wyomissing, which is in Berks County. You have to turn
13 left to come in. It's a closed community. There's one
14 entrance in and out and then there's 151 homes in a
15 development.

16 And what happened, it started December 19th,
17 2012, and we're still in this. We could go home and it
18 could be in our driveway or somebody could be at our home
19 today; we don't know. So this is active what we're talking
20 about. We got this flier pinned to our mailbox and I think
21 everybody got copies of it. This was the first one. It
22 surprised us. We have no dispute going on with this union.
23 We have no dispute in our company.

24 We do own a construction company that we started
25 30 years ago in the great county of Berks County right out

1 of the basement of our home, and we have grown it to 200
2 people. So we have really been growing our construction
3 company. We do heavy highway, civil. We're PennDOT-
4 approved. We also do private developments, so we would be
5 people to do excavation, pipe, paving, those type of
6 things.

7 But our complaint is more what's happening at our
8 home, which is really what's happening -- these tactics are
9 going on in our home and our neighbors'. So I'm not going
10 to read it to you. You can see with the first one was.
11 And then there was what it looks like when they come
12 through the neighborhood is there's like a caravan and
13 there's always this blue pickup, and they drive up and down
14 each street and then there's people that track alongside
15 each side of the vehicle and then what they do they go in
16 and out each house. And then they generally will tag a
17 poster, a flier on the front door of each residence.

18 And it started out in the mailboxes the first two
19 times. This was the second one in the mailbox on the 17th.
20 And then the postmaster got wind of it and notified this
21 group that it's illegal to attach things on our put things
22 inside the mailbox, so that kind of ended the mailbox
23 thing.

24 But then it escalated actually. When the
25 postmaster contacted them, it escalated. And how it

1 escalated was then coming in from the road. We live back
2 in the woods. We have an acre property. We live back in
3 the woods; our house is secluded. So the people then would
4 walk in our driveway, come up, and then attach one of these
5 posters to our front door. And at that point we started
6 getting concerned about our safety. What happens if we
7 open the front door at the time? What happens if we're
8 going in and out of our driveway? Deb's a stay-at-home
9 artist; what happens if she's outside? So it started
10 escalating with our feeling of is it safe?

11 So we had our attorney, and it's in your packet,
12 send what's called a cease-and-desist. Don't come on our
13 property. Don't come in to distribute this stuff in our
14 property, and that got put out. And we've never had a
15 response from anybody to date. Other than what you see in
16 the fliers is what we see. Our attorney never got a
17 response. What happened was another visit into our house.
18 That was a response.

19 So these were front doors on 2/6, and I'm not
20 going to read them to you. You can see them. It seems to
21 go in sequence with like an event. So if there's
22 Valentine's Day, if there's Christmas, if there's New
23 Year's, that seems to trigger a black week. They changed
24 the groups. Like that was a group of African Americans on
25 black week.

1 So in February our attorney made it very clear
2 just don't come on the Schlouchs' property anymore, so we
3 were met with another one of these on March 26th as a
4 result of that letter, and that was put on our front door
5 and the front door of 151 homes. And we started really
6 getting concerned because they're aggressing this. Like we
7 say no; they get more aggressive.

8 So we really started pressing the DA and we
9 really started pressing the police because we've said every
10 time arrest them. And we really started getting aggressive
11 ourselves with pressing on law enforcement to arrest them.
12 The police said we need positive ID so what we did to help
13 the police out is we put good cams up and we videoed them
14 coming in.

15 This is a picture of the March 26th poster with
16 me with a bunny outfit on. This is a picture of the guy
17 coming in. I mean it's a video but a picture of the video
18 so that we could support the police with positive ID.
19 There was a pause and they said to us you need to put a "no
20 trespassing" sign out. And our attorney went back-and-
21 forth and said, look, no.

22 Anyway, long story short, what we did then
23 because nothing happened was on April 11th you can see we
24 live in a private community. We were resistant to do this
25 kind of thing but we did it. So in concrete we put the "no

1 trespassing" sign out so that it couldn't be taken away.

2 What we were met with, and I'm going to jump
3 forward, is this guy putting "creep" on our front door,
4 okay, and here he comes. And we have him on full video.
5 That happened in June. We pleaded arrest him. And this is
6 still going on. August 2nd was the last time they were in
7 the neighborhood doing it. We called 911. The neighbors
8 called 911. Our attorney has contacted not only the union
9 but the individuals that the police have released to us for
10 a cease-and-desist. So we're in it as we speak, and our
11 concern is our safety and not only our safety but our
12 daughter. So, Deb, do you have anything to add?

13 MS. SCHLOUCH: No.

14 MR. SCHLOUCH: So thank you for listening.

15 MAJORITY CHAIRMAN MARSICO: Well, thank you for
16 your testimony. You have a construction company?

17 MR. SCHLOUCH: We do.

18 MAJORITY CHAIRMAN MARSICO: Okay. I saw some
19 of---

20 MR. SCHLOUCH: We have a great construction
21 company.

22 MAJORITY CHAIRMAN MARSICO: What did the great
23 County of Berks do? What the DA do as far as -- you
24 approached the DA's office I saw?

25 MR. SCHLOUCH: Yes.

1 MAJORITY CHAIRMAN MARSICO: Right.

2 MR. SCHLOUCH: Yes.

3 MAJORITY CHAIRMAN MARSICO: What were his or her
4 comments?

5 MR. SCHLOUCH: We don't want to comment for the
6 DA or the police because this is an ongoing investigation.
7 What we know is that no arrests have been made, but we
8 don't want to comment on that because this is active and
9 ongoing.

10 MAJORITY CHAIRMAN MARSICO: Okay.

11 MR. SCHLOUCH: Yes, you're welcome to call. The
12 DA is John Adams.

13 MAJORITY CHAIRMAN MARSICO: What was the actual
14 labor dispute? What's the problem with the union and your
15 company and you? What is the issue?

16 MR. SCHLOUCH: We don't have one. I know what
17 you know in these fliers.

18 MAJORITY CHAIRMAN MARSICO: Okay.

19 MR. SCHLOUCH: We don't have like the pickets.
20 We don't have that going on. The only thing I can assume
21 is we're growing and that's an assumption.

22 MAJORITY CHAIRMAN MARSICO: Well, there's an
23 assumption that you're not paying the prevailing wage? One
24 of the posters here says that---

25 MR. SCHLOUCH: Yes, well we---

1 MAJORITY CHAIRMAN MARSICO: It actually is about
2 prevailing wage, right?

3 MR. SCHLOUCH: Yes, we meet all laws. We have
4 payroll certified. We do do PennDOT work so absolutely we
5 pay prevailing wage.

6 MAJORITY CHAIRMAN MARSICO: Have you had any
7 audits done by the Labor and Industry or---

8 MR. SCHLOUCH: Pardon?

9 MAJORITY CHAIRMAN MARSICO: Any audits performed
10 by Labor and Industry and the Department---

11 MR. SCHLOUCH: Yes.

12 MAJORITY CHAIRMAN MARSICO: You've had those?

13 MR. SCHLOUCH: Yes, and---

14 MAJORITY CHAIRMAN MARSICO: And they're---

15 MR. SCHLOUCH: ---we're 30 years in business.

16 MAJORITY CHAIRMAN MARSICO: You're compliant---

17 MR. SCHLOUCH: We've gone through a sales tax
18 audit, IRS audits. We've been good.

19 MAJORITY CHAIRMAN MARSICO: Okay. All right.
20 Any questions? Representative Hackett.

21 REPRESENTATIVE HACKETT: Thank you, Chairman.
22 Thank you, sir and ma'am, for testifying here today.

23 MR. SCHLOUCH: You're welcome. Thank you.

24 REPRESENTATIVE HACKETT: Other than in the
25 documentation here, I see there's a tagline in there for a

1 local union on some of the fliers.

2 MR. SCHLOUCH: It's on all of them.

3 REPRESENTATIVE HACKETT: Okay. So by any of
4 their members or execs, has there been conversations with
5 you over anything?

6 MR. SCHLOUCH: No.

7 REPRESENTATIVE HACKETT: Okay. Who's your local
8 police department?

9 MR. SCHLOUCH: Wyomissing Police.

10 REPRESENTATIVE HACKETT: That's a borough, right?

11 MR. SCHLOUCH: Pardon?

12 REPRESENTATIVE HACKETT: That's a borough police
13 department?

14 MR. SCHLOUCH: Yes, borough.

15 REPRESENTATIVE HACKETT: Who's the DA?

16 MR. SCHLOUCH: John Adams.

17 REPRESENTATIVE HACKETT: Who's your
18 representative?

19 MR. SCHLOUCH: Pardon?

20 REPRESENTATIVE HACKETT: Who is your
21 representative in that area?

22 MR. SCHLOUCH: Gillen and also the Senator is,
23 because we met with him, Folmer. Yes, we've talked to
24 Senator Folmer about this.

25 REPRESENTATIVE HACKETT: Okay. Thank you. Thank

1 you very much.

2 MR. SCHLOUCH: You're welcome.

3 MAJORITY CHAIRMAN MARSICO: Questions? Do you
4 want to go next, Christian?

5 MR. LEINBACH: Thank you. I'm Berks County
6 Commissioner Christian Leinbach. I'm Chair of the
7 Commissioners. I also am President of the County
8 Commissioners Association of Pennsylvania. I'm Second Vice
9 President of the Northeast U.S. Caucus of Counties, and I
10 sit on the National Association of Counties as a member of
11 their Board of Directors. I'm speaking today in my
12 capacity as a Berks County Commissioner.

13 I thank you, Chairman Marsico and Chairman
14 Caltagirone, as well as the other committee members for the
15 opportunity to present testimony before this committee.
16 Today, I'm offering testimony regarding union intimidation
17 tactics that are occurring today in Berks County.

18 The case in Berks County involves Barry and Deb
19 Schlouch, the owners of Schlouch, Inc., in Blandon,
20 Pennsylvania. Starting in December of 2012 IUOE Local 542
21 began targeting the residential community in Wyomissing,
22 Pennsylvania, where Barry, Deb, and their daughter Stayce
23 reside. You've heard from Barry Schlouch and so I will not
24 go into all of those details. However, I do believe there
25 are some very important issues that must be considered when

1 looking into this case and considering any legislative
2 solution.

3 First and foremost, we must respect and protect
4 free speech. The First Amendment is clear. "Congress
5 shall make no law respecting an establishment of religion,
6 or prohibiting the free exercise thereof; or abridging the
7 freedom of speech," the idea of abridging to reduce in
8 scope or diminish. Please let the record show that while I
9 believe that the material distributed in this community is
10 in poor taste, untrue, and in some cases totally
11 inappropriate, that is not the issue I have with IUOE Local
12 542.

13 Freedom is an interesting concept. Even here in
14 the United States we learn that we are free in large part
15 because we are a nation of laws, laws that in many cases
16 limit the freedom of one to protect the freedom of another.
17 I have a right to swing my hand anywhere I wish, unless my
18 hand comes in contact with another person. My freedom ends
19 where their freedom begins. This is about that very real,
20 albeit invisible, line.

21 I believe that Local 542 crossed that line
22 numerous times without consequence, and that is wrong. I
23 have three serious concerns about this case:

24 Number one, the real issue here is one of
25 criminal trespass. The dropping of these fliers is not

1 taking place on public ground but rather on private
2 property. Leaving a flier on a public curb or in a
3 newspaper tube could rightfully be considered public free
4 speech. In this case Local 542 has trespassed up a long
5 drive and placed the flier on the door of not only the
6 Schlouchs' home but on the doors of scores of their
7 neighbors. The attorney for the Schlouchs sent a cease-
8 and-desist letter to Robert T. Heenan, IUOE Local 542,
9 Business Manager, on February 12th, 2013, but the
10 trespassing continued. When the police were contacted,
11 they directed the Schlouchs to post the property, which
12 they did, but the trespass still continues.

13 While the Wyomissing Police are working to
14 identify the perpetrators, it is very clear that this is
15 sanctioned activity by IUOE Local 542. It is now almost
16 nine months since the first case of trespass occurred.

17 My second very real concern is the danger of
18 escalation. This is a quiet residential community, not a
19 public construction site. These residents have nothing to
20 do with the issue being raised by Local 542 and frankly no
21 ability to address the concerns. The danger of escalation
22 is real. We have all heard the excuse: I never meant it
23 to come to this. Several times residents have seen these
24 individuals distributing leaflets. If someone is
25 trespassing on my property without my permission, where

1 might that eventually end?

2 Over the past few months, I'm beginning to wonder
3 if that is what we're waiting for. Will there only be
4 meaningful action when someone is hurt or property is
5 damaged? And if that happens, who will be held
6 responsible? Will it be the innocent homeowner or the
7 trespasser?

8 My final concern is really a question. I grew up
9 in the construction industry. I remember the 1970s very
10 well. J. Leon Altemose became a hero in our family for
11 standing up to some of the union thugs. My father had a
12 run-in with the unions in the late '70s while working on a
13 project at Brandywine Battlefield National Park so union
14 conflicts are nothing new to me. What makes this situation
15 so bad is that the unions are not simply targeting Schlouch
16 headquarters or job sites; rather, they are trespassing on
17 their home and the homes of their neighbors. You tell me;
18 is it right for unions to be able to target the home of the
19 business owner and his neighbors? This should not be in
20 America.

21 Make no mistake that invisible but very real line
22 that separates one person's freedom and that of another has
23 been crossed. Call it intimidation or harassment, but in
24 the end it is a violation of the right of an American to be
25 free in the privacy of their home and property. Today, a

1 group of Americans in Wyomissing, Pennsylvania, are no
2 longer free in their own homes and on their own private
3 property. We cannot enjoy true freedom without laws.
4 Freedom without law is not freedom at all. It is anarchy.
5 Thank you.

6 MAJORITY CHAIRMAN MARSICO: Well, thank you for
7 your testimony. County Commissioner, Chair of the county,
8 of Berks County, the great Berks County, have you had
9 discussions with the district attorney who is the chief law
10 enforcer of the county regarding the trespassing issue with
11 the Schlouchs?

12 MR. LEINBACH: I have and I became involved in
13 this early in February of 2013 when Mr. Schlouch approached
14 me, and I will say in his defense, immediately I wanted to
15 take the whole issue public at a Commissioners meeting that
16 is televised. And it was Barry that said to me, wait.
17 Let's give the union an opportunity to do the right thing.
18 He told me about the letter. He got me a copy of the
19 letter. I reached out to our District Attorney John Adams
20 for whom I have a lot of respect. We get along very well,
21 let him know what was going on. He subsequently also had
22 information from Barry and Deb's attorney.

23 It was after another incident occurred and there
24 was no response from Mr. Heenan whatsoever that we did go
25 public. I talked again to John Adams. John made it clear

1 that this is a local police department issue and that the
2 local police department needs to enforce the law.

3 I will tell you that in my conversations with
4 John I've let him know that I've become very concerned that
5 the Schlouchs have taken every step. The local police and
6 John Adams said you need to post that property because it
7 doesn't have the protection of private property unless it's
8 posted. Based on the information I received from
9 attorneys, that's not correct, but nonetheless, the posting
10 took place. Still, there was no action.

11 Citizens have had interaction with these
12 individuals. The individuals have been identified, but
13 more importantly, the organization is not hidden from the
14 fact that they are the organization doing this. They
15 posted their name on the fliers. So there's no one out
16 there saying we don't know who is doing this.

17 To date, there have been no arrests. There has
18 been no action that we are aware of from law enforcement at
19 the county or the local level. And I will reiterate as
20 recently as a week-and-a-half ago our DA reiterated to me
21 that this is something that needs to be handled by the
22 Wyomissing Police. I believe that Chief Biehl has renewed
23 interest in addressing this. He is the chief of police in
24 Wyomissing. But the bottom line is it's been going on for
25 nearly nine months and---

1 MAJORITY CHAIRMAN MARSICO: Okay.

2 MR. LEINBACH: ---as I shared, I have some
3 serious concerns.

4 MAJORITY CHAIRMAN MARSICO: Well, it's my opinion
5 that the chief law enforcer of the county has the duty and
6 the responsibility to see that Pennsylvania's laws are
7 enforced. So that's my opinion and just we'll take it from
8 there. I mean, we have laws on the books with trespassing
9 and they should be enforced so---

10 MR. LEINBACH: It seems simple enough to me---

11 MAJORITY CHAIRMAN MARSICO: Yes.

12 MR. LEINBACH: ---and it's shocking that these
13 things go on, but there appears, and this is why I believe
14 this legislation is important, that there's a double
15 standard. And when you have laws that exempt one group, I
16 think you create a problem. Whether it's real or imagined,
17 the exemption creates a problem. No one should be exempted
18 from the law, and that's what I find extremely offensive
19 with the current Pennsylvania law.

20 MAJORITY CHAIRMAN MARSICO: Representative
21 Saccone?

22 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.

23 Again, I think you've established very well that
24 these incidents are occurring around the State, whether
25 they be the more cowardly incidents of 10 guys gathered

1 around pushing one guy around. That's really interesting
2 to see, or whether it's the more brazen act of someone
3 actually coming up on your private property and posting
4 these things and intimidating you and scaring you.

5 I'm bothered by the fact that we place so many
6 burdens on the innocent citizen: I've got to post your
7 property, I have to buy video cameras, I have to do the
8 work for the local authorities to prove my case when I'm
9 being intimidated. I am bothered by that.

10 Why we're here today, what we're addressing in
11 this law is why is there an exemption for one group where
12 they can use the force of law to circumvent what every
13 other citizen in the State of Pennsylvania would have to
14 adhere to? And so that's a little different from what
15 you're -- and I empathize with you, I do. And I am from a
16 big union area, believe me. I can't speak for them; I'm
17 not a union member there but I know them and I don't think
18 they would resort to these tactics. I haven't seen that in
19 my area and I'm from the Mon Valley, huge union area. I
20 would hope that they wouldn't, but in the case that we have
21 places where they are, it's unconscionable and we can't
22 stand for that.

23 And I think we're circling around the main issue
24 but the main issue is why do we have an exemption and
25 should there be an exemption and should everybody be liable

1 under the same law? Thank you. Thanks for coming here
2 today.

3 MR. LEINBACH: And, Representative, that's why
4 we're here because we do not believe there should be an
5 exemption. And I might add I heard from several union
6 members when we went public in March and all three
7 Commissioners spoke out against these tactics, two
8 Republicans, one Democrat. The majority, I believe, of our
9 union rank-and-file members don't support these kinds of
10 tactics. These tactics are childish at best and dangerous
11 at worst.

12 MAJORITY CHAIRMAN MARSICO: Representative Costa.

13 REPRESENTATIVE COSTA: Thank you, Mr. Chairman.
14 Thank you, Commissioner, for being here.

15 MR. LEINBACH: Thank you.

16 REPRESENTATIVE COSTA: Has the DA said that the
17 reason that he's not pressing charges is because of the
18 exemptions?

19 MR. LEINBACH: The DA has indicated that it's a
20 responsibility of the Wyomissing Police Department to
21 handle this particular matter.

22 REPRESENTATIVE COSTA: Have they said they're not
23 pressing charges because of the exemptions?

24 MR. LEINBACH: They have said that they have not
25 been able to identify the perpetrators.

1 REPRESENTATIVE COSTA: Okay. Well, then, it goes
2 back to the same thing that I've been talking about earlier
3 that if, as a police officer, I can identify the
4 perpetrator, then we file charges. Now, I disagree with
5 the lawyers that told you that private property is private
6 property. I agree it's private property but you have to
7 give due notice to people to stay off your property. Even
8 though it is your property, you can order them off. They
9 don't leave, you call the police. They'll be escorted off,
10 okay, but if I own a gas station---

11 MR. LEINBACH: That's a moot point, though; it's
12 posted now.

13 REPRESENTATIVE COSTA: But it is posted and they
14 have a picture and there could be possible charges pending,
15 and the exemption isn't going to stop those charges, I can
16 assure you, okay. But if I own a gas station and you park
17 there, I can't have you towed unless I've put signs up that
18 says "private property; you will be towed if you park here"
19 with the name of the person that's towing. So what the DA
20 told the Schlouchs is that, yes, you do need your property
21 posted---

22 MR. LEINBACH: And that was done---

23 REPRESENTATIVE COSTA: ---in order to file
24 criminal charges---

25 MR. LEINBACH: ---several months ago. Nothing's

1 happened.

2 REPRESENTATIVE COSTA: Right. And they've done
3 that and right now they're in the process of investigating
4 and identifying that person. Now, if they identify that
5 person, that person comes back affiliated with that union
6 and admits they're affiliated with the union, then you have
7 a civil action against that and again the exemption is not
8 going to help. So the exemption means nothing here.

9 If the police officers are doing what they're
10 supposed to be doing, which it sounds like they are now
11 because you followed the advice of the district attorney,
12 give it time. And I know nine months is a long time and,
13 believe me, I don't agree with what's going on, but there
14 are steps that we have to take according to our
15 Constitution before we can go out and arrest people.
16 Otherwise, I could walk up your door, knock on the door,
17 and be arrested.

18 MR. LEINBACH: Yes, I do respectfully disagree
19 with you, Representative. I believe the exemption in place
20 in Pennsylvania has reinforced a double standard for
21 decades in this Commonwealth that unions, the minority of
22 unions that play these types of thug tactics do get away
23 with it. They get away with it often and it shouldn't be
24 that way. I would ask you why do you defend the exemption?

25 REPRESENTATIVE COSTA: Because 28 years in law

1 enforcement, Representative Hackett, I don't know how many
2 years, 100 years in law enforcement; Representative Regan,
3 U.S. Attorney; there's a number of former district
4 attorneys here, these would not prevent any of us from
5 prosecuting someone for doing what they're doing here if
6 they're caught. The exemptions would not stop any of us
7 from prosecuting those folks.

8 MR. LEINBACH: Yes, but that wasn't my question.
9 Why do you defend exemption for a single class---

10 REPRESENTATIVE COSTA: The exemptions mean
11 nothing to us so it doesn't---

12 MR. LEINBACH: Then, let's get rid of them.

13 REPRESENTATIVE COSTA: Well, what I'm telling you
14 is that the exemptions would not change anything here,
15 okay. So we're going to change the law just to change the
16 law? These exemptions would not change this situation one
17 bit.

18 MR. LEINBACH: Well, we'll disagree on that,
19 Representative.

20 REPRESENTATIVE COSTA: Okay. Thank you, sir.

21 MAJORITY CHAIRMAN MARSICO: Representative
22 Stephens has a question.

23 REPRESENTATIVE STEPHENS: I think it's resolved,
24 at least I thought it was. And maybe this is more
25 appropriately addressed to counsel, but am I correct that

1 there is no exemption as it relates to trespass in
2 Pennsylvania, right?

3 MR. DYMEK: That's correct.

4 REPRESENTATIVE STEPHENS: So this Bill really has
5 zero implications as it relates to their particular issue?
6 I'm a former prosecutor and, like a lot of my colleagues
7 here, I'm very interested in seeing that your rights are
8 protected and that you're safe and you can enjoy your
9 property as you should and that no one comes on to it when
10 you don't want them to be on to it. So I guess that's what
11 I'm asking. This is more of an enforcing-the-current-laws-
12 we-have issue as opposed to a-needing-a-change-in-the-law
13 as it relates to their specific situation.

14 And please don't read into my thoughts on the
15 Bill or anything else like that based on that, but I'm just
16 trying to make sure I'm clear on that.

17 MR. DYMEK: There is no exemption in the
18 trespassing statute. If the conduct described whether it
19 be by this testifier or someone else were, say, by repeated
20 trespasses or the circumstances of them to be construed as
21 harassment or as stalking, then it would implicate the
22 Bill.

23 REPRESENTATIVE STEPHENS: Right.

24 MR. DYMEK: So I hope that answers your inquiry
25 as to whether and how this testimony could be relevant to

1 your decision-making.

2 REPRESENTATIVE STEPHENS: All right. I think so.

3 MR. LEINBACH: What this is, and I said this up
4 front, this is being done for one reason. They're not
5 leafleting for a local Sunday school class. They're
6 harassing the Schlouch family and harassing a community.
7 It's harassment, intimidation. You can cut it 100 ways to
8 Sunday. That's what's going on here.

9 REPRESENTATIVE STEPHENS: And I understand your
10 position on that and I was just trying to understand how
11 this Bill would help their situation, and it doesn't seem
12 this Bill would help their situation at all. This is about
13 enforcing the current trespassing laws that we have and the
14 proof that the law enforcement authorities need in order to
15 do that.

16 Again, please don't read into my thoughts on the
17 Bill. I was trying to find out whether or not that's the
18 case and it seems like that is the case if I understand it.

19 MAJORITY CHAIRMAN MARSICO: Representative
20 Hackett.

21 REPRESENTATIVE HACKETT: Thank you, Chairman, and
22 thank you, sir, Commissioner, for coming in today.

23 The great part about batting cleanup is that a
24 lot of your questions are already answered and thanks to
25 the Committee. You guys are doing a great job.

1 Commissioner, I would respectfully disagree, I
2 think, with District Attorney Adams in that it is a sole
3 responsibility of that local borough to handle that
4 investigation and enforcement. And I would lean on the
5 tagline that is being posted on those fliers that says
6 International Union blah blah blah. Okay. I really think
7 there's another angle he could probably work with this
8 since the tagline is on here.

9 I have a couple thoughts in my mind right now,
10 but I'm here as a legislator today and trying to do the
11 best I can for the constituents of Pennsylvania, and I have
12 to agree with Representative Stephens on a couple of those
13 issues, but what I'm struggling with is will this change in
14 legislation help the situation that we're discussing here
15 today? So I've been bouncing back-and-forth the harassment
16 thing. I mean it's continual, you know.

17 So I'm struggling with that and I just thought I
18 want you guys to know that's my position on that. I just
19 still think that there's some other avenues to go with the
20 DA's office. I personally would love to work the case. I
21 can't do that anymore. But I feel for you. And nobody's
22 looking to protect bullies. Please don't believe that
23 line, especially from anyone on this committee here. We've
24 taken those bullies down.

25 So I look forward to continue working with you

1 and counsel and Representative Ron Miller on this because
2 I'm curious to see if this really will help. This was back
3 since, what, 1937 this has been in law, this exemption?
4 Does it go back that far? I'm not testing you. I'm sorry.
5 I shouldn't have done that.

6 MR. DYMEK: No, I'm glad you asked because I
7 actually know the answer to this one.

8 REPRESENTATIVE HACKETT: Oh, okay.

9 MR. DYMEK: It's been in law since 1998.

10 REPRESENTATIVE HACKETT: '98, okay. All right.
11 Okay. Thank you very much for the questions. I appreciate
12 it.

13 MAJORITY CHAIRMAN MARSICO: Okay. Representative
14 Regan, former U.S. Marshal Regan.

15 REPRESENTATIVE REGAN: Thanks, folks, for being
16 here. Thank you, Mr. Chairman.

17 You know, I think we could enact all the laws we
18 wanted to in the Commonwealth but if there's not a
19 willingness to enforce the laws, what's the point? And I'm
20 kind of struck by this because clearly while the
21 trespassing I guess is the crime that's being committed
22 here, it's all a part of a bigger picture of harassment,
23 which I guess is covered under the proposed Bill.

24 It's interesting to me that there's nothing being
25 done which begs the question why? Why is the DA not

1 willing to lean on the police chief to prosecute this case,
2 which you can let your imagination run wild. But my
3 question is have you approached the Federal authorities at
4 all about maybe the FBI to see if they would be willing to
5 investigate this case?

6 MR. SCHLOUCH: We have not.

7 MR. LEINBACH: Nor have I.

8 MR. SCHLOUCH: We have not given up on our
9 police.

10 REPRESENTATIVE REGAN: Well, that's good of you
11 to do. I think you're being very patient.

12 MR. SCHLOUCH: Prior to today, we haven't given
13 up yet.

14 REPRESENTATIVE REGAN: Nine months down the road
15 and still nothing's being done about a simple trespassing
16 case when you have pictures and you have some very strong
17 evidence. I'm certainly not trying to offer you advice but
18 I think if it were me I would maybe look in another
19 direction. But thank you for being here, folks. I
20 appreciate it.

21 MR. LEINBACH: Thank you.

22 MR. SCHLOUCH: Thank you.

23 MAJORITY CHAIRMAN MARSICO: Representative
24 Stephens for a follow-up question. That will be our last
25 question.

1 REPRESENTATIVE STEPHENS: Just briefly. I mean,
2 does the DA's office in Berks County have a County
3 Detective Bureau?

4 MR. LEINBACH: Yes, he does, a very significant
5 and good---

6 REPRESENTATIVE STEPHENS: I'm sure well-funded?

7 MR. LEINBACH: Probably, if you would ask him,
8 not funded well enough.

9 REPRESENTATIVE STEPHENS: I'm sure. But I guess
10 the question is has he even asked why? I certainly
11 understand there's a local jurisdiction there but he also
12 has law enforcement officers at his disposal and why he
13 isn't utilizing them to enforce the Schlouchs---

14 MR. LEINBACH: As I indicated, I have pressed him
15 as recently as within the last couple of weeks and he got
16 back to me and made it very clear, whether he's correct or
17 not, that this was a matter that the Wyomissing Police
18 needed to handle and that's where it rests right now. And
19 I shared that information with Barry and with his counsel
20 as well.

21 REPRESENTATIVE STEPHENS: All right. Thank you.

22 MAJORITY CHAIRMAN MARSICO: Okay. Mary, your
23 time is up. After all this time, your time is up.

24 MS. TEBEAU: Thank you. My name is Mary Tebeau.
25 I'm President and CEO of the Associated Builders and

1 Contractors, Eastern Pennsylvania Chapter. Thank you for
2 the opportunity to testify before this honorable committee
3 today.

4 Let me begin my remarks by asking two simple
5 questions. And I know we debated this this morning. Is it
6 ever acceptable to commit a crime? The answer inevitably
7 is no. And is it ever legal to commit a crime? Under
8 current Pennsylvania law this answer is yes and this
9 dichotomy has to change.

10 As President and CEO of ABC Eastern Pennsylvania,
11 I've been employed by ABC in two different States since
12 2000. Over the years, I've witnessed numerous incidents of
13 vandalism, harassment, and threats that would be identified
14 as a crime and grounds for jail time.

15 You've heard from several individuals today
16 regarding the attacks they've been target of simply because
17 they choose to operate their companies and run a
18 construction job with merit shop principles.
19 Unfortunately, even when it's known who the culprit of
20 these actions are, the unions have an exemption under the
21 State's Labor Anti-Injunction Act, which was passed in
22 1937. In so doing, the Commonwealth is approving of such
23 activity.

24 The examples you've witnessed today are a
25 fraction of the violence that's taken place for decades,

1 going back far before the infamous 1972 Leon Altemose
2 attack at the hands of the unions at a commercial hotel
3 complex in Valley Forge. Why should any group be exempt
4 from the criminal code, especially with regard to stalking,
5 harassment, and the use of weapons of mass destruction?
6 Will it take more violence, serious injury, or even death
7 for changes to be made to this law?

8 The ABC Eastern Pennsylvania Chapter represents
9 over 15,000 merit shop employees who work for its more than
10 400 member companies. It was founded on the shared belief
11 that construction projects should be awarded based on merit
12 to the most qualified and responsible low bidders.

13 Nationally, ABC represents more than 22,000 merit
14 shop construction and construction-related firms with
15 nearly two million employees that work safely, ethically,
16 and profitably for the betterment of the communities for
17 which they work. And I speak on behalf of the four ABC
18 offices in Pennsylvania today.

19 For today's topic, the Federal Government plays
20 the lead role but State Governments also have the power to
21 establish certain ground rules. Prosecution for violent
22 actions is left up to the States based upon individual
23 laws, and some of these laws are overly protective of
24 unions.

25 As you've heard today, Pennsylvania labor unions

1 have repeatedly attacked their open-shop counterparts
2 through displays of intimidation, stalking, trespassing,
3 terrorism, and personal and property injury. The State of
4 Pennsylvania has a responsibility to protect its citizens,
5 and these activities are at odds with that obligation and
6 common sense. What's more, the current law ties the hands
7 of law enforcement in trying to perform their job of
8 preventing crime.

9 Examples of union favoritism under State laws
10 tend to occur in criminal statutes and allow individuals
11 who engage in objectionable behavior to avoid prosecution
12 solely because they are participating in some form of labor
13 activity. These exemptions exist in laws covering
14 obnoxious behavior, as well as those that regulate
15 potentially serious threats to the safety of the public.
16 This Bill aims to address one of those situations.

17 Union representatives engage in behavior aimed at
18 harassing individuals with whom they disagree. These
19 activities are unsettling to just about anyone who
20 experiences them, but unions defend these tactics as their
21 right to air grievances.

22 For example, the State of Pennsylvania defines
23 stalking as "engaging in a course of conduct of repeatedly
24 committing acts towards another under circumstances that
25 demonstrate intent to cause substantial emotional distress

1 to the person." But the State provides an exemption from
2 the crime of stalking by stating the prohibition on
3 stalking "shall not apply to conduct by a party involved in
4 a labor dispute."

5 Giving a legal carve-out for labor unions to
6 threaten and harass others leaves victims with limited
7 options to protect their own safety as well as the well-
8 being of their families, employees, and the public. Many
9 construction workers and employers know all too well that
10 aggressive attacks often rely on tactics such as
11 trespassing, intimidation, and even stalking, actions that
12 would be illegal under other circumstances. Unions have
13 played an important role in the history of the American
14 worker. However, it is difficult to justify laws that
15 place union members' concerns above the welfare and safety
16 of everyone.

17 In conclusion, I ask you again, why should any
18 group be exempt from the criminal code? I urge you to vote
19 for House Bill 1154. And again, thank you, Chairman, for
20 asking me to come today.

21 MAJORITY CHAIRMAN MARSICO: Thank you. Thanks
22 for your testimony. Questions, Members? Representative
23 Hackett once again.

24 REPRESENTATIVE HACKETT: I'm sorry, Chairman.
25 Thank you for being so considerate.

1 Mary, if you can provide for me, please, please,
2 if you can dig this up for me, can you find me something
3 where it shows that, okay -- and I'm not saying these
4 incidents don't happen. They happen, harassment, stalking.
5 Can you see if you can find for me -- I'll also try and do
6 some research, too. If you can find for me where -- so
7 let's say a stalking incident happened, the bad guy or girl
8 was arrested, charged, and then the case was kicked back
9 out because of this exemption. Could you please try and
10 find me something for that? Not right now and I don't want
11 to put you on the spot. I want to do the work, too. I'm
12 going to ask Tom if he can help me with this, too. I need
13 to see how that case worked and went through. Thank you.

14 MS. TEBEAU: Thank you. And the question is does
15 it ever get to that point? Yes.

16 MAJORITY CHAIRMAN MARSICO: Okay. Representative
17 Costa, once again.

18 REPRESENTATIVE COSTA: Well, thank you,
19 Mr. Chairman. I couldn't let Representative Hackett get
20 the last word here. But, no, just a comment. I wanted to
21 apologize to my colleague, Representative Regan, for
22 inappropriately saying his last position. He was the top
23 cop, the U.S. Marshal, and I think I said U.S. Attorney.
24 So I'm sorry. Thank you.

25 MAJORITY CHAIRMAN MARSICO: Well, any other

1 questions?

2 Once again, thanks for your testimony. I
3 appreciate your time being here. Thank you.

4 MR. SCHLOUCH: Thank you.

5 MR. LEINBACH: Thank you.

6 MAJORITY CHAIRMAN MARSICO: Next testifier is
7 Frank Snyder, Secretary-Treasurer of the Pennsylvania AFL-
8 CIO. Welcome, Frank.

9 MR. SNYDER: I'm quite certain that my notes say
10 good morning. I will say good afternoon, Chairman Marsico
11 and Chairman Caltagirone and Members of the House Judiciary
12 Committee. My name is Frank Snyder and I am the Secretary-
13 Treasurer of the Pennsylvania AFL-CIO. I'm here today on
14 behalf of our affiliated labor organizations, which
15 represent over 800,000 hardworking women and men all across
16 the Commonwealth throughout the 67 counties.

17 As Representative Saccone said that out of the 12
18 speakers on your agenda, I am the opposite side. Someone
19 else referred to us as the dark side. Now, I am 53 years
20 old, Mr. Chairman, an adult by any measure. I am not going
21 to resort to name-calling, pedophiles, thugs, and bullies
22 like others have in this room this afternoon and morning.

23 But I do want to thank you for the opportunity to
24 present factual testimony regarding House Bill 1154 and I'm
25 going to actually do something different. I'm going to

1 talk about 1154. So I won't speak in ambiguous terms. I
2 will speak in very factual terms that are directly related
3 to this Bill.

4 Specifically, we are here to discuss the removal
5 of the following language: "This section shall not apply to
6 conduct by a party to a labor dispute as defined in the Act
7 of June 2nd, 1937, known as the Labor Anti-Injunction Act
8 or to any constitutionally protected activity." This
9 language currently exists in three sections of our Crimes
10 Code: Sections 2709, 2709.1, and 2715 respectively. These
11 sections deal with harassment, stalking, and the threat to
12 use weapons of mass destruction.

13 Let me first say that the Pennsylvania AFL-CIO
14 does not condone any criminal activity whatsoever, nor do
15 we believe it was the intent of this language to provide
16 legal favoritism towards our organizations. I won't
17 double-talk or mince words when I say that our organization
18 respects the courage and the great work of our law
19 enforcement officials, our policemen, our policewomen all
20 across the Commonwealth and the fine job that they do.

21 In fact, as I will soon discuss, we believe that
22 these provisions provide far greater protections to
23 employers than to ourselves. We don't believe that our
24 movement will grow if it's based on harassment or fears or
25 threats. What we do believe and the courts have concluded

1 that it's the workers' rights to join unions and to
2 collectively bargain with employers.

3 The part of Pennsylvania law House Bill 1154
4 seeks to repeal was enacted in 1993 and was included to
5 protect labor and management involved in a labor dispute
6 from counterfeit charges intending to subvert federally
7 protected activity, causing protracted and costly
8 litigation.

9 Representative Jerry Birmelin, a Republican from
10 Pike and Wayne Counties, first began this conversation when
11 he introduced and successfully included an amendment that
12 excluded from the law federally protected activity. After
13 reviewing the transcripts of the Floor debate, it becomes
14 clear that Representative Birmelin's intent was to protect
15 activities such as picketing. The Bill was then further
16 clarified by the Senate Law and Justice Committee to
17 include parties to a labor dispute. This amendment was in
18 response to concerns expressed by both labor and management
19 who were concerned that unscrupulous individuals and
20 organizations from either party to a labor dispute would
21 willfully subvert federally protected activities of the
22 other in order to accomplish their respective objectives or
23 goals.

24 From our perspective, the language being
25 discussed today provides basic protections of workers

1 pursuing their rights to collective bargaining. It stops
2 the billion-dollar-a-year union-busting industry and its
3 consultants and lawyers from manipulating the criminal code
4 to further their antiunion, antiworker agenda. It provides
5 no protections to organizations or individuals who seize,
6 hold, damage, destroy the plant, equipment, machinery, or
7 other property of the employer with the intention of
8 compelling the employer to accede to any demands,
9 conditions, or terms of employment, or for collective
10 bargaining.

11 Additionally, intimidating, restraining, or
12 coercing any employee for the purpose and with the intent
13 of compelling such employee to join a union or to refrain
14 from joining a union or any labor organization would be an
15 unfair labor practice under the Labor Relations Act.

16 The study by the U.S. Chamber of Commerce is
17 disingenuous and self-serving, implying that we stalk,
18 harass, or even threaten to use weapons of mass destruction
19 without the threat or chance of being criminally charged is
20 ridiculous. But what perhaps is most shameful about this
21 claim is that employers are overwhelmingly proven to be the
22 party and which violates these laws the most, therefore are
23 equally if not greater protected from this exemption than
24 workers are.

25 I think it's also important to briefly make note

1 regarding the Pennsylvania criminal law case that the U.S.
2 Chamber cites in their national report. In the first case
3 cited, Phar-Mor, Inc., the Supreme Court described the
4 union's actions as "nothing more than peaceable leafleting
5 and brief contacts with its employees by union agents." In
6 the second example, Solvent Machinery, the Superior Court
7 determined that the plaintiff, Solvent Machinery in this
8 case, failed to introduce evidence that property was
9 seized, or that the defendant caused the "minimal evidence"
10 of property damage.

11 It seems to me this study is nothing more than a
12 solution in search of a problem, otherwise there would have
13 been stronger case law to include in their study, but
14 instead they present peaceable leafleting and a case where
15 the employer could not present any evidence whatsoever.

16 By the way, your first speaker, with all due
17 respect, is wrong because under your proposal, the
18 picketing as it applies to religious organizations would
19 also fall under this category.

20 So these of course are included under the heading
21 "Systemic Favoritism: Hamstringing Courts." Personally, I
22 would call peaceable leafleting our right, and when
23 baseless allegations are made requires a plaintiff to
24 present something called evidence, a protection of everyone
25 in our justice system.

1 The facts speak for themselves. As reported by
2 the National Labor Relations Board showing it is employers
3 who routinely and with total disregard for the law
4 intimidate, harass, stalk, and even fire people for forming
5 unions. The data includes documented reports of employers
6 interrogating workers as to their position on union
7 representation, employers threatening to relocate or close
8 worksites if workers unionize, employers stalking union
9 organizers and workers who support union representation,
10 employers threatening to demote and fire employees who
11 support union representation, and of course employers who
12 have actually fired employees who tried to form a union.

13 The NLRB has reported that over 89 percent of the
14 complaints issued were against employers with only 9.8
15 percent of the claims against unions. The record proves
16 beyond a shadow of a doubt that the current law is not
17 favorable to organized labor but is providing far greater
18 protections to the paying members of the Chamber of
19 Commerce.

20 No, Mr. Chairman, we don't seek preferential
21 treatment; we seek fair treatment. I've been a union
22 member for over 35 years, and over the past 20, I have
23 worked with thousands of workers who have successfully
24 organized and joined unions under some of the most extreme
25 circumstances, mind you. Over 100 years ago, they fought

1 us with bullets. Today, they fight us with briefcases but
2 the terrorism is just the same. So my life's experience
3 makes me extremely knowledgeable on this subject. An
4 expert maybe, but I don't profess to know everything, so if
5 any of you are experts on the topic, I would encourage you
6 to enlighten this body this afternoon on your own
7 experiences, because other than myself and the panel which
8 has been hand-picked here this afternoon, I don't see
9 anyone with the credentials that can talk intelligently
10 about the National Labor Relations Act. In fact, no place
11 else in our democratic society are individuals so
12 disenfranchised with laws stacked against them the workers
13 who seek to form unions for the purpose of collective
14 bargaining.

15 I myself have been stalked, harassed, experienced
16 property damage, had my hotel room under surveillance, and
17 my hotel room broken into on different occasions. You
18 should know as a matter of fact that when this day ends 24
19 workers will be fired in the greatest country in the world
20 for just exercising their right, their legal right to join
21 a union, no different than the freedom of speech or the
22 freedom of assembly. What is different is the unacceptable
23 tactics workers are objected to and subjected to when
24 making that decision. I daresay that not one of you would
25 want to run in your own elections if you had to follow and

1 run your elections under the rules workers do when forming
2 a union.

3 For example, under the National Labor Relations
4 Act, a requirement of 30 percent of the members are
5 required on a showing of interest in Labor Board jargon
6 just to be able to petition to get on the ballot itself.
7 Now, this is commonly done through authorization cards, a
8 petition, or some other public document which can be used
9 and oftentimes is used in retaliation against those
10 employees and those workers who seek union representation.

11 Now, each State Representative in Pennsylvania
12 represents some 62,572 residents. Under the guidelines of
13 workers organizing using the NLRB process, each of you
14 would be required to get 30 percent of your residents that
15 you represent to sign some petition or showing of interest
16 before you could even get on the ballot, let alone think
17 about winning your election.

18 Now, if I'm to believe everything I read today,
19 there is an issue with the recent job approval ratings of
20 some politicians in particular. Many Pennsylvania
21 lawmakers, as a matter of fact, would not even be able to
22 be put on the ballot if you were to believe that one in
23 four people, or 25 percent, of the residents believe
24 someone should be on the ballot.

25 MAJORITY CHAIRMAN MARSICO: Can I ask you -- to

1 interrupt a second, we want you to focus on the Bill, the
2 merits of the legislation, okay, please.

3 MR. SNYDER: Mr. Chairman, we sat through---

4 MAJORITY CHAIRMAN MARSICO: Please do that.

5 MR. SNYDER: Yes, sir. Mr. Chairman, we sat
6 through---

7 MAJORITY CHAIRMAN MARSICO: We talked---

8 MR. SNYDER: ---10 speakers before that had
9 nothing to do with the merits of the Bill.

10 MAJORITY CHAIRMAN MARSICO: ---about harassing,
11 stalking, and trespassing. Okay. Please focus on the
12 merits of the legislation, the Bill, please.

13 MR. SNYDER: Do you consider the videos---

14 MAJORITY CHAIRMAN MARSICO: I'm asking you to do
15 that, okay?

16 MR. SNYDER: I am doing that if you let me
17 finish, sir, if you let me finish.

18 Out of the 24 cosponsors on this legislation it's
19 a fact that barely anyone had 30 percent of you
20 Representatives to even be able to run an election if it
21 was held like the Labor Board.

22 MAJORITY CHAIRMAN MARSICO: Deal with the Bill,
23 please.

24 MR. SNYDER: Sir, it has everything to do with it
25 because I'm trying to say that there's not favoritism, sir,

1 in organized labor and unions. There is no favoritism
2 there. And exactly what you're doing right now is exactly
3 what the boss does. They stack a meeting. They held them
4 captive---

5 MAJORITY CHAIRMAN MARSICO: Well, I take
6 offense---

7 MR. SNYDER: ---and they only allow one side to
8 be heard, sir.

9 MAJORITY CHAIRMAN MARSICO: I take offense to
10 that. First of all---

11 MR. SNYDER: I take offense---

12 MAJORITY CHAIRMAN MARSICO: Other unions---

13 MR. SNYDER: I take offense to you---

14 MAJORITY CHAIRMAN MARSICO: ---were invited to
15 attend this hearing---

16 MR. SNYDER: Sir, I take offense---

17 MAJORITY CHAIRMAN MARSICO: ---and they declined.

18 MR. SNYDER: ---to you allowing people---

19 MAJORITY CHAIRMAN MARSICO: They declined.

20 MR. SNYDER: ---to call us thugs and bullies and
21 pedophiles, sir.

22 MAJORITY CHAIRMAN MARSICO: You've been doing the
23 same---

24 MR. SNYDER: I take offense to that.

25 MAJORITY CHAIRMAN MARSICO: You've been double-

1 talking the whole time.

2 MR. SNYDER: I think that that's---

3 MAJORITY CHAIRMAN MARSICO: Ever since you
4 started.

5 MR. SNYDER: I take offense to that.

6 MAJORITY CHAIRMAN MARSICO: Who will be the next
7 witness, please? Representative Miller.

8 REPRESENTATIVE MILLER: Excuse me. Thank you,
9 Mr. Chairman.

10 Mr. Snyder, much of the discussion that occurred
11 earlier dealt with some of the things that we saw, and some
12 of the testimony we heard would be covered under other
13 laws, for example, the bodily harm. And people were
14 encouraged that they needed to follow the proper law
15 enforcement pursuits. My question to you is this: in your
16 statement you say that it was enacted in 1993 and was
17 included "to protect labor and management involved in a
18 labor dispute from counterfeit charges intended to subvert
19 constitutionally protected activity." Now, would current
20 law in your opinion not protect labor and management both
21 from counterfeit charges?

22 MR. SNYDER: Representative Miller, it is a fact
23 that under the law that you're proposing that employers
24 should be subjected to the same kind of restrictions
25 because it's a fact that the boss follows workers into the

1 bathroom, into the lunchroom. The boss follows workers to
2 their homes---

3 REPRESENTATIVE MILLER: I don't disagree with
4 what you're saying right there.

5 MR. SNYDER: If you're saying---

6 REPRESENTATIVE MILLER: Would the current law --
7 my question is with current law if somebody falsely accused
8 you, made counterfeit charges against you whether you are
9 union or management, would current law allow that to be
10 addressed?

11 MR. SNYDER: There are no exemptions when you're
12 talking about stalking and---

13 REPRESENTATIVE MILLER: We're talking about
14 counterfeit charges right now.

15 MR. SNYDER: ---weapons of mass destruction. The
16 Bill, 1154, addresses very specifically---

17 REPRESENTATIVE MILLER: But in your testimony you
18 say that this was passed because of counterfeit charges
19 being made against unions so---

20 MR. SNYDER: Certainly---

21 REPRESENTATIVE MILLER: ---there is current law
22 that---

23 MR. SNYDER: Both the employer and the
24 employee---

25 REPRESENTATIVE MILLER: Are protected against

1 counterfeit charges. If you can go to court, you can file
2 a suit, go to court if there are counterfeit charges filed
3 against you, can you not? I believe the answer is yes if I
4 ask legal counsel. I think.

5 MR. DYMEK: There is also a criminal offense for
6 false reports to law enforcement.

7 REPRESENTATIVE MILLER: So my point is that there
8 is currently a remedy in law for that. This really wasn't
9 needed to be put in to protect anyone at that point.

10 That's just my point on that.

11 My second point to you is this: I believe you
12 made the case for passage of this Bill in your testimony
13 because you said "but what is perhaps most shameful about
14 this claim is that employers are overwhelmingly proven to
15 be the party which violates these laws and therefore are
16 equally if not greater protected from this exception than
17 workers are." And then you reference personally being
18 stalked and harassed---

19 MR. SNYDER: Absolutely.

20 REPRESENTATIVE MILLER: ---and I would suggest to
21 you that you should support this Bill. Support this Bill,
22 take away those exceptions, and allow the legal process to
23 work to protect union workers and you from unscrupulous
24 management and the reverse would also occur. So I would
25 appreciate your support. Thank you.

1 MR. SNYDER: Representative Miller, so is it what
2 you're saying is it your position that if the boss follows
3 a workers into a bathroom or into a lunchroom or to their
4 home or sends propaganda to their homes or visits their
5 homes personally that that would be under your
6 classification as stalking?

7 REPRESENTATIVE MILLER: I think that would be up
8 to the courts to decide but that should be a legal matter
9 to be decided, yes. I think that should be a legal matter
10 to be decided.

11 MR. SNYDER: It's really no different than any
12 one of you that visits homes during your campaign cycle
13 that comes to my home and sends propaganda or literature,
14 campaign literature to my house or you visit the house
15 personally or make all those political phone calls that we
16 get every cycle. Now, would that be considered harassment
17 or if you visited my home, would that be stalking?

18 REPRESENTATIVE MILLER: I think any constituent
19 could file those charges if they believe they were being
20 harassed or stalked and the legal system would decide, yes.

21 MAJORITY CHAIRMAN MARSICO: Representative
22 Saccone.

23 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.
24 I think Mr. Snyder brings up a very good point. And I want
25 to emphasize as I've looked at this Bill, I'm compelled by

1 my oath of office and by my constituents that elected me to
2 sit here to be nonpartisan and be fair and equal in the
3 application of this law. And I'm glad that you brought up
4 the point about that this same kind of thing happens to
5 union workers by management. This Bill doesn't talk about
6 unions. It's not about unions, although we've tended to
7 focus on that in some of the testimony. That's why we're
8 having the opposite side here to testify, from your point
9 of view. The Bill talks about---

10 MR. SNYDER: One out of twelve, sir, but go
11 ahead.

12 REPRESENTATIVE SACCONI: Pardon me?

13 MR. SNYDER: One out of twelve, but go ahead.

14 REPRESENTATIVE SACCONI: Okay. I understand.
15 Others were invited.

16 MR. SNYDER: I'm okay with that.

17 REPRESENTATIVE SACCONI: I mean, I can't account
18 for that. But the Bill addresses a party. It doesn't say
19 union. So it does apply to management---

20 MR. SNYDER: Exactly.

21 REPRESENTATIVE SACCONI: ---as well as union
22 members. And again, I was stuck on that all through this
23 testimony but I think you helped answer it. Now, in my
24 mind the way I'm inclined to think right now after hearing
25 your testimony is there really is no reason that any group,

1 as I've said from the beginning, should have an exemption
2 from the law for harassment or stalking or any other type
3 of crime whether it be unions or management. No group
4 should enjoy such an exemption. Every Pennsylvanian should
5 be subject to the law equally and fairly.

6 And I think that's what this Bill is trying to
7 do, as Chairman Miller has said. So I think you make a
8 great point, as he said, for supporting this Bill to make
9 sure that nobody -- I don't want to see any boss following
10 any union member into a bathroom and harassing him. It's
11 just as wrong as 10 union people pushing a guy up against a
12 fence. None of that is right and we shouldn't have any
13 exemptions for harassment or stalking for any side,
14 management or labor. And that's why now I'm inclined to
15 believe we really do need to remove this exemption from the
16 law.

17 MR. SNYDER: And to be clear in regards -- and I
18 said this and I mean this with all the sincerity I can
19 muster, we absolutely did not condone any types of violence
20 or harassment or any of that. I was not privy maybe like
21 all of you to see video or pictures in advance and I can't
22 speak to anything where there are no charges, where no one
23 was prosecuted. I have no idea what that means.

24 And Philadelphia is a beautiful city. I could
25 see is that a photographer taking pictures of the city? I

1 have no idea what any of that is. And to paint with a
2 swash that we're all bullies or we're all thugs or we're
3 all the dark side, there's Members of the General Assembly
4 who sit in prison today for stealing from taxpayers. Is
5 that not true?

6 MAJORITY CHAIRMAN MARSICO: Representative
7 Stephens, you had a question?

8 REPRESENTATIVE STEPHENS: I do, thank you.

9 MR. SNYDER: Compare apples to apples. What's
10 good for the goose, Mr. Chairman.

11 REPRESENTATIVE STEPHENS: Can I---

12 MAJORITY CHAIRMAN MARSICO: You're just going too
13 far. Now, settle down, would you, please?

14 MR. SNYDER: I think that that was too far. I
15 think it's too far to be considered or be put in the same
16 breath as a pedophile, sir, with all due respect.

17 REPRESENTATIVE STEPHENS: Okay. Can I ask my
18 question? I'm sorry.

19 I can agree with you. I know a lot of union
20 folks, a lot of tradesmen who would be, I think, just as
21 appalled at some of what I saw on the videos as I am. And
22 I certainly think that these folks have the right to
23 express their opinion. They have their right to picket and
24 everything else like that, but I do think that much of what
25 I saw on the video was way too far. And I agree with

1 Representative Saccone.

2 I guess that's what I'm trying to understand from
3 you. When I say I agree with Representative Saccone, I
4 mean, if the idea from your perspective is that most of the
5 complaints that are sent to the NLRB are complaints about
6 the employer and you don't condone the threatening and
7 harassing tactics, then it seems to me that you would be in
8 support of this Bill because it would protect your members
9 from that same conduct that you don't condone from those
10 that you're saying exhibit that conduct more often than the
11 workers, right?

12 MR. SNYDER: The bottom line is this is not a
13 systemic, an epidemic issue. And can you as a prosecutor,
14 sir, former prosecutor, do you have any idea of what you've
15 seen can be verified? What we've seen is people -- I've
16 seen assault and that's horrible. I don't know who the
17 assault was on. We're talking about stalking, not assault.
18 So the point comes down to really you said it before when
19 you said zero implications. There's zero reason for us to
20 be having a conversation no different than voter
21 suppression where it just doesn't exist. This is not an
22 epidemic problem, sir.

23 REPRESENTATIVE STEPHENS: Okay. I guess here's
24 the issue from my standpoint. Tell me why people should
25 not all be treated equally. Why shouldn't the worker and

1 the employer be treated the same? And frankly, why should
2 someone have to endure a concern about being followed to
3 their child's soccer game or a concern about that? And
4 shouldn't the law provide the same protections for all of
5 those folks in all of those circumstances?

6 MR. SNYDER: It should absolutely be equal but,
7 Representative Stephens, the National Labor Relations Act
8 is not fair. And to Mr. Chairman's point, if you thought
9 that you didn't appreciate the connection that I made, it
10 is different when workers are trying to form a union. You
11 can join an organization of your choosing today. It could
12 be any organization but you don't have to go through the
13 intimidation, the harassment. Folks are not necessarily
14 threatening you, threatening to fire you if you want to
15 join an organization not unlike ALEC, for example. You're
16 free to join that. Why are not workers in America free to
17 join unions?

18 REPRESENTATIVE STEPHENS: Okay. And I mean
19 that's certainly something that can be discussed, but we
20 aren't voting on the National Labor Relations Act. We are
21 voting on whether or not special provisions should apply to
22 some entities. It's not even some entities really. It's
23 parties to a labor dispute. So either side, I mean, you
24 know, it just seems to me that -- I'm not trying to mix
25 apples with oranges. I want to stay focused on the Bill

1 that I'm going to have an opportunity maybe to vote on and
2 I'm just trying to -- I just don't understand why you would
3 be opposed to those same provisions applying when more
4 complaints are against the employers and you oppose the
5 tactics.

6 MR. SNYDER: And the facts are more decisions are
7 against the employers.

8 REPRESENTATIVE STEPHENS: Right.

9 MR. SNYDER: That is a fact.

10 REPRESENTATIVE STEPHENS: And that's why I'm
11 asking, why would you oppose it?

12 MR. SNYDER: Probably the same reason why I ask
13 why out of 12 speakers there's one to represent organized
14 labor---

15 MAJORITY CHAIRMAN MARSICO: Why would you assume
16 that?

17 MR. SNYDER: ---and the rest represent the---

18 MAJORITY CHAIRMAN MARSICO: Why would you assume
19 that? We invited other unions. You don't know that for a
20 fact.

21 MR. SNYDER: Okay. You're right.

22 MAJORITY CHAIRMAN MARSICO: They declined to
23 attend, okay.

24 MR. SNYDER: I don't know that for a fact. I
25 don't know that for fact.

1 MAJORITY CHAIRMAN MARSICO: All right. So I'm
2 offended by that.

3 REPRESENTATIVE STEPHENS: So I don't want to
4 belabor the point but I mean I don't understand -- I get
5 it, you're one of twelve and I understand that and I
6 actually wondered that myself and I believe the Chairman
7 when he says we invited other folks and they chose not to
8 attend, which is fine. I'm still trying to get at why
9 oppose the Bill if more complaints are against employers
10 and you oppose those tactics?

11 MR. SNYDER: No one here has demonstrated
12 successfully in my opinion with all due respect an example
13 of stalking or the use of weapons of mass destruction in
14 all the testimony that was provided, okay. So the
15 conversation you and I are having right now, Representative
16 Stephens, if we were talking about stalking and the use of
17 weapons of mass destruction, which has not been addressed,
18 we would be having a different conversation. So we've
19 allowed unchecked 11 speakers before myself to talk about
20 assault, to talk about trespassing, to talk about all kinds
21 of other things.

22 So can you imagine, because as I said in my
23 testimony, okay, because we've spent enough time in courts
24 today wasting taxpayer time and money on frivolous charges.
25 Now, we can't even come to terms what stalking is. And no

1 one here has been able to say what stalking is.

2 MAJORITY CHAIRMAN MARSICO: I think we did define
3 that. Representative Saccone?

4 REPRESENTATIVE SACCONI: Yes, I'm sorry,
5 Mr. Chairman. I just want to follow up.

6 Mr. Snyder, I think I'm taking what you say as I
7 have everyone else who testified here as true, and you have
8 established---

9 MR. SNYDER: Thank you.

10 REPRESENTATIVE SACCONI: I'm stipulating that
11 there's stalking going on because you gave the example---

12 MR. SNYDER: Totally.

13 REPRESENTATIVE SACCONI: ---of management
14 following union members into the bathroom and that's
15 stalking and harassment. You established it yourself. So
16 I'm taking for granted that that's all true that whatever
17 you said, it was 84 percent of these things are management,
18 not union. I'm stipulating that and saying that because of
19 that we need to remove any exemptions. They need to apply
20 equally to everyone. No one should be stalking or
21 harassing. No one should use the force of law to protect
22 themselves to do illegal activities, intimidation,
23 harassment, stalking, any of those things. That's the
24 point. That's the philosophical point we're arguing today.

25 And again, as everyone said, and I hate to repeat

1 these things, but I want to make sure that you understand
2 that. Because being in politics I understand, too, it'll
3 get painted as you're antiunion, you know, you're against
4 the unions or you're against management. I got all these
5 Chamber people sitting in front of me. You're against
6 business. No. I'm trying to be fair and honest about
7 looking at the philosophical point here that we're
8 addressing with the law and I'm not following the logic or
9 reason that says one group should be exempt from any of
10 these things. It's not making sense to me.

11 MR. SNYDER: The intent had nothing to do with
12 stalking or weapons of mass destruction. The intent was
13 along the lines of picketing. Once you start to talk about
14 what stalking is, now, are you defining what picketing is,
15 what peaceful picketing, just as the Chamber's report had
16 indicated and the courts have found and substantiated and
17 supported that it was identified as peaceful picketing.
18 Again, if there are cases, any cases of anybody who has
19 been stalked, that I think that that would probably be
20 something that you'd probably want to entertain, with all
21 due respect, Representative Miller.

22 MAJORITY CHAIRMAN MARSICO: Representative
23 Sabatina.

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

1 Thank you, Mr. Snyder, for your testimony. This
2 is my concern. How does a union peaceably picket when that
3 is a Constitutional protection, it's a Federal protection,
4 how does one peacefully picket without being subject to
5 arrest for harassment? That's my question and that's what
6 I can't get over is if you have a picket line, the case can
7 be made, arrests can be made based on a claim of
8 harassment.

9 And I'll read the definition of harassment.
10 "Communicates to or about such other person any lewd,
11 lascivious, threatening, or obscene words, languages,
12 drawings, or caricatures; engages in a course of conduct
13 repeatedly; commits acts which serve no legitimate
14 purpose."

15 An argument can be made that, depending on your
16 perspective, that a picket line is "engaging in a course of
17 conduct repeatedly which serves no legitimate purpose." So
18 my concern is that when union -- and I want to go back.
19 Taking pictures of someone's child at a sporting event is
20 wrong. Some of the things that I saw regarding the
21 trespassing is wrong. But my concern is how does one union
22 picket without being subject to a charge of harassment
23 and/or stalking? That's my concern and that's what I'm
24 wrestling with right now.

25 MR. SNYDER: Potentially, every case could be

1 subject to that.

2 REPRESENTATIVE SABATINA: Well, that's my concern
3 and I was wondering if you had an answer to it.

4 MR. SNYDER: Yes. No against 1154.

5 REPRESENTATIVE SABATINA: Okay.

6 MAJORITY CHAIRMAN MARSICO: Thank you.

7 REPRESENTATIVE SABATINA: Thank you.

8 MAJORITY CHAIRMAN MARSICO: Thank you. Our next
9 testifiers are David Taylor, Executive Director of the
10 Pennsylvania Manufacturers' Association; and Robert Reeves,
11 the President of E. Allen Reeves, Inc. Thank you. You may
12 begin.

13 MR. TAYLOR: Thank you very much, Chairman
14 Marsico, Chairman Caltagirone, Members of the Committee.

15 I'm David Taylor. I'm the Executive Director of
16 the Pennsylvania Manufacturers' Association. We're the
17 statewide trade organization representing the people who
18 make things in the State's public policy process. And in
19 particular I want to thank Representative Miller for his
20 efforts to apply the law uniformly across the board and to
21 have Pennsylvania join almost all of the rest of the States
22 in America in doing so.

23 I want to talk about the carve-out, the carve-out
24 in the law and what it stands for. This carve-out in the
25 law has allowed organized labor to establish a culture of

1 violence and intimidation which is in practice no different
2 than a protection racket. It is in a word extortion.

3 Please also remember that you are hearing today from the
4 courageous few who stood up to the intimidation and paid
5 the price.

6 I'm especially pleased to have the honor of
7 introducing to you my friend Rob Reeves, who will recount
8 the most recent and most shocking atrocity, an attack on
9 the Quaker Meeting House in Chestnut Hill.

10 Last December, five days before Christmas,
11 Philadelphia's first new Quaker Meeting House in 80 years
12 was torched. A construction crane was firebombed and
13 acetylene torches expertly cut the steel support beams and
14 bolts in place to support this house of worship. Over one-
15 half million dollars worth of damage was done.

16 As we all know, the religious Society of Friends
17 is the Christian Order for which William Penn undertook the
18 creation of a free colony in the New World. As we also
19 know, the Quakers have renounced violence in all its forms,
20 including self-defense. It is because of the Reeves'
21 excellent reputation for quality work, best value pricing,
22 and fair treatment for his employees, including workers of
23 all races, that the Quakers trusted Rob's firm, which was
24 founded by Rob's grandfather, with this important project.

25 As Rob tells you his story, I ask you to listen

1 closely to the words of the ironworkers' union
2 representative who visited the site mere days before the
3 arson at the church and ask yourself what other meaning
4 could that statement possibly have?

5 MR. REEVES: Thank you, Chairman Marsico and
6 Chairman Caltagirone.

7 I'm not a legislator. I'm not a prosecutor. I'm
8 not a police officer and I've never played one on TV. So I
9 may not have the right legal words and issues but I'll give
10 you a lifetime of experience. I am the owner of a regional
11 construction management firm in Abington, Pennsylvania.
12 We've been in business for 95 years, started by my
13 grandfather. My three kids are the fourth generation of
14 the business. We work primarily for private institutional
15 clients: churches, schools, colleges, senior care,
16 healthcare, clubs, and museums. I've been in the business
17 close to 40 years myself.

18 We are merit shop contractors, which means we
19 select our employees and our subcontractors based on their
20 merit, their skills and their talents, not necessarily any
21 affiliation with or without union membership. We do have
22 both union and open shop subcontractors on our jobs but we
23 don't always ask them or keep track of it. Our employees
24 are open shop and we have access to the entire marketplace,
25 both open shop and union subs, as I said.

1 Nationally, approximately 88 percent of the
2 construction is performed by open shop workers while 12
3 percent is performed by union workers. In Pennsylvania,
4 the information that I'm aware of, it's approximately 80
5 percent open shop and 20 percent union.

6 There is a long history of union intimidation and
7 violence nationally and in the Philadelphia regional
8 market, and I can speak to that, against open shop firms,
9 the employees, the owners they work with, and our
10 competitors, and even more so the many, many subcontractors
11 that we use. Again, I'm not an attorney. I haven't done
12 the research, but in my 40 years there are thousands of
13 incidents that I'm aware of. We have had dozens and
14 dozens, probably not over 100 but we've had many. Most
15 people don't report it. Most people just go on because
16 we're busy trying to make a living and continuing our
17 businesses.

18 Through the years, our employees have been
19 followed home. They've had tacks put in the driveway, much
20 as the sophisticated tacking device that was used at the
21 Post Brothers. We've had those before. Tires have been
22 slashed. We've had verbal abuse directed at them, their
23 wives, and their families, sexual innuendos of all types.
24 Years and years ago we had a bank -- and this is not an
25 aspersion against all -- but we had a bank under

1 construction and the concrete forms were blown out by
2 explosives. There were powder burns on the foundations.
3 The neighbors' glass was shattered. The police wrote it
4 down as natural causes. It wasn't.

5 Years ago, I personally was shot at in an
6 industrial building in Willow Grove by union members who
7 wanted to have union subcontractors. I believe they
8 weren't trying to hit me; they were just trying to scare
9 me.

10 The specific incident mentioned early in the
11 morning of Friday, December 21st last year, someone in the
12 pouring rain set fire to the crane that was erecting the
13 steel. Do you have photographs?

14 MR. TAYLOR: Yes, photographs are included in
15 your packets.

16 MR. REEVES: I have eight photographs of various
17 situations there. They set fire to the crane at the Quaker
18 meeting that's being constructed in the Chestnut Hill
19 section of Philadelphia. In about 12 different locations
20 they also took an acetylene torch, cut steel columns that
21 were holding up the building, burned anchor bolts and
22 loosened anchor bolts. The police have been actively
23 working on it. They've been positive in their response.
24 There is no arrest that I'm aware of at this point.

25 Now, I'm not 100 percent sure, but in my opinion

1 and that of the Philadelphia police detectives who put it
2 in the newspaper, it was the action of construction unions.
3 The unions have denied responsibility. Interestingly, one
4 head official in his denial mentioned that the project
5 wasn't large enough, that it wasn't worth it, so I wonder
6 had it been larger what would have that meant?

7 Now, again, I don't know but I suspect that it
8 wasn't a group of neighborhood boys or a Girl Scout troop
9 out to get their acetylene torch merit badge in the middle
10 of the night. It was a pouring, heavy rain that night.
11 And we had had prior visits over the previous weeks, so
12 about a half-a-dozen union business agents. And on the
13 Monday preceding the incident, a representative from the
14 ironworkers visited the site, and upon leaving it, said to
15 my superintendent, who was on the site, I got to do what I
16 got to do. And it was the following Friday morning early
17 in the morning that this incident occurred.

18 Now, it's wrong to inflict violence and damage
19 against any group, but the peace-loving Quakers, a
20 religious group, to me it speaks of the arrogance of
21 entitlement and the belief that they can get away with
22 anything and be protected by the system. It's ironic to me
23 that we have zero tolerance for a 10-year-old kid in school
24 bullying, and yes, I do use that word bullying, yet when
25 adults bully, our community leaders most often look the

1 other way and reward them with special preferences. And I
2 can speak to that.

3 Why is this? I believe that there's a culture of
4 corruption with special interests aligned that selectively
5 look the other way in their own selfish best interest.
6 This will not change until political leaders aligned with
7 the unions or not publicly and privately condemn the union
8 harassment and violence, as they do similar acts publicly
9 to others in society. That leadership can support the
10 unions, fine, but not the violent tactics, the harassment,
11 et cetera.

12 In politics, there's been a lot of conversation
13 about the top 1 percent of earners really should pay their
14 fair share. In construction, the top 12 percent, the
15 highest paid being the union workers, are subsidized by the
16 government with PLAs, RCOs, et cetera, are winked at by the
17 leaders for their bullying, and are the most violent in the
18 marketplace from my lifetime experience. Let's stop the
19 bad behavior of bullying.

20 Now, history is full of the struggle between the
21 individual and society, freedom of choice versus
22 collectivism. I believe that millions of people making
23 millions of decisions daily, where they shop, where they
24 buy, how they do business, who they want to work with
25 provide more freedom, more innovation, and far more

1 accountability if we're interested in a sustainable, long-
2 term, growing, free, successful economy and country.

3 Finally, in my opinion there's no compelling
4 reason for any legislator to vote to allow a select highly
5 paid group to have special exemption from actions that if
6 anyone else not in a union were to exhibit, it would be a
7 crime.

8 And I just want to add that the harassment and
9 the threatening that we talk about, and the people have
10 asked for statistics, I would say from personal experience
11 that one incident has a long-term impact. People don't
12 forget it. You remember it. You're infected by it. And
13 of course not only you are but it extends to others that
14 you know and it intimidates others. And that's the whole
15 point of a threat.

16 Thank you for my testimony.

17 MAJORITY CHAIRMAN MARSICO: Thank you very much.
18 Representative Saccone for questions.

19 REPRESENTATIVE SACCONI: Yes. One question from
20 the business perspective, do you think that business
21 management should have an exemption to harassment of
22 employees?

23 MR. REEVES: No.

24 MR. TAYLOR: Absolutely not.

25 REPRESENTATIVE SACCONI: Okay. So this---

1 MR. TAYLOR: Absolutely not. And the law should
2 apply equally to everyone---

3 REPRESENTATIVE SACCONI: ---should apply to you
4 all---

5 MR. TAYLOR: And that stalking and harassment and
6 making deadly threats, these are crimes for a reason and
7 employers should not be exempt.

8 REPRESENTATIVE SACCONI: Okay. And there's one
9 more point I want to raise because my good colleague
10 Representative Sabatina raised a point that troubles me,
11 too. I want to make sure this is addressed. Maybe you can
12 address this but maybe counsel can, too. Would this law in
13 any way affect people who are sincerely exercising their
14 First Amendment right of picketing? And I've been involved
15 in lots of these demonstrations and so forth and I've been
16 around them, and to me this wouldn't apply any differently
17 to unions than it would to people for political purposes or
18 any other reason people picket. People picket for lots of
19 reasons. They don't like what the price is at a store or
20 whatever it is, whatever reason they come up with.

21 So would it be any different? Would this law
22 treat any differently union members or people that are in
23 labor that are exercising their First Amendment right of
24 picketing? Of course anyone can be charged with harassment
25 if they're yelling at people or doing something like that.

1 That applies to everybody that pickets, not just them.

2 MR. TAYLOR: Right.

3 REPRESENTATIVE SACCONI: So would this in your
4 opinion treat members of labor or management any
5 differently? Would this---

6 MR. TAYLOR: No. I mean the Bill explicitly only
7 eliminates the carve-out under current Pennsylvania law
8 that forbids stalking, harassment, and making deadly
9 threats.

10 REPRESENTATIVE SACCONI: Okay. Thank you very
11 much.

12 MAJORITY CHAIRMAN MARSICO: Any other questions?
13 Seeing none, just Representative Sacconi touched on this.
14 The core question is why are unions exempted from this law?
15 I'm still struggling with that. I'm struggling very much
16 with that. Why are they exempt and what is the history?
17 Can anyone tell us the history of that?

18 MR. TAYLOR: Well, I mean, again I would defer to
19 Rob and his four decades of experience in that industry.

20 MR. REEVES: As I started out, I'm not a
21 legislator. I don't follow the laws. Change that. I
22 don't---

23 MR. TAYLOR: He obeys the laws; he doesn't write
24 them.

25 MAJORITY CHAIRMAN MARSICO: We understand that.

1 MR. REEVES: I don't follow the legislation.
2 Let's put it that way, correct that one. So I don't know
3 the history of that specific exemption. The bigger picture
4 I say as a business person as I view is that there seems to
5 be from my perspective legislative people that have benefit
6 from constituents and believe that that helps them. While
7 I don't have an open shop firm, I believe in the rights of
8 unions to organize. I believe that they have the right to
9 picket. I believe we all have the right to express our
10 opinions. But personally, corporately, subcontractors,
11 competitors in my industry, there has been a lot through
12 many, many years, and it's more intense in this part of the
13 country than many others.

14 MAJORITY CHAIRMAN MARSICO: Why was your company
15 focused with the harassment and the burning? Why do you
16 think your company was harassed?

17 MR. TAYLOR: Because---

18 MAJORITY CHAIRMAN MARSICO: Go back to that.

19 MR. TAYLOR: Because E. A. Reeves is a merit shop
20 and that the Quakers chose to use them for a project---

21 MAJORITY CHAIRMAN MARSICO: Okay.

22 MR. TAYLOR: ---in the City of Philadelphia, and
23 therefore, the Philadelphia unions decided to make an
24 example of them.

25 MR. REEVES: We have done over 350 churches

1 through our years, new churches, major additions, et
2 cetera. Most of the time we don't have a problem on it.
3 We have had other violence on churches in Philadelphia in
4 the past. I didn't think that there would be on this one.
5 I did not expect it and I can't speak to what somebody
6 else's motive is other than they didn't feel that they were
7 getting the work or they weren't appreciated or whatever.
8 I can't really speak to that.

9 MAJORITY CHAIRMAN MARSICO: Okay. Any comments,
10 questions?

11 Well, once again, thank you for your---

12 MR. TAYLOR: Thank you.

13 MAJORITY CHAIRMAN MARSICO: ---testimony, your
14 time, and thanks to all the witnesses for being here today.
15 I appreciate it. This hearing is now adjourned. Thank
16 you.

17
18 (The hearing concluded at 1:15 p.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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