

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

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:
House Transportation Committee- :
Public Hearing-House Resolution 34 :
-Uninsured Motorists and/or :
non-registered vehicles :
-----X

Pages 1 through 131 Abraham Lincoln High
 School Auditorium
 School District of Philadelphia
 Rowland and Ryan Avenues
 Philadelphia, Pennsylvania

Thursday, April 27, 1995

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

REPRESENTATIVE RICK GEIST CHAIRMAN
REPRESENTATIVE THOMAS DRUCE, Acting Chairman
REPRESENTATIVE MATTHEW WRIGHT
REPRESENTATIVE JOHN PERZEL
REPRESENTATIVE ANTHONY MELIO
REPRESENTATIVE ELLEN BARD
PAUL PARSELLS STAFF
PHYLLIS BROWN LEGISLATIVE RESEARCH ANALYST
PHYLLIS GOULD LEGISLATIVE RESEARCH ANALYST

Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

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P R O C E E D I N G S

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3 REPRESENTATIVE DRUCE: Good Morning, ladies
4 and gentlemen.

5 My name is Tom Druce. I represent the 144th
6 District in Bucks County.

7 In my capacity as the Subcommittee Chair
8 for the Pennsylvania House of Representatives Committee on
9 Transportation, I will be chairing today's hearings. I'm
10 pleased to welcome you this morning.

11 Before I begin my opening remarks, I'd like to
12 introduce my colleagues from the House of Representatives
13 who are here today. Of course, all of you know our
14 Majority Leader, John Perzel, who welcomed you just a few
15 minutes ago.

16 To my far left is Representative, Ellen Bard,
17 who represents Abbingtown Towhship portion of Montgomery
18 County.

19 Seated beside Representative Bard is Paul
20 Persells, he's the Executive Director of the Democratic
21 House Transportation Committee.

22 Seated to my immediate left is Phyllis Brown,
23 who is the Executive Director of the Republican House
24 Committee on Transportation.

25 This public hearing this morning is called

1 pursuant to House Resolution 34, which was sponsored by
2 Representative Matthew Wright from Bucks County.

3 Resolution 34 requires that the Committee on
4 Transportation conduct a study of the number of vehicles
5 being operated without insurance and/or registration on
6 Pennsylvania highways and the risk that is posed for
7 citizens of the Commonwealth, and if needed to recommend a
8 legislative response.

9 With these instructions from the House of
10 Representatives in mind, this morning is structured
11 to give each witness twenty minutes to make his or
12 her presentation. I'm asking that each witness
13 instead of reading their remarks, to please paraphrase if
14 they can. This will insure ample time for members of the
15 Committee to answer questions and to give an opportunity
16 for the testifiers to respond.

17 Now it's my honor to call as our first witness
18 the chief sponsor of House Resolution 34, my colleague,
19 Representative Matthew Wright.

20 REPRESENTATIVE WRIGHT: Thank you,
21 Representative Druce.

22 I sponsored House Resolution 34, which a
23 number of the members here and Representative John Perzel
24 co-sponsored. It's really an observation of a problem that
25 a number of people in my community have brought to me over

1 the years actually, but then it really became more
2 prevalent in the fall and winter, I decided to try to take
3 some action.

4 My initial thoughts that the problem that they
5 had brought fourth was when they would get into accidents
6 with other vehicles and the police would come and upon
7 investigation of insurance or registration or uninspected
8 cars, et cetera, it was determined that some of the
9 vehicles that were involved in the accidents did not have
10 insurance or were not properly registered or not properly
11 inspected. Therefore, at the scene, the officer would
12 issue a citation based on that and if the cars were
13 drivable, would let the occupants of those vehicles get
14 back in cars and drive away.

15 Now, my constituents were law-abiding
16 constituents that had insurance and were paying high
17 premiums, were very much concerned about why the police
18 officer was letting, in their mind an obvious offender get
19 right back in that car and drive away.

20 Upon casual research on this, getting
21 information from staff, getting information from PennDOT
22 and local officials and law enforcement authorities, my
23 initial thought was to introduce some sort of legislation
24 that would give authority to impound vehicles. If there
25 was enough reasonable belief that the these vehicles were

1 not properly insured or registered.

2 But some concerns were raised for various
3 aspects about practicalities of this, the constitutionality
4 of impounding and whatnot. So I did back off with
5 specifically introducing a piece of legislation of doing
6 that. Instead, that was the genesis of House Resolution
7 34, to give the opportunity for all those concerned parties
8 to give their input about the pros and cons, the things we
9 have to watch out for, and let's not just jump in with a
10 rash legislative decision try to impound vehicles.

11 Ultimately that's what the Transportation
12 Committee may want do or the Transportation Committee may
13 come up with some other suggestions or recommendations that
14 may try to alleviate this problem. That's what the genesis
15 of House Resolution 34 was, was to have the House
16 Transportation Committee hold hearings, study the problem,
17 and this particular problem.

18 It was the effect of unregistered, unlicensed,
19 unregistered vehicles and what the effect for public safety
20 is on the rest of the community, especially in my terms, to
21 law-abiding individuals that are paying the proper auto
22 insurance, and ultimately will end up paying for all those
23 people who are not driving with a valid driver's license,
24 driving with valid insurance, and driving without a valid
25 registered car.

2

1 Now some of the background leading up to this,
 2 and I'm not going to sit here today and necessarily
 3 recommend a solution, because in all honesty, I'm not too
 4 sure. That's what I'm hoping these hearings, this one and
 5 the one in Harrisburg coming up in the near future, will
 6 drive out some recommendations.

7 I think what we're going do is hear a little
 8 bit today and in the future, testimony from various other
 9 groups that probably have a little more expertise in this
 10 field and they will be giving us the positive aspects and
 11 probably notifying us to some of the problems that may
 12 arise out of this.

13 I think we really have to then take that into
 14 consideration and balance some sort of a decision and make
 15 recommendations, and hopefully they'll be some follow-up
 16 legislation and we'll get the full backing of that.

17 Back last fall, October of '94, Legislative
 18 Budget and Finance Committee, which I believe is going to
 19 be testifying today, had performed an audit and did a study
 20 of affordability of insurance, affordability and
 21 availability of insurance in Southeast Pennsylvania.

22 Some of the statistics that he'll probably
 23 talk about, and I'll just go across two of them, in 1992,
 24 approximately 27% of all vehicles in the County of
 25 Philadelphia were uninsured, 27%. The statewide average

1 was 7%. Now, my resolution is obviously would be a
2 statewide proposal. Even at 7%, that is a problem across
3 the state. But I think it's very obvious that it's very
4 persuasive here in Philadelphia.

5 People from suburbs, which I'm from, Bucks
6 County, interrelate, interact with the city on a regular
7 basis, either working in the city or traveling to the city
8 or people from the city traveling and working within the
9 community in my district, and are very much concerned, our
10 suburban auto insurance rates are directly tied to the
11 area, the region, and it's impacted upon whatever happens
12 in Philadelphia.

13 So even people that are from outside of the
14 suburban area are somehow going to be impacted upon
15 driver's that are unregistered, unlicensed. Unfortunately
16 today I think we're going to hear most of the complaints,
17 the comments will be more directed against the City of
18 Philadelphia.

19 But you have to keep in mind that they would
20 be similar across the State, maybe just the numbers won't
21 be just at great. Also, I want to point out another
22 statistic that the report had found that between March of
23 '92 and March of '94, the two-year period, the City of
24 Philadelphia had issued 57,000 tickets for uninsured
25 vehicles, 57,000.

1 Out of those 57,000 tickets only 22% of
2 them were ever prosecuted or had been convicted, and the
3 \$300 fine that was imposed was ever collected, only 22% of
4 those, so ultimately that's a systematic problem.
5 Eventhough the police were writing tickets, they're just
6 not enforcing it. It's just not becoming a reality.

7 When talking to PennDOT, I asked, what is
8 PennDOT doing, and they'll be talking to us probably in the
9 Harisburg meeting, what is PennDOT doing to try to correct
10 this? Well, PennDOT does have a program right now to try
11 to get those uninsured, unregistered vehicles off the road
12 and they have had this for years. I think what the case
13 is, is how effective it isn't. Currently when they get
14 notification let's say on insurance, someone's not insured,
15 the insurance company notified them, they give
16 approximately a month and a half before the department
17 actually determines that this person should be suspended,
18 this vehicle should be suspended. It takes about
19 approximately a month and a half. They put the suspension
20 notice out and they give the client a month to somehow
21 contact PennDOT back verifying that they have insurance now
22 or that they're complying or voluntarilly give up their
23 license plates. It take a month and a half.

24 So then they give the extra month extension
25 for the person to repsond, so that's two and half months.

1 Upon that notice, then they issue a report to the local
2 municipality for them to go and pick up the license plates.
3 Now the problem that I perceive here is two and half months
4 before the police department gives them notice that this
5 particular constituent is a violator and the local police
6 authority should go and pick-up that license plate. Two
7 and half months. Second of all, police departments in
8 various parts of the state, some of them are pretty active.
9 They do go out and they do try to find these violators.
10 Over areas the states are not. Unfortunately the City of
11 Philadelphia is not one of those areas. The City of
12 Philadelphia does not take much initiative to go and try to
13 collect these license plates.

14 Some statistics related to this, during 1993,
15 '94, which is in the fiscal year, approximately 113,000
16 license plates have been voluntarily turned in. Remember
17 I said after the month and a half the letter goes out to
18 the petitioner saying, you know, either you have to give up
19 the plate or provide proof that this was a mistake.
20 113,000 people voluntarily turned in their plates.

21 During that same period, there were still
22 50,000 notifications of people who did not respond. So
23 that was 50,000 notices in one year. 50,000 notices were
24 sent out to local law enforcement departments, little
25 community burroughs up to the City of Philadelphia to try

3
1 to collect the plates. Out of that 50,000, approximately
2 17,500 were actually collected by the local police
3 departments.

4 It was probably a lot of reasons. One
5 is, they don't have the time to do it, the people have
6 moved, the law enforcements can't find it, they were given
7 an address of some constituent, they go there and they've
8 moved a year ago, so they can't find them.

9 I want to move into another area. These are
10 some of the communities or groups that have responded
11 saying that they need some action.

12 The City of Philadelphia just recently, I
13 think it was approximately a week ago, has recognized the
14 need for some sort of action to curtail the people driving
15 unlicensed, uninsured vehicles. The City counsel
16 approximately a week ago, has inacted an ordinance upon
17 some sort of action with Harrisburg. They do not have the
18 authority to do it themselves, they're trying to get the
19 enabling local ordinances in place so in case the State
20 does do something and they were requesting that the State
21 of Pennsylvania to give authority for local municipalities
22 to go and impound vehicles if they're suspected to not be
23 insured or if they're suspected to not have properly
24 register, that does not mandate what they're doing if they
25 have the power if they so desire to go and impound those

1 vehicles.

2 In their statements there were some concerns
3 about whether we were going to discriminate against various
4 groups, whether they're going to be seizing thousands and
5 thousands of cars. In their particular debate they wanted
6 to reserve this to the most obvious blatant offenders.

7 In Bucks County a local police officer came to
8 me recently. He's, I think, third in command. He's in
9 command of one of the shifts. They've instituted an
10 internal policy about a year ago where they are impounding
11 vehicles right now. Now, upon reviewing the section of
12 law, Section 6311 Title 75, I believe and PennDOT believes
13 they're interpreting that section wrong, but let me just
14 follow their train of thought. In 6311 it basically allows
15 the temporary detention of vehicles upon verification of
16 documents and inspection.

17 Now PennDOT says that this is really what is
18 meant to be a truck inspection rule, that pulling a truck
19 over to inspect it on site and to verify the documents.
20 But what Bensalem Township is doing in this particular
21 case, and I think they're stretching it and there may be
22 some legal problems here, but their intent was to pull the
23 vehicles over if they suspect and ask for registrations.
24 Of course, if there wasn't a registration, they would
25 temporarily hold that vehicle until the person provided the

1 proper document or if there was an insurance question they
2 would temporarily hold that vehicle until the person came
3 back with proper insurance.

4 PennDOT and our own staff in-house has
5 basically said that they're really shredding on a very thin
6 rope there. That maybe technically they're not able to do
7 that. But I just wanted to point that out because there's
8 a township, a first-class Township, 60,000 people who have
9 identified a problem also just like the City of
10 Philadelphia, and they wanted to try to do something and
11 the police department was directed to try to crack down.

12 Some endorsements, and I'm almost finished
13 here, a Philadelphia Traffic Court Administrator was
14 recently, Frank DiCicco, I believe his name is, was
15 recently quoted numerous quotes in Philadelphia Daily News.
16 I just wanted to point out that obviously his point of view
17 was he was very much supportive and upset why we're not
18 doing something at the State level to try to empower local
19 authorities to have more action and more authority in this
20 field.

21 He would routinely give quotes in the article,
22 which I have back-ups for, and he kind of raised the
23 questions when the reporter's asking him, is it right to
24 impound? His point of view was basically that, why should
25 we give these cars back to people, why should we let these

1 people who are blatantly breaking the law, why should we
2 just return these vehicles right back to them? Morally,
3 why should we? When these people, especially, these are
4 not people who misstakenly found out that they didn't have
5 a registered vehicle, we can handle those type of problems.
6 These are people who blatantly know they're offenders day
7 after day.

8 Also, Philadelphia Daily News also did a
9 survey March 3rd, "Should the police impound cars without
10 liability insurance," and asked their readership to
11 respond. It was four to one and the Daily News is
12 obviously in the City of Philadelphia and the suburbs. It
13 was four to one in favor. The public readers had said four
14 to one that the police should have some sort of authority
15 to impound or to do something to impact upon this.

16 I'm Bucks County, so obviously my papers that
17 I read are a little more limited, so I can't really talk
18 about the rest of the state. The Philadelphia Inquirer has
19 endorsed some sort of impoundment. The Philadelphia Daily
20 News endorsed some sort of impoundment. My own paper, the
21 Bucks County Courier Times has also endorsed some sort of
22 impoundment or something related to it to do something at
23 least.

24 In conclusion, I just want to state that my
25 observations, my constituents observations from the very

1 beginning, that in this particular case, my Constituents
2 are observing obvious blatant offenders.

3 Example, the person across the street I know
4 doesn't have insurance, they'll call someone up in the
5 police department, do something. They can't do anything.
6 They get into an accident, they can't do anything. Their
7 insurance rates of law-abiding citizens are reflected by
8 those injuries and damaged performed by those people who do
9 not have insurance. My constituents are getting very very
10 upset.

11 Now, in conclusion this meeting is the
12 Transportation Committee. My original intent was not
13 necessarily to talk about the affordability. The intent of
14 House Resolution 34 was not necessarily intended to talk
15 about the availability or the affordability of insurance.

16 The original intent was basically designed is,
17 people who have suspensions, keeping them from driving
18 their cars. Obviously the Committee or if in conjunction
19 with the insurance Committee wants to take a look at the
20 bigger issue of why we have such large numbers of people
21 that are uninsured or have unregistered vehicles, that
22 would be the perview too.

23 My resolution initially is really to take a
24 look to focus on people that have been identified as being
25 suspended or have a suspension and keeping them from

1 driving the vehicle. That's what my intent is. If the
2 Committee wants to go further, I definitely welcome that.

3 In that, I think the Committee for allowing me
4 to testify and for holding the hearings in this very
5 important issue.

6 REPRESENTATIVE DRUCE: Thank you,
7 Representative Wright. Let me see if any members of the
8 Committee have questions before you join us up here at the
9 panel.

10 Any questions from the members?

11 MR. PERSELLS: As you clearly stated in your
12 testimony this is basically a Philadelphia area problem.
13 When former Speaker O'Donnell passed legislation to try to
14 address this, it caused a great deal of concern among the
15 rural legislators because their constituents were very
16 upset when they had to turn in their plates, for example,
17 on their motorhomes that they only drove seasonally.

18 In that this is a Philadelphia problem, is
19 there a way that you can see that we can address this on a
20 statewide basis without effecting the rest of the
21 Commonwealth? We only is a 7% problem across the
22 Commonwealth and a 27% problem here.

23 The other thing that concerns me, I guess, is
24 that if you can only convict 22% of the people here in the
25 Philadelphia court system that are cited, how can changes

1 in the statute to impound vehicles, how do you think that
2 that will in any way effect the instance of uninsured
3 motorists?

4 REPRESENTATIVE WRIGHT: First of all, I think
5 I'm going to twist your words a little bit. You said that
6 there's only a 7% problem across the State, statewide
7 average. Well, just from your statement it shows that
8 there's a problem.

9 The persuasiveness of the problem is not as
10 great in other parts of the State. I want to make it very
11 clear that this problem of uninsured, unregistered drivers
12 is throughout the State. It is just I think critical here
13 in the County of Philadelphia and the suburbs which are
14 effected by that. You see it in the insurance rates
15 especially.

16 So I disagree that it is not a problem, it's
17 the extent of the problem and I think any legislation
18 that's passed -- I will not support, myself, any
19 legislation that is just for the City of Philadelphia. I
20 think it raises some constitutional questions too. We've
21 been through this with some other issues, which I won't
22 describe, but we've been through this with some other
23 issues about granting limited ability to certain areas.

24 I believe, and I'm not here to talk about what
25 the solution is, because I honestly don't know, because

1 there's pros as cons. I want the Committee to come up with
2 some recommendations. One of the possibilities would be,
3 if we were going to pursue the impoundment, I think it
4 should be statewide and each individual municipality would
5 then opt to whether they wanted to enforce it. They would
6 have the ability to.

7 If a municipality in Clinton County, they
8 would have the authority. Whether they actually directed
9 the police to go and do it would be a different story. So
10 I think what you would have if we pursued the impoundment
11 philosophy is more of a case of everybody would have that
12 authority but you'd find out in vast parts of the state,
13 they just wouldn't pursue it, unless a real obvious blatant
14 case came up. Then they could go to the books and say,
15 we're going to go after this guy and get him for this. I
16 think that's what you see right now in a lot of our laws in
17 Pennsylvania, selective enforcement.

18 Therefore, I think we have to have a statewide
19 law. I think selective ultimately it would be selective
20 enforcement. But you're giving the ability, at least, for
21 a local municipality, who through their elected officials,
22 if they perceive this to be a problem, they have a tool.
23 This would be a tool. It would wouldn't be a mandate
24 whether they would follow it. I'm not sitting here and
25 saying that we should pursue impoundment, I don't know. It

1 may open a pandora's box that we may open up some other
2 issues, that we may have so many negatives that we may not
3 do it. There may be other suggestions that may come up
4 that may alleviate the problem.

5 Lastly, you talked about the enforcement, why
6 quote/unquote the report only 22% had actually been
7 convicted and paid their fines. I'm going to make a
8 summation here, I don't know, but I'm going to assume -- I
9 think later on we're going to hear from the Philadelphia
10 Police Department, I believe is one of the testifiers. I
11 think the question is better asked to them, but I'm going
12 to make a summation that I believe it's probably the old
13 addage that we have better things to do then to go track
14 down police plates. I think in some communities across the
15 state when the PennDOT issues their to be picked up plates,
16 some communities are right on top of it. I don't not know
17 why but I suspect that Philadelphia just isn't quite as
18 motivated or maybe they have this particular set of
19 circumstances that prevents them from going out and
20 collecting plates.

21 In theory the system we have now should work,
22 but it's not.

23 REPRESENTATIVE MELIO: If they're not
24 motivated to do it, why should we impose burdens on the
25 rest of the Commonwealth? Now, obviously with the threat

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1 of impounding a vehicle that in and of itself may, in fact,
2 cause a problem, whether it's enforced or not. It is a
3 very difficult issue.

4 REPRESENTATIVE WRIGHT: Sure. I just want to
5 talk about one of the words you said, "burden," I don't
6 necessarily see the ability to impound a car in a
7 municipality on whatever part of the state to have the
8 ability to impound a car if it so desires as a burden. I
9 look at that as more of a tool. If they don't want to
10 enforce it, like anything else, they just don't enforce it,
11 but at least let the communities who want it, if that's
12 what we're going to do, at least let the communities who
13 want to enforce it, let them have the ability to.

14 REPRESENTATIVE DRUCE: Next we're going to
15 have Philip Durgin the Executive Director of the
16 Legislative Budget and Finance Committee.

17 REPRESENTATIVE DURGIN: Good morning. I'm
18 pleased to be here today to discuss the findings of our
19 Committee's report on the affordability and availability of
20 automobile insurance in Southeastern Pennsylvania.

21 My name again is Philip Durgin and I'm the
22 Executive Director of the Legislative Budget and Finance
23 Committee.

24 For those of you who may not be familiar with
25 our committee, we're a bipartisan, bicameral committee of

1 the Pennsylvania General Assembly, charged to conduct
2 performance audits and evaluation studies of programs and
3 agencies in Pennsylvania state government.

4 I'd like to begin with a little history on how
5 we got involved in this study. In February 1993, our
6 committee released a report evaluating the effectiveness of
7 the medical cost containment provisions of the
8 Commonwealth's 1990 auto insurance reform law. This report
9 was quite positive, and we concluded that the 1990 act has
10 been effective in containing medical costs associated with
11 auto insurance claims.

12 However, Representative George Kenney, another
13 Philadelphia legislator, was concerned that eventhough
14 rates may have moderated elsewhere in the state, auto
15 insurance costs in Philadelphia were still far too high.
16 He therefore requested that we undertake a second study
17 focusing on the cots and availability of insurance in
18 Philadelphia and the surrounding suburbs. The officers of
19 our committee, two of whom, Senator Clarence Bell and
20 Representative Ron Raymond, are both from Delaware County,
21 agreed to the study, which we released last October.

22 So our focus was on cost and availability more
23 so than on uninsured motorists, but as Representative
24 Wright has pointed out, the two issues are closely
25 connected.

1 Rather than reading my prepared remarks
2 verbatim, I'd like to walk you through a pack of exhibits
3 that we prepared based on some of the information in our
4 report.

5 In general, we found, and I'm sure this is no
6 surprise to people in the room, that the cost of auto
7 insurance in Philadelphia remains high. As you can see
8 from Exhibit 1 of your handout, in 1992 in Philadelphia the
9 typical premium costs about \$1,500, versus about \$930 for
10 the four surrounding countys, and \$590 outside the five
11 county Philadelphia area.

12 We also have on Exhibit 2 some information on
13 some of the high and low costs for both full tort and
14 limited tort policies within Philadelphia and Montgomery
15 County and also for Allegheny County. This compares a
16 standard policy in these different countys.

17 Some of of the numbers that you see the low
18 for Philadelphia for a limited tort policy is just over on
19 \$1,000, this is in the voluntary market. It can range up
20 to a high of up to \$4,700 for a full tort policy. By way
21 of comparison, in Pittsburgh and Allegheny County, those
22 policies would only be \$450 for a limited low-cost for
23 limited tort and about \$750 for the cost of a full tort
24 policy and the high end. So the same policies cost about
25 two ans half times as much in Philadelphia as they would in

1 Allegheny County. Those are for drivers with good records.
2 For drivers with a bad record who may be assigned to an
3 assigned risk plan, the cost can easily exceed \$6,000 a
4 year.

5 In 1990, the Insurance Research Council
6 undertook a study of eight states with major metropolitan
7 areas, including Pennsylvania, to determine the factors
8 behind the high cost of auto insurance in major U.S.
9 cities. The study singled out bodily injury claims as the
10 primary cause of high premiums. According to the Council's
11 study, Central Philadelphia had 75 bodily injury claims for
12 every 100 property damage claims, the highest rate among
13 the 16 urban areas studied. This means that 75 of every
14 100 accidents that were serious enough to result in a
15 property damage claim, also involved a bodily injury claim.

16 The more suburbanized areas of Philadelphia,
17 such as Mount Airy and here in the Northeast, had 60 bodily
18 injury claims per 100 property damage claims, a rate
19 matched only by central Los Angeles. By comparison,
20 Pittsburgh had only 16 and Harrisburg had only 13 bodily
21 injury claims for every 100 property damage claims. Not to
22 emphasize this too much, but we're looking at a rate in
23 Central Philadelphia of 75 per 100 property damage, versus
24 say, 13 in Harrisburg or 16 in Pittsburgh.

25 The Council examined several possible reasons

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1 for the high bodily injury rates in major cities, and found
2 no plausible explanation other than what they termed,
3 "changes in claiming behavior." Although the report does
4 not explain the causes for such a change in behavior, it
5 does cite an earlier study which found that attorney
6 involvement in auto insurance claims had increased by 42%
7 between 1977 and 1987. The study also found that attorney
8 involvement was high in the most densely populated areas
9 and for bodily injury claims exceeding \$5,000.

10 We also found that bodily injury claim rates
11 are very high in Philadelphia, but there has been a trend
12 downward in recent years. As shown in Exhibit 3, you can
13 see that the peak occurred in 1989 in Philadelphia having
14 74.8 bodily injury claims per 100 property damage claims,
15 and it dropped by about 15% to 63.4 in 1992. This is still
16 twice the rate in the suburban counties and it's more than
17 three and a half times the bodily injury rate in the 62
18 other counties.

19 We looked at several other factors that can
20 effect auto insurance rates, such as, vehicle theft, fraud,
21 and property damage, and uninsured motorist claims, and
22 concluded that while these factors may have some impact on
23 premiums, the bodily injury claim rate appear to be the
24 primary culprit.

25 Exhibit 4 shows some of the ideas that we

1 discussed in our report for ways that auto insurance
2 premiums might be reduced. The first idea we talked about
3 is something called, "liability exchange." This was
4 actually an idea that was proposed by the Insurance
5 Department back in October 1993 as a way of compensating
6 limited tort insurers for some of their costs. The issue
7 is, as you know, in Pennsylvania there are two kinds of
8 policies, a full tort policy and a limited tort policy. A
9 full tort policy allows you to sue for any kind of accident
10 that you might be in. Whereas, the limited tort limits
11 your ability to sue for serious injuries and some other
12 types of injuries.

13 Because of that, in the limited tort policies,
14 those policies are typically about 15% cheaper than a full
15 tort policy. So what happens is, a full tort insurer gets
16 gets 15% more revenue, but at the same time, they're
17 exposed to less liability, and to adjust for that the
18 Insurance Department came up with this idea of a liability
19 exchange.

20 In short, however, the Independent Regulatory
21 Review Commission rejected that idea as not being under the
22 legislative intent of the act. What it would have done
23 would be to full tort insurance would have to pay limited
24 tort insurers for the cost of non-economic damages, such as
25 pain and suffering in certain situations, which would have

1 the effect of increasing the costs of full tort policies
2 but reducing the cost of limited tort policies.

3 Another idea we discussed is to have limited
4 tort as a the default option. In Pennsylvania if you don't
5 sign up for either a full tort policy or a limited tort
6 policy, you're automatically assigned full tort. That's
7 not the way it is in New Jersey. In New Jersey you would
8 be assigned limited tort as a default option. There are
9 constitutional questions about that but that would be a way
10 of encouraging limited tort policies.

11 We also discussed some of the proposals to
12 eliminate or limit territorial rates. Several bills have
13 been introduced that do that in Harrisburg, but to my
14 knowledge, I don't think any of them have gotten out of
15 the House Insurance Committee.

16 Another possibility is certainly the insurance
17 company told us several times was to have a strong
18 statewide no fault insurance law. Pennsylvania had an no
19 fault insurance law but it was what's termed a "week law."
20 There are several states, such as Michigan and New York
21 that have strong no fault laws.

22 Two other ideas, one, to insure drivers rather
23 than to insure the vehicles. The idea being that in order
24 to get your driver's license you have to show insurance
25 rather than insuring the vehicles, and the other would be

1 the different pay-at-the-pump proposals where there would
2 be a special gasoline tax that would either underwrite the
3 cost of uninsured motorist coverage or may underwrite the
4 cost of a basic insurance plan all together. Our reading
5 of those were that the disadvantages, especially the last
6 two proposals, appear to outweigh the images.

7 Any of these ideas I just discussed would be a
8 major policy decisions that were beyond the scope of what
9 we felt we could recommend within the context of this
10 study. We do, however, recommend that the state's current
11 regulations be strengthened by requiring insurers to
12 include information on their policy renewal forms to show
13 policyholders the savings they would achieve by selecting a
14 limited tort policy. As you can see from Exhibit 5, about
15 half of the policies written in Philadelphia now are
16 limited tort policies, no doubt, at least in part to the
17 lower premium.

18 With regard to the availability of insurance,
19 we found that since 1990 there's been a notable improvement
20 in the number of vehicles in Philadelphia having auto
21 insurance. As you can see in Exhibit 6, in 1992, there
22 were about 350,000 passenger vehicles insured in
23 Philadelphia, which is a 12% increase over 1990 when there
24 were about 310,000. Which is really a dramatic improvement
25 from let's say 1987 when there was a 17% decrease in the

1 number of vehicles insured, so that's some good news.

2 Exhibit 6, which shows the assigned risk plan.
3 We concluded that the reason why there's been a large
4 increase, and one of the factors that accounts for the
5 large increase in passenger vehicles being insured in '92
6 is the increase in the Assigned Risk Plan. As you can see
7 in 1990 there are about 19,500 vehicles insured through the
8 Assigned Risk Plan in Philadelphia and that ballooned
9 really to over 74,000 vehicles in 1992. So you can see
10 that that's a 280% increase in vehicles insured through the
11 Assigned Risk Plan. Now much of that appears to be due to
12 a new clean risk category, which charged rates that are
13 comparable to what companies in the voluntary market and
14 specialized marginal risks might charge, so that was a new
15 provision in act 6. So they're not necessarily being
16 charged the highest rates.

17 The last section of our report discusses
18 Philadelphia's uninsured motorist problem. We estimated
19 that in 1992 about 27% of the vehicles registered in
20 Philadelphia were uninsured. While this percentage is much
21 higher than the statewide average of 7%, it is a notable
22 improvement over 1990, when about 35% of Philadelphia's
23 registered vehicles were uninsured. I should note that
24 these statistics are only on registered vehicles. We could
25 not determine how many additional unregistered vehicles may

1 be on Philadelphia streets, presumably all of which would
2 be uninsured.

3 We visited the officials of the Philadelphia
4 Traffic Court and found that during a two-year period, as
5 Representative Wright mentioned, between March 1992 and
6 March 1994, the Philadelphia police issued almost 57,000
7 tickets amounting to over \$21 million dollars in fines to
8 driver's who were unable to show proof of financial
9 responsibility when stopped for a moving violation.

10 However, almost \$17 million dollars, which is
11 about 78% of these fines, remained outstanding as of April
12 1994. For those drivers who pay their tickets, the fine
13 for driving without insurance is only \$300, which even
14 after court costs and other fees are added in, is still far
15 less than the cost of purchasing insurance.

16 To target the worst offenders, the
17 Philadelphia Traffic Court investigates persons with three
18 or more outstanding tickets for moving violations as
19 scofflaws. However, as of March 1994, 568,000 outstanding
20 tickets remain unpaid by over 63,000 scofflaw drivers. Of
21 these drivers, almost 5,500 had 21 or more outstanding
22 tickets. We cite a case reported in the Philadelphia Daily
23 News in which such a motorist was ticketed 17 times for
24 driving without a license. After his license was
25 suspended, he could not get auto insurance, which also

1 means he did not get a vehicle registration card. He
2 still kept driving, however, and continued receiving
3 additional tickets. At no time was he arrested for failing
4 to pay the outstanding finds.

5 Finally, we noted that the Pennsylvania
6 Departments of Transportation was in the process of
7 redesigning its computer systems to better monitor
8 compliance with the Motor Vehicle Financial Responsibility
9 Law. This system, which was scheduled to operational
10 during the first half of 1995, should provide the
11 Department with a much more efficient and effective way of
12 identifying uninsured vehicles. To ensure this system will
13 realize all its benefits, we recommended that the
14 Department of Transportation promulgate regulation to
15 require that insurance companies respond to the
16 Department's request for information in a timely manner,
17 which companies have not always done in the past.

18 That concludes my prepared remarks. I'd be
19 pleased to try to answer any questions you may have about
20 our report. Thank you.

21 REPRESENTATIVE DRUCE: Thank you, Mr. Durgin.
22 Thank you very much Jim for the Legislative Budget and
23 Finance Committee reports, which I think is extremely
24 helpful to the Committee. Let me ask one question, and
25 before I do that, let me recognize the Representative Tony

1 Melio has joined our Committee. Representative Melio is
2 from Lower Bucks County and a member of the Transportation
3 Committee.

4 Representative Wright's resolution, while
5 dealing with uninsured motorists, I sense his intent was
6 like from any of us in Southeastern Pennsylvania, which is
7 trying to get a handle on why our auto insurance rates have
8 not enjoyed the decreases that have been found in the rest
9 of Pennsylvania as a result of auto insurance reform back
10 in 1990.

11 When I look at Exhibit 4, where you suggested
12 ideas as a result of reducing auto insurance, we seem to be
13 focusing here as a Committee on uninsured motorists, which
14 is certainly a problem, and the state bear that out, but it
15 seems to me that when I look at the areas of suggestion
16 that have come fourth, I can almost write beside it,
17 whether it is an insurance reform or a tort reform, and it
18 seems to me that he word "lawsuit" keeps showing up on my
19 paper, and that may be really the area. We want to get to
20 the heart of seeing the people in our area who we represent
21 have a affordable insurance, that not only tackle the
22 uninsured motorist is important, but if we really want to
23 make a dent, we need to address the latigious nature of
24 Southeastern Pennsylvania.

25 Is that in a sence where your findings were

1 pointing us towards to some extent?

2 MR. DURGIN: Yes. I don't want to be too
3 symplistic about it, but we believe that is the major
4 problem, is the bodily injury situation. For example, we
5 thought, well, maybe it's vehicle theft would be a
6 possibility. But when we looked at Pittsburgh, Pittsburgh
7 actually has a higher vehicle theft rate than Philadelphia,
8 but their premiums are much lower, somewhat the same with
9 uninsured motorists. As I recall, Pittsburgh has a rate of
10 uninsured motorists of about 20%, which is not as high as
11 Philadelphia but it's still high. Their premiums are far
12 lower than Philadelphia. So that led us to believe that
13 there's got to be something else going on here other than
14 uninsured motorists and theft and fraud and some of the
15 other things.

16 What we found was that the bodily injury
17 liability premiums constitute about 50% of an average
18 policy. I mean, that's a major part of the problem, and
19 then again, just the numbers just really stick out in terms
20 of.

21 REPRESENTATIVE DRUCE: Even with full tort,
22 limited tort separation where you would think that that is
23 helpful, if I'm recalling statistics that you mentioned,
24 you say 75 out of 100 property damages resulted in the
25 bodily injury case --

8

1 MR. DURGIN: 1990.

2 REPRESENTATIVE DRUCE: Yet if I remember
3 reading the report last night, I thought I saw where some
4 50% of Philadelphia's insured motorists opted for limited
5 torts, which would suggest to me that we've limited the
6 attorneys ability to infiltrate the process here, but yet
7 if you look at the statistics in the terms of the number of
8 lawsuits per 100 property damage cases, you've got
9 basically 75%.

10 MR. DURGIN: It was 75% in 1989. Now it's
11 down to 63%.

12 REPRESENTATIVE DRUCE: That's still awfully
13 high.

14 MR. DURGIN: I'm not saying it's not high.
15 But I'm saying, there has been a 15% drop, which presumably
16 would be attributed to, at least in large part, the limited
17 liability. I also should point out, it's on Page 60 of the
18 report, that the actual premiums in Philadelphia have gone
19 down for the three types of required coverages since 1990.
20 It had been 827. Now it's down to 786, so there appears to
21 have been some benefit to the Philadelphia drivers as a
22 result of some of the reforms, but it's still high no
23 matter how you cut it.

24 REPRESENTATIVE DRUCE: Thank you, very much.
25 Representative Bard.

1 REPRESENTATIVE BARD: I think you stated that
2 the differential in the cost of the policies, the full tort
3 versus the limited tort was 15%?

4 MR. DURGIN: Typically about 15%.

5 REPRESENTATIVE BARD: And then did you state
6 that the real underlying cost, however, is a 50% difference
7 but the market price may not reflect the actual
8 differential cost?

9 MR. DURGIN: I don't recall saying a 50%.

10 REPRESENTATIVE BARD: I must have
11 misunderstood you. Does the market price of 15%
12 differential reflect the cost differential between the full
13 tort and the limited tort option as far as your being able
14 to ascertain?

15 MR. DURGIN: Well, I think that's sort of a
16 debatable point. It gets to the idea of liabilities
17 exchange a little bit. I think there's some people who are
18 saying that the limited tort policies are underwriting the
19 full tort policies, because full tort policies get the
20 premium, but they're exposed to fewer situations where they
21 might be held liable. But they're arguments on both sides.

22 As far as we know that 15% figure does reflect
23 the actual cost.

24 REPRESENTATIVE BARD: It just strikes me that
25 it may not be a substantial enough incentive to encourage

1 limited tort option if that really were the desired result
2 of encouraging limited tort option. I notice that on
3 Exhibit 5, for example, you find that in Philadelphia where
4 the cost is very high for even a limited tort option, you
5 get a substantial number taken limited tort option.
6 Whereas, the price for the full tort option goes down, you
7 find more people taking the full tort option in the areas
8 of the state where it's not as expensive to have the full
9 tort option.

10 REPRESENTATIVE MELIO: When you mentioned that
11 the gentleman that was ticketed 17 times. Isn't there a
12 way that when you find out that he has more than three that
13 you can even take his vehicle that he's driving or punish
14 him in some kind of way other than to just let him go all
15 the time?

16 MR. DURGIN: I'm afraid I'm not the one that
17 can really speak to that. You would have to ask the
18 Philadelphia police. I would assume there is. With a
19 scofflaw driver programmer, they try to combine warrants
20 that make it easier to prosecute.

21 REPRESENTATIVE MELIO: That's a good example.
22 It's just that if this fellow isn't concerned about
23 insurance and he's going to keep driving anyway.

24 MR. DURGIN: Well, there are many people like
25 that out there. Almost 5,500 people had 21 or more moving

1 violations. It's not an isolated incidence.

2 REPRESENTATIVE MELIO: Unless you really hit
3 them personally, they're not going to care about insurance,
4 no matter what we do with insurance, they're still going to
5 drive because they can't afford it now. If we make it more
6 difficult, it's not going to solve the problem.

7 MR. DURGIN: Especially if they're a bad
8 driver with a bad record, which could well be. I mean,
9 they're going to have to pay \$6,000 a year to get
10 insurance.

11 REPRESENTATIVE MELIO: Thank you.

12 REPRESENTATIVE WRIGHT: More of a statement,
13 you were focusing on insurance and many of the statements
14 about why we can't get more people insured.

15 That's assuming that those people could get
16 insurance and that we're talking about reflective of
17 pricing. Unfortunately a lot of our problems are we're
18 seeing people that are driving without insurance is because
19 they don't have a license either, and if you don't have a
20 license, even if you pay for insurance, even if the
21 insurance company take you and you pay for insurance and
22 you're not properly licensed, the insurance is ineffective.

23 So a lot of people that we deal with, a lot of
24 constituents that come in with problems to my office, is
25 because they've gotten themselves into binds is because

1 they've been suspended, and once they've been suspended it
2 doesn't matter whether you have insurance or not, why
3 should they pay for something they can't use. So I think
4 one of the aspects the Committee has to take into
5 consideration is eventhough some of these questions are
6 geared to increasing the amount of people that get
7 insurance, a lot of these people that we're talking about
8 that don't have insurance. True it could be affordability,
9 but a lot of it is, we're exempting them from getting
10 insurance, we're preventing them from getting insurance,
11 because we have suspended them, and maybe that's a good
12 question for PennDOT later on in the Harrisburg meeting.

13 There's a heck of a lot of people in the State
14 of Pennsylvania who do not have a license, they've been
15 revoked or suspended. They are not elligible to get
16 insurance. I routinely get those questions and pleads in
17 my office from people, especially when they're young. They
18 were caught drinking when they were a minor, their license
19 goes, and they have to work or whatever and they're saying,
20 well, if I don't drive, I don't work. I have a young
21 family and you've taken my license away, so I have to
22 drive. They're taking a chance, a risk. This is one of
23 the problems I think maybe the Committee also has to keep
24 in mind, that we are preventing people in Pennsylvania from
25 having a license which then prevents them from getting

1 insurance too.

2 REPRESENTATIVE DRUCE: Mr. Durgin, thank you,
3 very much for your testimony today.

4 Our next witness is Mr. Lawrence Wentz, who is
5 a member of the Independent Insurance Agents of
6 Pennsylvania.

7 MR. WENTZ: Good morning to the house
8 Transportation Committee and to an old colleague, Phyllis
9 Gould, who I've known for years.

10 You got one thing to work with in me, I'm a
11 city boy, born and raised in Philadelphia. Our agency
12 started 58 years ago. It's not in the text here, but I
13 think I ought to tell you this. 58 years ago we started in
14 the Public Ledger Building downtown. And due really to the
15 market conditions of what goes on with car insurance, I
16 moved my agency just last year to Ambler, got out of the
17 city. I still live in East Oaklane and I am very much
18 committed to the City of Philadelphia and this problem.

19 I thank you for allowing me to testify here.
20 I give you a little bit more background about our agency.
21 I succeeded my father, who was the last remaining of the
22 original three partners at Kindt, Kaye & Wentz in 1987. At
23 that time, I became an equal partner with him and at that
24 time, I became the 100% owner of this agency, Kindt, Kaye &
25 Wentz. Half of my clients, my 1,500 clients are residents

1 of this City of Philadelphia. About 75% of my business is
2 on personal lines as opposed to commercial.

3 I am the past president of the Independent
4 Insurance Agency of Philadelphia and suburbs. I served the
5 term in 1989 to 1991. I've also been involved outside of
6 my office in the community. I've coached baseball at
7 either the Police Athletic League or CYO for 23 years. I'm
8 active in the Notredame Alumni Association. My son went
9 to Penn State and he is the third generation in our agency.

10 In my opinion, Act 6 started improving the
11 market for auto insurance here, but will not result in any
12 additional real progress until the uninsured motorist
13 problem is tackled. Additional insurance carriers will be
14 reluctant to come into this area, because every fourth
15 person is uninsured and where the uninsured motorist just
16 walk away from the rest of us at the scene of the accident,
17 leaving the responsibility of holding the bag to the
18 insurance company and to the premium buying insurance
19 public.

20 This results, of course, in higher premiums,
21 and as we know the cost and the big picture in the City of
22 Philadelphia is very high. I can verify the results that
23 my previous speaker about those rates. I live with them
24 everyday and I write insurance heavily in the five counties
25 around Philadelphia.

1 The bottom line is Act 6 will not succeed
2 until the numbers of uninsured motorists and the costs they
3 bring into the insurance system are addressed.

4 There are two dimensions to this problem. The
5 first is victim protection, where the victims of the
6 law-abiding citizens who have insurance versus the
7 predators, who by driving without car insurance and also
8 too often recklessly, make victims, us, pay for their
9 mistake.

10 The second is an attitude change which must
11 take place to reduce the number of the uninsured. First,
12 victim protection; regardless of legislative remedies, the
13 first line of victim protection lies with the personal
14 decision of the insurance buyer, but we must also drive
15 with our eyes open as the person next to us on I-95 may be
16 driving in an unsafe way. Driving defensively was the
17 slogan of another time, but here in Philadelphia, it make
18 perfect sense since many unsafe drivers are also
19 non-insured. Driving defensively helps somewhat, but even
20 if you mind your own business on the road, the uninsured
21 motorist can find you.

22 Eventhough he's clearly liable, he walks and
23 you pay, that is our system now. What the consumer can do
24 do in the short run, is to carry two coverages. Number
25 one, uninsured motorist. It enables the insured person to

1.

1 sue his or her own policy to collect medical expenses,
2 economic loss if wronged by an uninsured driver.

3 A few years ago this coverage cost only \$5 a
4 year per car. Today is is 20 to 30 times that. Further,
5 uninsured motorist coverage won't repair or replace your
6 automobile in Pennsylvania, it does up in New Jersey up to
7 \$5,000. The only remedy to insure your car from a
8 negligently-caused accident with the insured is to keep
9 your collision coverage on.

10 Just digress for a minute, I insure a lot of
11 people, a great cross-section of people in this area. A
12 guy calls me and wants to take his collision off because
13 his car's five-years-old. I will get on the phone and
14 fight with that client and try to get that person to
15 recognize the fact that you don't have the whole driving
16 situation under your control. You can be, rear-ended and
17 your car can be totalled, and you, you're out of luck if
18 you've dropped your collision insurance.

19 So I win some of these battles and I lose some
20 of these battles. I have doctors that I fight with who
21 argue with me and say, well, wait a minute, I have people
22 who think they can read their policy and tell me what they
23 want and I'll go to the wall with them about keeping
24 collusion on their car. Maybe just another year, but there
25 is a possibility here that, if I can go back a few years,

1 we use to insure a lot of German American people in
2 Philadelphia who paid cash for cars. They use to say, I'll
3 take care of myself on the road, I won't have accidents.
4 This is before car loans too, I guess. Not to many of them
5 had car loans. You can't take that position anymore today.
6 The only way that you can be sure that your car is going to
7 get repaired, because some of these cars are worth \$30, 40,
8 50,000, today, is to carry collision on that care to a
9 point where it is too much as far as your premium costs.

10 Still, I make that in my written remarks. We
11 bear the cost. Also, when you live with this everyday
12 there is a fear when the person calls you and has a minor
13 accident and says, I don't want to put it under my own
14 insurance, I'm afraid my rates will go up. A day doesn't
15 go by that we don't get a call about that. So you're in a
16 no-man's land trying to help the person involved get his
17 payment from the other guy if it's possible. So we all are
18 afraid of rates, but the rates do go up when the accident
19 is charged to you or there is no wrongdoer found. This is
20 a point that we have to live with on your behalf as agents.

21 Victim protection is clearly only addresses
22 one part of the problem. The larger dimension is an
23 attitude change which must take place within the uninsured
24 motorist himself or herself and in our larger society.
25 Government, insurance companies, and the genral public, all

1 have a role in this. The attitudes must be changed.

2 The government solution is the focus of this
3 hearing wo I will start there. Personally I feel that the
4 government is nearing the limit as to what it can achieve
5 with new legislation. Proof of insurance, financial
6 responsibility card is already mandated. Proof of
7 insurance is needed to get a car inspected. Laws connected
8 with insurance fraud and specifically with auto claims
9 fraud, were inacted last year. Insurance companies seemed
10 to be moving toward a zero tolerance level for lying on
11 insurance claims, rather than only in investigating when
12 the amount reaches on certain threshold point.

13 The City of Philadelphia just passed a
14 ordinance allowing police to pick up cars for those without
15 insurance. These are all very positive steps if enforced.

16 It is easier to pass laws than enforce them.
17 Part of the answer lies in the budget you folks have.
18 Perhaps maybe the Commonwealth of Pennsylvania could
19 include in its budget block grants to local police
20 departments for adding staff representatives or police
21 check points for the impoundment of vehicles.

22 This police visability will hopefully scare
23 some individuals to either abide by the law or reduce their
24 local driving. Eventhough I do not have first-hand
25 knowledge of this, I suspent that law enforcement is

1 stretched too thin now with other crimes to spend a lot of
2 time looking for the uninsured motorist.

3 Another specific recommendation is the
4 legislature to ask the Assigned Risk Plan to plug a major
5 loophole. Now a person can get on an Assigned Risk Plan by
6 paying a down payment of 25% of the premium and nothing
7 else. The policy shortly after that lapses, yet the person
8 gets an insurance I.D. card that's good for a year, or it
9 says it's good for a year. Plugging this loophole somehow
10 could save lives.

11 The highly visible, and some would say
12 punitive law enforcement effort by itself, might have
13 limited results. The police in some areas are seen as an
14 occupying force and, in deed, non-compliance with driving
15 without insurance is a status symbol. In addition, there is
16 a real question of affordability where there may be a
17 law-abiding person, but must choose between rent and
18 insurance. Particularly for the working poor, the public
19 transit system may not be as reliable as an automobile as
20 they attempt to commute. From a sociological standpoint,
21 the people in the inner city may feel that they need the
22 mobility of an automobile just to get out of a very tough
23 environment in which they live.

24 Visible check points might not solve the
25 problem of poverty if citizens, the working poor are forced

1 to illegally drive without insurance. In one sense it's a
2 Catch 22. Costly insurance swells the number of uninsured
3 motorists. Large numbers of uninsured motorists make
4 insurance cost more.

5 It is beyond this Committee's ability to solve
6 the problems through conventional law enforcement or by
7 plugging loopholes or by passing more laws. I would ask
8 you to be visionaries and look at a major shift in public
9 attitude toward the uninsured motorist who put us all in
10 danger. Is this too ambitious? If you remember a few
11 years ago smokers could smoke where they wanted to and we
12 had to breathe their secondhand smoke. Now, thanks to
13 shift in public opinion backed up by some scientific
14 studies, smoking in a public place is frowned upon, because
15 the secondhand smoke laws. Laws have sprung up to protect
16 the rights of the majority not to chose to breathe
17 someone's smoke. If any of you smoke, please don't take
18 offense, but I'm not against you. Instead, I'm looking at
19 an analogy, the public's attitude toward secondhand smoke
20 has changed.

21 Now, there are large numbers of uninsured
22 motorists out there and they're effecting you and I. What
23 we, the people who pay insurance premiums are living with
24 their secondhand smoke, costing us more and measured by
25 loss of human life and high property damage.

1 In addition, the label of the City of
2 Philadelphia has a great label of both the City of
3 Brotherly Love. Philadelphia has also earned a reputation
4 as a place where people practice rudeness as an art form.
5 This rudeness is especially seen on our roads where the
6 irresponsible drivers regularly spit in your eye as they
7 cut across your lane. Let's turn this attitude on its head
8 by making people see that uninsured motorist are really the
9 outcasts of society.

10 They are violating my rights as in
11 Philadelphia slang, "they're in my face." PennDOT or the
12 Federal PennDOT Federal DOT working with the companies
13 should start a major advertising campaign on a par with the
14 seatbelt campaign.

15 This campaign should educate people that
16 uninsured motorists violate everybody's rights to have safe
17 roads and affordable insurance. Where people in some
18 communities now think it's cool to drive uninsured because
19 they're ripping off the system, replace that notion with
20 the fact that the insured motorist is ripping everyone else
21 off.

22 My PR campaign means intense radio, T.V., and
23 billboards. Personally, I would love to see a billboard
24 along the Schuylkill Expressway and I-95 saying things
25 like, "If you don't carry insurance, get off the road. The

1 fine for an accident with no insurance is \$__." Or a
2 billboard that simply says, "Uninsured motorists kill you
3 twice: On the road and on your insurance premium." And
4 really, if I can digress on that point, the money that you
5 spend to hire police, it's expensive, because I know
6 employee benefits run with all that and it adds up, but
7 billboards don't cost much. I don't see where anybody
8 would be against us in this campaign to get the uninsured
9 people off the road. I'd be only too glad to help raise
10 this money for my billboard idea.

11 In conclusion, let me say that this is a
12 matter that I have thought about a great deal. Eventhough
13 there are legislative things that you can do by typing laws
14 and plugging loopholes, there are other things you as state
15 legislators can do. You have the power the State of
16 Pennsylvania as a bully pulpit to make people realize their
17 ability to drive, which is a privilege, and their ability
18 to have a decent quality of life is torn away by those who
19 refuse to drive illegally. It is a matter of we the people
20 versus those individuals who are so selfish that they think
21 you and I should pay for their reckless driving.

22 I ask you to take a larger view of this issue
23 and I thank you for letting me testify.

24 REPRESENTATIVE DRUCE: Thank you, Mr. Wentz.
25 Any Committee members? Representative Wright.

1 REPRESENTATIVE WRIGHT: I sympathize with you
2 wanting to have a public awareness campaign. But somebody
3 who can't afford to buy the insurance, just doesn't have
4 the money for one of these high-risk policies of \$6,000 or
5 whatever it was that the Budget Committee had said, and
6 they're riding the Expressway and they see a billboard that
7 says, "Get off the road," do you think they really are?

8 MR. WENTZ: I don't know. I see the.
9 billboards there's a black border around it like a
10 tombstone with nothing fancy on it and big bold letters and
11 somebody's got to sign it, I guess, as to who put the
12 billboard up. I personally don't like that guy on the road
13 and his liable to kill me.

14 REPRESENTATIVE WRIGHT: As I get constituents
15 that come in and say that they lost their license and have
16 a number of tickets, et cetera, and they've lost their
17 license.

18 MR. WENTZ: Yes.

19 REPRESENTATIVE WRIGHT: They're the only
20 driver in the household, they have a car. Will you have an
21 insurance company that will insure them and back them up if
22 they're caught driving and get into an accident?

23 MR. WENTZ: If you're driving with a suspended
24 license, you're insurance, even if you have a policy
25 enforced, is automatically suspended.

1 REPRESENTATIVE WRIGHT: So then what you're
2 saying is that we should have a public record that says,
3 you've been suspended, a lot of people have, therefore you,
4 shouldn't be driving, which is the correct thing to do.
5 I'm talking about in reality. All those people that are
6 coming in say, I have a family. I have a job that's 20
7 miles away and the only way to get there is by driving.
8 They come in to me and they plead about if they can do some
9 other type of community work, just don't take my license
10 away, because I need to drive to work. So that billboard
11 is going to say, Oh, I see the billboard and they're going
12 to say, I'll let my family decay --

13 MR. WENTZ: Has the man without the license
14 lost his license because he's done things wrong or is it
15 just that he can't afford the insurance?

16 REPRESENTATIVE WRIGHT: The assumption in the
17 majority of the cases is he lost his license because he did
18 something wrong. I'm not saying that we should be more
19 laxed upon that, but the reality is a lot of people have
20 lost their licenses and therefore insurance isn't valid
21 anymore and they know that so they don't pay for it.

22 A public awareness campaign, a lot of them
23 realize what they're doing. A lot of them know that it's
24 wrong but the problem is is, they're stuck between a rock
25 and a hard place, and they're taking a risk. I'll drive,

12

1 I'll be careful, I won't get into that accident. A lot of
2 people do and they don't get into an accident. They don't
3 get caught, their suspension time ellapses and they get
4 their license back. A lot of these uninsured drivers are
5 people that generally are law-abiding, but they're between
6 a rock and a hard place, the Catch 22 has caught them and
7 they are going to lose their jobs. And they're saying,
8 well, I don't want to go on welfare and all that kind of
9 stuff.

10 MR. WENTZ: There is a practical way to live
11 with it and it may not be pleasant. What we tell people
12 that have a problem driver on their policy, is first of
13 all, get them an older car, one that passes inspection
14 obviously, but one that you don't have to carry collision
15 or comprehensive physical damage insurance on, then strip
16 the limits down to the basic state minimum with limited
17 tort on it and just give the person enough to go on the
18 road and be that financially responsible.

19 It is not even that expensive in Philadelphia
20 when you do that with Philadelphia rates. The problems is,
21 the person's driving record. If he came to me for
22 insurance and he's got a couple of suspensions, if you rate
23 them in the Assigned Risk, the premium goes right up.
24 Some insurance companies, if they would write it, might
25 look the other way on some of the suspension. But on some

1 of the accidents, depending on what they are, if they miss
2 a stop sign or something like that, but as soon as you go
3 over the line with a cleint and they get suspended for
4 driving, then you're insurance market place is not going to
5 be much help to this guy. The greater question to ask is,
6 should he be on the road?

7 I realize he's got to get to work. I have a
8 lot of friends in this business. One of my best friends is
9 a guy who is an inner-city agent and we talked about this
10 years ago. He told me the person in the inner-city got to
11 get out of that environment once in awhile. If a guy lives
12 on a street full of drug dealers, if he has car he can go
13 to a mall, he can go shopping some place, he can go to
14 Atlantic City for the day or something.

15 There's your Catch 22. A lot of your
16 situations are ratable. The question is, there aren't too
17 many insurance agents in my association that have their
18 address in Philadelphia anymore, because it's a problem we
19 can't cope with anymore. My book of car insurance business
20 is people that have been with me for years. I have a hard
21 time writing new business in Philadelphia. This is a known
22 area for lawsuit abuse and the uninsured.

23 REPRESENTATIVE DRUCE: Any other questions
24 from members of the Committee? Mr. Wentz, thank you very
25 much for your testimony this morning.

1 MR. WENTZ: Thanks to all of you.

2 REPRESENTATIVE DRUCE: Our next testifier this
3 morning is John Doubman, who is the secretary and counsel
4 for the Insurance Federation of Pennsylvania.

5 Whenever you're ready to begin, please feel
6 free to do so. If you'd like to paraphrase or deviate from
7 the remarks, feel free to do so, and that may give the
8 Committee more time to answer questions and get some
9 comments back from you in your position with the
10 Federation.

11 MR. DOUBMAN: I'd be happy to do that.

12 Thanks for the opportunity to speak today. I
13 am John Doubman, secretary and counsel for the Insurance
14 Federation. As most of you know, the Federation is the
15 State's leading commercial trade association with our
16 principal office in Philadelphia. Among our membership is
17 some 200 companies are almost all of the major auto writers
18 in Pennsylvania and a number of the smaller ones.

19 We are greatly supportive of the Committee's
20 effort to study the problem of uninsured motorists on
21 Pennsylvania's highways. We are not a data gathering
22 organization, so I'm afraid we don't have an awful lot of
23 data to give you to help you in your task. We did
24 cooperate extensively with the Legislative Budget and
25 Finance Committee in compiling the report that I noted was

1 cited in House Resolution 34. Hopefully that Committee's
2 work in insurance department sources which were used in the
3 study should give you some help on the data side of this.

4 insurers have an obvious interest in
5 decreasing the number of uninsured motorists because the
6 cost of uninsured motorist coverage makes automobile and
7 insurance generally more expensive.

8 I might tell you, in several unpublicized
9 ways, the insurers through the Federation have been trying
10 to help Philadelphia authorities with this problem.

11 Several years ago the Federation worked with the
12 Philadelphia Traffic Court to compile a company contact
13 list to enable Philadelphia Traffic Court judges to check
14 the validity of financial responsibility cards with a
15 single call in preparation for their hearings.

16 Interestingly, the other day I just got a
17 letter from the president of the Traffic Court and he
18 asked us to update the list, so I guess it must be of some
19 use to them. Likewise, the insurers are very much in
20 support of requiring compliance with the laws of the
21 Commonwealth. So we are happy to give you our insights of
22 this problem.

23 To the extent that the Resolution calls on you
24 to address the physical risks of driving, we support
25 efforts to get unlicensed drivers and unregistered and

1 uninspected vehicles off the road. Of course, I tell my
2 kids, a car is not a toy, but a dangerous instrumentality.
3 No car which is not properly inspected for safety should be
4 on the highway. We support having that vehicle taken off
5 the road.

6 We'd like to make one clarification about the
7 preamble's suggestion that insurance rates are seriously
8 affected across the state by uninsured motorists in
9 Philadelphia. As you know, because insurance rates vary
10 from territory to territory, it's really the law-abiding
11 citizens of Philadelphia who bear the brunt of that cost.
12 As a Philadelphia area resident myself, I struggle to pay
13 large premiums like other local residents and these are
14 made higher by people who ignore the law.

15 I might briefly just comment on the proposal
16 to impound vehicles without insurance. Philadelphia City
17 Counsel just passed a measure in that regards, and as I
18 understand it, it requires a change in State law to apply
19 to other than parked vehicles. Because enforcement of that
20 proposal will be done by law enforcement, (not insurers),
21 we defer those agencies as to the efficacy to that
22 technique. We testified before City Counsel on that bill,
23 neither in support, nor opposition, but we voiced a concern
24 as to whether impoundments were practical, given the
25 limited resources and the already significant challenges

1 that the Philadelphia police force faces.

2 As you know, Pennsylvania has long required
3 that if a person drives he should have insurance to cover
4 any property damage or personal injury occasioned by his
5 negligence. I think the insurance industry feels that
6 rather than have lack of auto insurance be made the basis
7 for confiscation of a citizen's auto, we would prefer to
8 see further progress on lowering the cost of insurance so
9 as to make it affordable to those who can't afford it
10 presently, and the advantages of any progress in that
11 regard would be felt state wide, but particularly here in
12 Philadelphia.

13 We don't claim to have the complete solution
14 for that problem, which by the way, has proven to be
15 remarkably resistant to all the approaches that we tried
16 nationally. But several suggestions recommend themselves.
17 The NAIC just finished a study on that and they concluded
18 fines should be made stiffer including first-time offender
19 fines. Unfortunately, that recommendation to be more
20 effective about fines, comes with a caveat that collecting
21 may be as difficult as impounding cars.

22 Councilman Makelhadden pounden on my head and
23 told me how much fines were outstanding here in the city
24 and I couldn't be disrespectful and say, maybe you ought to
25 get more effective about collecting the fines, but that can

1 prove pretty difficult.

2 The insurance industry also thinks that we
3 might try a minimum policy approach similar to that tried
4 in Florida. Under Florida-style reform, and we'd like to
5 have some data on how they're doing down there, drivers
6 rely on their own insurance to cover their own physical
7 injuries and a modest amount of property damage. But the
8 cost of the coverage is reduced because they don't have to
9 purchase third-party liability insurance. As you know
10 liability insurance represents about half the cost of all
11 minimum auto coverage, and that would reduce the cost of
12 buying that type of policy considerably. I don't think
13 I'll trial bar would be real happy with that suggestion.

14 Just to close here, as you know Act 6 which
15 limited the amounts and kinds of insurance coverage which
16 drivers had to buy was really a step along the direction of
17 the Florida type of approach. I think the last five years
18 have shown that this works. We've had pretty flat rates
19 for auto coverage which we've seen.

20 Uninsured motorists represent maybe ten to
21 20% of the insurance costs in Philadelphia, so since in the
22 end making coverage more affordable for all makes it
23 hopefully more attractive to those not carrying it, our
24 third suggestion would be to try to get rates down.

25 Generally, this is not the forum I don't think

1 to treat the many factors that work to cause the high rates
 2 here in Southeastern Pennsylvania, but there's a lot of
 3 initiatives underway to reduce these. Both the
 4 Philadelphia police and the District Attorney of
 5 Philadelphia deserve a lot of praise for supporting our
 6 legislation that will create insurer, sponsored anti-car
 7 theft and anti-fraud programs. We hope they'll be up and
 8 running by the middle of the year and maybe some results
 9 will be seen from them after another year.

10 Several other factors caused Philadelphia's
 11 rates to be higher than elsewhere. One thing to look at is
 12 the fact that bodily injury claims in Philadelphia are
 13 about tripple the statewide average. I enclose the
 14 Insurance Research Council's study on that particular
 15 problem which deals with claiming behavior in Philadelphia
 16 and elsewhere. That does not deal with the uninsured
 17 problem per se, but it's an important part of the extensive
 18 auto insurance here.

19 Finally, as you know Act 6 in conjunction with
 20 some of the fraud innovations are intended to hold the line
 21 on auto insurance costs by limiting provider medical costs
 22 and affording the limited tort option, which I heard
 23 mentioned today. Although it's a matter normally handled
 24 by the House Insurance Committee, there's an attack which
 25 continues to surface, which we believe erodes the ability

14

1 of insurers to identify and stop unnecessary medical
2 treatment. I refer to legislative proposals to weaken peer
3 review organizations. I hope if such legislation comes
4 before you, either in this Committee or individually on the
5 floor of the House, that you'll look long and hard at its
6 impact of those proposals on the cost of insurance in
7 Philadelphia.

8 Thanks for the opportunity to appear before
9 you today. If the Federation can supply you with anything
10 to help you along your tasks, it would be delighted to do
11 so.

12 REPRESENTATIVE DRUCE: Thank you for your
13 testimony. I have one question.

14 You mentioned that the Federation did not take
15 a position on City Council's resolution to deal with the
16 impoundment of vehicles and really keeping that
17 responsibility with law enforcement, who in my opinion,
18 particularly in the City of Philadelphia, are overworked
19 and probably have greater priorities to deal with in terms
20 of public safety for the people of the City of
21 Philadelphia.

22 I had been considering, as Representative
23 Wright began working on this resolution and directing us to
24 study this issue, the idea of possibly putting the
25 responsibility of retrieving auto insurance tags from

1 uninsured motorists with our constibles. Who, as you know
2 are paid when they serve warrants for the number of
3 warrants that they serve.

4 Rather than impound a vehicle, which I think
5 becomes problematic in terms of where you then park the car
6 and moving that vehicle and all the other things associated
7 with it, that when they retrieve that tag that the car is
8 then booted in the place that it is parked.

9 I'd be curious to see if you can ask the
10 Federation what their response would be if that sort of
11 approach were put into place and we didn't burden local
12 police to maybe see if we could work with the Constibles
13 Association to take on a responsibility in that regard to
14 tackle uninsured motorists.

15 Let me ask you one question about statistics
16 and full tort and limited tort. I have some premiums here
17 that State Farm provided for me. I don't pick on them.
18 They just happen to be lucky enough to be in Harrisburg
19 this week for their convention, so I asked them if they
20 could provide them.

21 When you look at the numbers for full tort and
22 limited tort and the difference between the two premiums
23 and you look at Delaware County, which the difference is
24 roughly about \$35. In Montgomery County now there's
25 differences between the area closer to Philadelphia and

1 further away, but the average is about a \$35 difference.
2 Bucks County is about a \$38 difference depending on the
3 Lower and Upper Bucks on average. Philadelphia the
4 difference is probably about \$75. That's a little bit more
5 significant.

6 My question is, if you're looking at that
7 statistic, it would lead one to believe that since we
8 inacted a limited tort provision that one would see much
9 greater reduction in auto insurance rates for limited tort.
10 But yet, that doesn't seem to be the case, and I realize
11 there are a number of other factors that contribute to why
12 insurance rates for an individual are what they are.

13 But it may lead one to look at those numbers
14 and say, well, the insurance industry has been successful
15 now at limiting the attorney's ability toward limited
16 toward, but yet they've not passed on the reductions that
17 should be enjoyed by the policy holder who has now opted
18 for limited tort.

19 I'm curious as to your response to that. Most
20 people would probably opt for full tort because for \$35
21 more dollars over a six-month period, why not fully cover
22 yourself and your family.

23 MR. DOUBMAN: Well, last year after what was a
24 pretty agonizing dispute within the Federation membership,
25 we did go to the Insurance Department and try to get a

1 regulation introduced, which never really had the full
2 support I don't think of the Insurance Department. I
3 believe it wasn't floated originally to make sure that full
4 tort electors bear the full cost of that election.

5 To be perfectly honest with you, I haven't
6 visited with it for awhile, and rather to try to explain it
7 to you badly, it is a fairly complicated proposal that
8 talks about balancing these costs and putting these costs
9 back with full tort electorates. But that proposal would,
10 we think, result in the greater disparity that you would
11 have expected to see.

12 I'd be happy to submit something to you on it
13 and I would do you a favor by really doing that since it
14 will come through clear. If you try to get into much more
15 detail on it now, I will botch it. But to summarize, the
16 industry is very much aware of the value of the difference
17 in the election.

18 As you know, we have for some time advocated
19 that we should have the default to the limit as opposed to
20 the default to default, but that really doesn't answer your
21 question. I'd be happy to submit something to the
22 Committee on that in line with our proposal and some
23 estimate of what we think it would do.

24 REPRESENTATIVE DRUCE: Any members of the
25 Committee have questions?

1 REPRESENTATIVE WRIGHT: You had said that
2 uninsured motorists represent 20% of costs in Philadelphia.
3 So what you're basically saying is that when we see the
4 charts from earlier about the various rates in the
5 Philadelphia area suburbs and across the state and there is
6 many statements made, verbal statements made. I made them,
7 other members made them to testify about uninsured
8 motorists are increasing the rates of insured motorists.

9 Your statement verifies that, but when I see
10 10 to 20% that really -- the huge difference in costs that
11 we see between the City of Philadelphia, suburbs and then
12 the rest of the state is partly due to uninsured motorists,
13 but it does appear to be major factor.

14 MR. DOUBMAN: I would think that's our
15 collusion. I must tell you, I didn't do any magic to get
16 that number. That is, I think if you look at a breakdown
17 of premiums, that's about what it's going to cost you to
18 get that coverage, so it gives you a rough ballpark
19 estimate. That's not drawn from any major set of analysis
20 of data. I mean, I can try to get some more on that for
21 you, but the way we did it was pretty much a ballpark
22 figure, just looking at the cost of policies.

23 REPRESENTATIVE WRIGHT: You understand what
24 I'm saying?

25 MR. DOUBMAN: Absolutely.

15

1 REPRESENTATIVE WRIGHT: As insurance rates and
2 whatnot that affect this, but it's a secondary issue here,
3 but I just want to make it clear in my mind that uninsured
4 does impact the costs but it isn't necessarily the major.
5 There are a bunch of other issues out there that are
6 effecting the costs, the disparity of the costs.

7 MR. DOUBMAN: Absolutely. I don't know anyone
8 who contends that it is the primary problem in
9 Philadelphia. I've never heard that said. It is 10 to 20%
10 problem.

11 REPRESENTATIVE WRIGHT: But the difference in
12 price is more than 20%?

13 MR. DOUBMAN: Yes, there are other major
14 problems.

15 REPRESENTATIVE DRUCE: Thank you very much for
16 your testimony this morning and I appreciate the
17 information you're going to supply. Didn't mean to give
18 you any homework. That information will be very helpful.

19 MR. DOUBMAN: We're pleased to do that and
20 we'll see what we can get to you on that.

21 REPRESENTATIVE DRUCE: The next individual to
22 testify from the Pennsylvania Trial Lawyers Association is
23 Rubin Honik. He's secretary of the Association and also a
24 member of the Pennsylvania Trial Lawyers Association.

25 MR. HONIK: Good morning. I'm generally

1 unaccustomed to reading from a prepared text, but given the
2 format that we're following this morning. I will stick to
3 it, at least, to some extent, but deviate where I think it
4 may be necessary.

5 Let me first make an observation and a comment
6 about which sounded like some homework that you may have
7 given to the previous witness. I think there is a rather
8 compelling question that I hope is left with you at the
9 collusion of this hearing and any other hearings you may
10 conduct. That is, what are the factors that influence the
11 cost of insurance, because after all, I think we can all
12 agree that the the cost of the insurance is at least as
13 significant as any other factor and why people are
14 uninsured.

15 I couldn't help but notice that the
16 representative from the insurance industry in response to
17 your question, sir, when asked about passing on the costs
18 of limited tort selection, responded by saying, we will
19 look into and perhaps prepare a regulation or response to
20 have the full bore of the full tort election on the full
21 tort insured. I think that it should be not lost on you
22 that the proper question is, why aren't savings passed onto
23 the limited tort individual?

24 Because if you make full tort more expensive
25 as it concerns the uninsured problem, which we're here to

1 discuss today, it's not going to make the insurance more
2 affordable for those who can't afford it in the first
3 instance. So if you have limited tort and somebody who can
4 barely afford limited tort, it's not going to help to get
5 more people into the lower end of it, and therefore have
6 more insured individuals unless you focus on why is the
7 limited tort more expensive, why isn't that gap bigger by
8 having limited tort premium lower than it presently is. I
9 wanted to respond to that.

10 Let me thank you again for the opportunity to
11 testify before you on this serious problem of uninsured
12 motorists in Southeastern Pennsylvania.

13 As you know, I am a trial attorney. I am an
14 officer and the Director of the Philadelphia Trial Lawyers
15 Association. A sustaining member of the Pennsylvania Trial
16 Lawyers Association, and a Philadelphia County practitioner
17 with a longstanding substantial practice concentrated in
18 representing individuals of auto accidents.

19 I want to commend you, that is, the Committee
20 on the adoption of the resolution, which I think very
21 cogently summarizes the major findings of the Legislative
22 Budget and Finance Report of last year and the need to
23 study and further and further analyze this problem.

24 Including in particular the risks posed to the
25 citizens of the Commonwealth and the possible need to have

1 legislative action. I want to separately commend, and I'm
2 glad Mr. Durgin is still here, both he and his staff at the
3 LBFC for the preparation of this excellent report, which I
4 think is a very critical foundation toward analyzing this
5 problem.

6 In the time permitted me under this format I
7 would like to structure my comments in the following
8 manner; First, from the perspective of a trial attorney I'd
9 like to comment on the nature and extent of the problem of
10 uninsured in Southeastern Pennsylvania, and what I see are
11 some of the causes and dynamics which impact the problem.
12 Second, I'd like to focus on the potential responses to
13 this problem by identifying solutions to the cause roots,
14 enforcement techniques for those that are not in compliance
15 with financial responsibility requirements and, finally
16 solutions for citizens of the Commonwealth who are
17 presently being unfairly victimized by uninsured
18 tortfeasors, in the area which I feel calls for some
19 legislative action.

20 For the five year period that was studied by
21 the LBCF, '88 through '92, '88 demonstrated to the highest
22 statewide level of uninsured drivers at nearly 11% with
23 1990 being the banchmark for Philadelphia with a staggering
24 percentage of uninsured at over 35%. Not surprisingly, the
25 Act 6 Amendments of 1990 and, in particular, the mandated

1 rollbacks in rates for the first year, saw a considerable,
2 although still unacceptably high rate, drop in the rate of
3 uninsured in Philadelphia County. A smaller drop occurred
4 in '92, with the same year showing not insignificant
5 increase at the state level.

6 The LBCF report candidly states that its
7 figures for the number of vehicles uninsured may be lower
8 than the actual numbers, due to a certain lack of response
9 in certain statistical areas based on either under or
10 non-reporting. I can tell you anecdotally as a trial
11 attorney, I believe this to be true for myself and many of
12 my colleagues, that the actual number of uninsured
13 motorists in Southeastern Pennsylvania is considerably
14 higher than the slightly more than 1 in 4 drivers estimated
15 as of roughly three years ago. Further, unless there is
16 some effort to rein in rates, that is, the actual costs to
17 consumers for coverage, I believe that the actual numbers
18 of uninsured drivers is almost certain to go up over time
19 in Philadelphia and not down.

20 The magnitude of the problem is also manifest
21 by the number of tickets, the very large number of
22 outstanding fines that remain uncollected. I think that
23 was very well-covered by Mr. Durgin, both in the report as
24 well as his testimony today, and I won't say anything more
25 about it.

1 Let me observe that in any system of mandatory
2 insurance there will be some percentage of non-compliance.
3 The staggering degree of non-compliance in Southeastern
4 Pennsylvania, I believe, is substantially due to the
5 inability of our citizens to afford even minimum levels of
6 coverage. In addition, there are certainly those who can
7 or should be able to afford coverage but risk
8 non-compliance because the penalties are weak and
9 enforcement is spotty. An all out effort should be
10 undertaken to identify uninsured vehicles, make coverage
11 more available and affordable and employ laws and
12 regulations improving enforcement and creating effective
13 penalties as deterrents.

14 The primary methods currently used for
15 identifying uninsured vehicles is through the vehicle
16 registration process, the use of audits and interfacing
17 with insurance carriers over cancellation information and
18 audit verification. The study done by the LBFC suggested a
19 number of methods to eliminate many of the manual processes
20 that are presently used by PennDOT in order to have better
21 compliance and also to enlist greater cooperation from the
22 insurance carriers.

23 I have in my prepared text a number of items
24 that are discussed in the report. I have my own spin on
25 some of them and I'd like to share them with you.

1 By eliminating the manual vehicle registration
2 renewal application and the audit process, you're going to
3 increase the number of applications scanned. I think
4 that's critical because that's where most the data comes to
5 us, about who is and who's not uninsured. Greater scrutiny
6 in this area certainly would yield better identification.

7 Automating PennDOT's correspondence with the
8 applicants for registration and insurance inquiries and
9 consider reducing the 45-day response time. In my
10 judgement, the sooner a non-compliant registration is
11 suspended the better. I think with the availability of
12 electronic data and computer data bases, 45 days is, I
13 feel, unnessarily long in order to await a response from a
14 motorist.

15 There should be cross reference of insurance
16 renewals with insurance cancellations to reduce what I
17 call, "false positives", that is, those that are thought to
18 be uninsured but who have merely changed companies.

19 I believe that there needs to be an insurance
20 of compliance of submission of insurance cancellation
21 information as required by regulation by the imposition of
22 penalties upon insurance companies for their non-compliance
23 or late compliance to those requests for information. I
24 believe PennDOT simply can't do the job of identifying
25 uninsured vehicles alone. I believe they need to foster a

1 much greater cooperation with the insurance carriers and,
2 frankly, make greater demands upon them.

3 Is a significant increase in the efficiency of
4 PennDOT audits and its overall identification process is
5 not experienced within one year of putting into place a
6 more fully automated system, I believe consideration should
7 seriously be given to placing more or perhaps even all of
8 the task of identifying uninsured vehicles upon the
9 insurance carriers of this Commonwealth who may have a
10 better capacity to identify these numbers so that they can
11 be acted upon by the state.

12 It should surprise knowone that where auto
13 insurance is at least 2 1/2 times more costly in
14 Philadelphia, that there are three times as many uninsured
15 drivers in this county when compared to the statewide
16 average. The best, if not perhaps the hardest way to
17 reduce uninsured vehicles, is to make coverage more
18 affordable. One of the most effective and increasingly
19 popular devices for reducing rates is to impose limitations
20 on how insurers may use territorial factors in their
21 rating. Presently, Pennsylvania law allows insurers to
22 rate according to any differences among risks that can
23 demonstrated to have a probable effect upon losses or
24 expenses. Territory is one of those factors and is key
25 among such others as the owner's age, marital status,

1 driving record. Insurers develop average rates based on
2 actuarial experience and adjust to account for territorial
3 differences. Highlights on limitations to territorial
4 factors, many of which are discussed in the LBFC report,
5 include the following: and I think they're important enough
6 to bear mention here in my testimony.

7 Basic rates on driving record,, miles actually
8 driven and years of driving experience.

9 To reduce the total number of territories that
10 can be used in calculating rates.

11 Strictly limiting the allowable differences in
12 range and rates between and among territories.

13 Empowering the State Insurance Commissioner to
14 strictly scrutinize and frequently review the territories
15 utilized to insure suportability by statistical and
16 demographic evidence.

17 Finally, strictly enforcing a uniform
18 statistical plan to justify ratings differences between and
19 among particular territories.

20 The area that I'm suggesting bears some
21 attention in terms of thinking through how rates are
22 calculated is not new. Our Senate, House have in the
23 recent past considered sending new criteria for
24 establishing auto insurance rates, including some
25 limitation on the approval of territorial rating in the

17

1 form of now passed Senate Bill No. 1811 and House Bill Nos.
2 2072, 470 and 471. Each and every one of those were bills
3 in both chambers of legislation for which took some
4 consideration of the issue that I'm now raising. Related
5 legislation effecting rates and the availability of
6 coverage might include some or all of the following, which
7 have likewise been previously considered by our legislature
8 just in the last decade:

9 Number one, prohibiting insurers who refuse to
10 renew or write auto policies from writing new policies for
11 new types of insurance. Let me pause a second and just
12 highlight to you that that and the other items that I'm
13 about to suggest to you are things that will make the costs
14 of having the insurance something easier for certain
15 consumers to bear. If you look in my prepared text, next
16 to each of the items that I'm now highlighting I
17 cross-reference the either Senate Bill or House Bill that
18 had earlier considered the issue.

19 Number two, prohibiting insurers from
20 cancelling policies for one accident per individual within
21 a 36 month period. Well, that's going to have a salutary
22 effect in making insurance more available and affordable,
23 because someone who perhaps had such an accident who may
24 get rated through the ceiling, if you don't have this sort
25 of rate-based item, is going to be more likely to afford

1 it.

2 Prohibiting cancelling or refusing to renew
3 insurance policies when the damage is less than \$1,300 in
4 excess of the deductible. I think you'll save another
5 category of people from joining the ranks of the uninsured
6 if they have an accident and they have damage that doesn't
7 go above this threshold, you'll keep them in the insured
8 ranks.

9 There are others here. Including, limiting
10 surcharges and rate penalties for automobile insurance.

11 Concurrent with better identification of the
12 numbers of the uninsured and taking steps to make coverage
13 more available and affordable, efforts at increased
14 enforcement of violators should not be overlooked.

15 The LBFC has estimated from available PennDOT
16 information that between '88 and '92, roughly 25% of all
17 uninsured vehicles were subject to registration suspension.
18 I've highlighted those areas requiring improvement in the
19 identification of uninsured vehicles through the
20 registration application renewal process. Increased
21 enforcement by registration suspension based on PennDOT
22 audits and insurer cancellation reports can and should also
23 increase by use of some of the methods I've discussed and
24 which also appear in the LBFC report.

25 PennDOT is currently empowered, in deed,

1 required to suspend the driver's license of a vehicle
2 registrant or owner if it determines that the owner or
3 registrant operated or permitted the car to be operated
4 without insurance. It appears from the manner in which
5 PennDOT currently identifies such violators that there's a
6 serious underenforcement of this statutory requirement.
7 According to the LBFC Report, PennDOT officials suspend
8 operators' privileges based on information PennDOT receives
9 about uninsured vehicles from citations for vehicle owners'
10 failure to maintain auto insurance, as well as police
11 accident reports, and reports of certain actions, such as
12 unpaid judgments arising from automobile accident claims,
13 among others. The suspension period is three months and is
14 in addition to other penalties such as the suspension of
15 one's registration and a \$300 fine.

16 It appears presently that PennDOT does not
17 suspend driver's licenses of the vehicle registrant nor
18 owner through the data it collects from audits, insurer
19 cancellation reports and other registration application and
20 renewal data which is available to it suggesting an absence
21 of coverage. This appears to be the case because current
22 law focuses on the operation or permission to operate a
23 vehicle which is uninsured before suspension of a license
24 can occur.

25 Consideration should be given to amending the

1 statue so as to permit PennDOT to suspend driver's
2 privileges of vehicle registrants and/or owners on the
3 basis of the same data that permits it to suspend
4 registrations. It is presently too easy to register an
5 automobile or, for that matter, to abandon a vehicle with
6 only junk value while maintaining operator privileges.
7 That's what I see happening in Philadelphia a great deal.
8 For those motorists who fall into these categories of
9 non-compliance it would serve as a serious wake-up call to
10 place their operators privilege at risk. Although
11 generally less efficacious, I also support Philadelphia
12 City Council's recent legislation to impound the parked
13 vehicles of those uninsured and I hope the state
14 legislation can parallel that.

15 Despite the best efforts to make coverage more
16 available and affordable and to improve enforcement
17 efforts, there is almost certain to remain an unacceptably
18 high level of uninsured vehicles in Southeastern
19 Pennsylvania and, in particular, Philadelphia County.
20 Estimated uninsured rates from other large American cities
21 and urban centers are comparable or higher than
22 Philadelphia's rates and appear endemic to the urban
23 environment.

24 The House in passing Resolution No. 34 wisely
25 concluded that there is a risk posed for the citizens of

18

1 this Commonwealth by the number of vehicles being operated
2 without insurance and the highway safety is likewise
3 seriously affected. These risks are significant statewide,
4 but are dramatically so in Philadelphia County. The reason
5 for this, I think, is obvious. If at least 1 in 4
6 motorists in Philadelphia is uninsured, with approximately
7 1 in 13 across the state, those motorists who are in
8 compliance with Financial Responsibility requirements but
9 have not elected to carry voluntary uninsured motorist
10 coverage, represents a significant segment of
11 Pennsylvania's entire motoring public, which has absolutely
12 no recourse for recovering non-economic and some economic
13 damages inflicted upon them by the uninsured. Although I
14 do not presently have hard data on the number of motorists
15 in compliance with Financial Responsibility who have not
16 elected to carry uninsured motorist coverage, we can take
17 some indication of the magnitude of that segment of our
18 motoring population by looking at the tort option
19 selections made in Philadelphia and across the state.

20 I won't go over the hard data on that, but
21 suffice it to say, as you all know, that there is a
22 significant part of Pennsylvania motoring public,
23 particularly in Southeastern Pennsylvania, which now has a
24 limited tort option and a somewhat smaller number, 34%
25 across the state. That gives us some idea, if you will, of

1 the economic power that is selecting the limited tort and
2 its and gives us some indication, plus or minus, probably
3 10 or 15%, of who has UM coverage and who doesn't.

4 The solution to the problem of having a
5 significant segment of our motoring population at risk
6 because there's no coverage, and let me digress and say
7 that Mr. Wentz addressed this issue in his presentation.
8 He told you from the perspective of an insurance agent that
9 there is, in fact, a significant victim population that's
10 going to have no recourse, both in property damage and
11 personal injury.

12 The solution to this problem, I think, is to
13 go back to the way it was prior to 1990 when the Financial
14 Responsibility Law required motorists to carry uninsured
15 motorist coverage. According to data from the insurance
16 commissioner that had been related to me by the LBFC
17 Committee, although not seen by myself personally, suggests
18 that the cost of that coverage is presently 10 to 15% of
19 the total cost of auto premiums. This estimates out
20 across the state to about \$100-\$150 on average for
21 policies. Happily, I'm told that this rate is apparently
22 "flat" which is important. In other words, the difference
23 or the cost, if you will, of UM coverage is comparably the
24 same from county to county. There's not a dramatic
25 difference, for example, in the cost of UM coverage in

1 Philadelphia by comparison say with Lancaster County.

2 I noted with some interest in the LBFC Report
3 that in Appendix F, Page 64, of that report, there was a
4 sample declaration sheet which showed that the cost of UM
5 coverage, at least in the case of a \$35,000 single limit
6 liability policy with minimum first part benefits and
7 limited tort were really more like 2% of the total cost of
8 the policy.

9 I think the point is that in any event, the
10 cost of UM coverage, even as an optional form of coverage,
11 is relatively low in comparison with the total cost of the
12 UM premium. Requiring UM coverage to be mandatory would no
13 doubt reduce the current cost to those electing it as an
14 optional coverage.

15 Short of mandating UM coverage, again, Mr.
16 Wentz, I believe, touched on it, a serious campaign and
17 effort should be mounted to apprise Southeastern
18 Pennsylvanians of the problem of uninsured vehicles and
19 encouraging them as consumers to consider purchasing
20 affordable protection in the form of uninsured motorist
21 coverage.

22 In conclusion, efforts at better identifying
23 the numbers of uninsured vehicles, reducing rates to make
24 coverage more affordable and available, increased
25 enforcement efforts are all salutary goals toward reducing

1 the unacceptably high levels of uninsured vehicles and
2 drivers in Southeastern Pennsylvania and across the state.
3 Candor also dictates that despite the best efforts to
4 improve the numbers of the uninsured, that an unacceptably
5 high level will continue to exist in this region. Added
6 protection should be accorded the motorists of this state
7 by reintroducing, as was the case before 1990, uninsured
8 motorist coverage as a mandatory element of coverage for
9 all Pennsylvanians.

10 I'll be happy to take any questions if you
11 may.

12 REPRESENTATIVE DRUCE: Thank you for your
13 testimony. Let me just ask a couple of quick questions to
14 try to get us back on track here a little.

15 You cited the report quite a bit, but yet did
16 not comment on what was glaring statistics, in my opinion.
17 on the number of bodily injury cases compared to property
18 damage in the Philadelphia region as compared to the rest
19 of the state.

20 When Mr. Durgin testified earlier this
21 morning, I had suggested that as I looked at much of what
22 that report had to say, it appeared to me that attorney
23 involvement seemed to be driving much of those numbers
24 because the report could not indicate any other reasons for
25 why we're having such a problem here in the City as opposed

1 to elsewhere. Yet your testimony didn't touch on any
2 reforms or suggestions in that particular area.

3 Do you have any comment on the report and the
4 high statistics and why you think that may be?

5 MR. HONIK: I do. Let me just say that, I
6 don't believe the issue that you've raised has a direct
7 correlation to UM, the uninsured motorist issue, and
8 that's why it wasn't specifically included in my comments,
9 but I'm really more than happy to address myself to it.

10 I believe that we have already seen a
11 significant, very significant drop off in the numbers of
12 claimants made. I think Mr. Durgin testified here today,
13 12 to 13% since the Act 6 Amendments went into affect.

14 What has happened, I think, and what has been
15 demonstrated time and again with different techniques to
16 try to reduce the number of claims, that there isn't a
17 direct relationship between reducing claims and making it
18 more difficult for claimants to get to court than the cost
19 of insurance.

20 That strikes me as the critical question at
21 inquiry. If we're getting 12 to 13% less claims being
22 filed yearly, clearly why in the, I suppose three or four
23 years since the Act went into affect, we're not seeing a
24 diminution in the cost of rates in Philadelphia and
25 elsewhere.

19

1 I'm suggesting to this Committee that perhaps
2 our thinking globally about this problem should shift. To
3 this point the thinking has been dominated by trying to
4 control "lawsuits and claims," and the rights of redress
5 that claimants have. That's not new. Its been done in
6 many jurisdictions that I know of. Its been done in this
7 state by use of threshholds and other techniques.

8 I believe that we can continue to use those
9 techniques. I think in many instances harming unfairly
10 victims, innocent victims. I don't think you're going to
11 see a prominent reduction in insurance premiums. I think
12 we need to add some fresh thinking to the problem and
13 that's why I chose to focus on other recommendations in the
14 LBFC Report. That concern primarily focusing on how rates
15 get to be rates.

16 I believe that if we follow the leads of
17 certain jurisdictions in this country, they're referenced
18 in the report very carefully, that we may begin to see some
19 real, real reduction in insurance premiums where all of the
20 techniques that have been employed in the past to try to
21 reduce claims and lawsuits, have failed.

22 I think we've given that model enough of a
23 chance. Let's try a new model. Let's focus in on
24 insurance rates and what insurers do.

25 REPRESENTATIVE DRUCE: I agree with you in

1 that regard. Although I do believe still the 60, 100
2 statistic in terms of bodily injury cases to property. It
3 is high and there's a reason for that. I try to throw some
4 suggestions down. Let me see how you would respond, the
5 Trial Lawyers Association would respond.

6 Let me ask you, when someone comes in and
7 represents to an attorney a bodily injury case, I guess to
8 criminalize the fraud aspect of that, is there anything
9 that requires the attorney at that point to inform the
10 client that there are provisions in law to criminalize
11 fraud, bodily injury in this incidence, and is there any
12 possible handout or should there be handouts to distribute
13 so that at that particular point if you've gotten an
14 individual who was on the Septa bus that was empty, that
15 shows up to collect bodily injury, that they are at least
16 notified at some point and maybe given a chance to think
17 twice about advancing that.

18 MR. HONIK: That's a good question. I can
19 tell you as a practitioner, that lawyers don't say that to
20 clients.

21 REPRESENTATIVE DRUCE: Should they?

22 MR. HONIK: Well, --

23 REPRESENTATIVE DRUCE: If there's a provision
24 that one would stop criminalizing.

25 MR. HONIK: Let me tell you my response to

1 that. It's not a good thing for marketing. I think
2 frankly the obligation rests on the attorney ethically. I
3 think that the pressure, if you will, should be on the
4 attorney to scrutinize every claim that comes to his or her
5 office in a way that they can in good conscious proceed. We
6 have always had, long before Act 6 took place, and long
7 before it became criminalized, the ethical obligation to
8 make sure that we've proceeding on a valid claim. I think
9 there should be some increased -- and there has been, I've
10 seen this, sensitivity on the part of practitioners taking
11 these claims.

12 For example, you cited the Septa example, the
13 Philadelphia Trial Lawyers Association took the initiative of
14 working with Septa here in Philadelphia, at this point,
15 more than five years ago, to basically have a task force to
16 attack the problem that you've identified.

17 One of the great things that came out of it is
18 that there was a number set up at Septa where if a claimant
19 comes into my office and I have a suspicion or I think that
20 there may be something not right about this, I can call
21 Septa and get immediate data about just how many people
22 were on the bus.

23 I'm happy to tell you, because I know this to
24 be true, that the number of claims against Septa have gone
25 down dramatically. I think that they in conjunction with

1 us have done an affective job of trying to curb that type
2 of abuse.

3 I think that we need to keep the pressure up
4 on fraud and abuse, but I don't want to lapse, and I would
5 respectfully ask you not to lapse into thinking that that
6 is the core source of the problem, that is somehow going to
7 have very secondary effect of bringing rates at a level
8 where people can afford it.

9 We are all in favor of the anti-fraud
10 provisions and we support them, but let's focus in on where
11 we can do the greatest good in bringing the rates down, and
12 that is to take a hard look at how rates are actually
13 calculated.

14 REPRESENTATIVE DRUCE: I'm looking here at to
15 your earlier suggestion that maybe some supplements, I
16 guess, if you will, and let me ask you two other points
17 that may be deal specifically in your area.

18 I've had agents tell me that where they have
19 accidents that have occurred individuals have called, these
20 were claims adjusters, that their first preference was to
21 deal with their client or the person who has insurance with
22 them. What they find frustrating is that that first
23 phonecall comes from an attorney representing the client
24 who has insurance with that particular carrier.

25 In workers' compensation reform, which is the

1 one I'm most familiar with in the short time I've been in
2 the general assembly, we have limited over a period of time
3 I think 30 days or so what doctors you may be seen by if
4 you have an injury.

5 How would your organization respond if there
6 was a limitation on the amount of time, let's say a 30-day
7 window, where in essence you're asking the person who has
8 insurance, work with your insurance carrier first to try to
9 resolve your particular instance, whether it's bodily
10 damage or property damage, and then turn to an attorney if
11 you're not getting satisfaction, as opposed to what is, at
12 least my perception, and I guess I don't have hard
13 statistics, that too often the attorney either through the
14 the attorney's action or an individual's action, is there
15 up front, and you're not giving the process a chance to
16 work as it should.

17 Then that leads me into my second question,
18 once the attorney's involved, how do you feel about going
19 to an hourly rate system as opposed to a contingency fee,
20 which only drives the cost of the award up, because in
21 order for the attorney to get the 20% or so that he or she
22 would make on a particular case, the incentive is there to
23 say, go as high as we can go, the more I get, the more I
24 make. At opposed to saying, the cost of my service per
25 hour is \$125, it's going to take me 20 hours to do the

20

1 case, this is my fee, and here's what you should be getting
2 as a result of your award, but this is what you've got to
3 pay me to do the the work, and base it more on what it's
4 worth, rather than have other incentive.

5 Minimizing the attorney involvement up front,
6 and second, once that involvement is there, putting it on
7 an hourly rate as opposed to a contingency fee.

8 MR. HONIK: I think you're right. I think
9 they're fair questions and I'll try to take a stab at it
10 and respond to it more personally than on behalf of any of
11 the associations with which I'm affiliated.

12 I think that there is a profound right, one
13 grounded in the constitution that people have to seek out
14 professional services, particularly of attorneys. I think
15 any rule that will have a chilling affect on one's ability
16 to go to an attorney, in all instances across the board in
17 certain types of claims, is unconstitutional, unfair and
18 unnecessary.

19 REPRESENTATIVE DRUCE: Is that the same you'd
20 say for the doctors?

21 MR. HONIK: Yes.

22 REPRESENTATIVE DRUCE: But we've done that in
23 workers' comp cases.

24 MR. HONIK: I think we have, but you haven't
25 prevented medical care from taking place. The difference

1 is that in the one instance you want no contact between
2 counsel who is well versed in areas where, I agree, some
3 cases may not be as necessary as others. But think, if you
4 will, for a moment where you have a very seriously injured
5 individual, someone that you care or love about, and there
6 is a rather serious and grave question about liability, who
7 caused the accident, and you are not prepared as a lay
8 individual to undertake from the immediate, the first
9 instance, the kind of investigation, an inquiry that will
10 lead to unravelling the question of liability.

11 Why should we have a Draconial law that
12 prevents you from having your loved one hire somebody with
13 the experience who can from the first instance reconstruct
14 an accident, make sure that the evidence, the physical
15 evidence of the accident, whether it's a car, a broken
16 break drum, or whatever it may be, to preserve that
17 testimony?

18 What do you say to somebody who generally
19 needs to have a professional become engaged in the first
20 instance so that everything is handled and done correctly?

21 REPRESENTATIVE DRUCE: I would assume that
22 would be the insurance company you turn to first and then
23 to protect you and defend you as a client of that company
24 to then do those particular things, and if you're
25 satisfied, you would then pursue legal help.

1 MR. HONIK: Your insurance company has no
2 interest in your third-party claim. If I have an accident
3 today, my carrier could care less if I place under my
4 control the truck, the instrumentality of my harm. They
5 have no interest in that. We need to permit consumers from
6 the first instance to engage counsel to protect their
7 rights, and by having a cross the board rather Draconial
8 law that you can't talk to a lawyer for 30 days, you are
9 disenfranchising an enormous segment of the motoring
10 population from protecting their rights.

11 If that truck that rear-ended my car and hurt
12 my daughter, God forbid, is not secured, is not the subject
13 if necessary of a lawsuit and a protective order, I can't
14 tell you how many times I've had very seriously injured
15 victims in my office where I, assure you, the insurance
16 company on behalf of the tortfeasants, truck that's
17 rear-ended that individual's car, they've taken it to the
18 shop, they've repaired it or begun repairs where they've
19 changed the status of the evidence.

20 But for my involvement at the earliest
21 instance, and in many cases having to go to court to get an
22 order to get control of that instrumentality of harm, we
23 would never know what caused an accident. So I think that
24 you can't hamstring, you can't prevent, put unfair
25 impediments to consumers of how to do the claims from

1 engaging professionals. In the first instance from
2 undertaking what has always been traditionally recognized
3 as lawful representation.

4 REPRESENTATIVE DRUCE: How about the fee?

5 MR. HONIK: Well, I'm not sure what that's
6 going to help. If I were to keep track of the hours in
7 each instance, I would venture to guess, in the kinds of
8 case that I become involved in, the costs would be
9 considerably greater, not lower. I think the contingency
10 fees are great, because in many instances if we keep hourly
11 rates, and many of us do. I don't in all cases. In
12 complicated cases I do. I can tell you anecdotally, my
13 hourly rate when you add it all at the end is higher than
14 the contingency rate that I charge.

15 I think the other perhaps more significant
16 impact of changing the way lawyers charge for these cases
17 is that it has a chilling effect on people's willingness to
18 undertake to have representation. I think you will
19 disanfranchise a significant segment of legitimate
20 plaintiffs pool, if you will, by suggesting to them that
21 they're now going to pay an hourly rate.

22 Ultimately, what you're really suggesting is a
23 way in which you change how you count the rate, not the
24 fact that it's contingency. In other words, I assume
25 you're not suggesting that you simply count it on an

1 basis, but it's still contingent on a result. I assume
2 that's it's still going to ultimately be a contingent rate.
3 In other words, if I'm charging \$100 an hour and at the end
4 of the case my fee is \$2,000, it's still contingent on the
5 result that I achieve.

6 I don't know what you accomplish.

7 REPRESENTATIVE DRUCE: If there is an award
8 then that's the amount of money that was to be given. The
9 problem is, in the system we have now, which to some degree
10 folks would call blackmail, there's no, when you're in a
11 contingency situation where if you win you get money, if
12 you lose, don't worry about it, you took your shot.

13 I know that your professional services come in
14 an hourly rate or can be calculated hourly, there's a cost
15 to your services. There is with any other professional out
16 there. But this is the one profession in which it simply
17 works the other way, I believe, with contingencies which I
18 think provides incentives to shoot for the higher amount,
19 because the more money that's awarded, the more money
20 that's made.

21 Maybe if you're telling me that hourly it
22 would actually cost more, then we wouldn't save money by
23 doing this. But I think the system is set up in such a way
24 that it's producing the result that we don't want. If you
25 have a particular fee, whether that person recovers or not,

1 a cost to your providing your service to them. But
2 everything now what you're saying is you're tying it to
3 whether or not they're successful in their case, and I'm
4 suggesting you just did \$2,000 worth of work whether they
5 win or not.

6 MR. HONIK: Am I going to collect that fee
7 from the claimant if I lose?

8 REPRESENTATIVE DRUCE: I understand where
9 you're headed, but by taking that position, what it then
10 says is, hey, folks, you have nothing to lose by suing, and
11 that's the attitude. I think that's the comment that came
12 out of Mr. Durgin's report when he says that there's a
13 change in claimant attitude. I think the attitude is, I've
14 got nothing to lose, I might as well sue because if the
15 contingency fee is in there, if I don't win and I get no
16 money, my lawyer, I don't owe him anything, because it's
17 all based on a contingency fee.

18 MR. HONIK: Let me share something with you as
19 a lawyer, don't think for one moment that we look frivolously
20 at who comes into our office and say, we're just going to
21 take the case. All we have is our time and there's a
22 limited amount of that. I'm not going to take a case
23 unless I think it has merit, unless I think there's damage
24 potential, and unless I think there's a victim who's going
25 to recover. I can tell you, most lawyers that I know don't

1 take marginal and frivolous cases because it has value.

2 I can tell you, just in the last ten years,
3 there has been a real shift in the claims attitudes within
4 insurance carriers. Increasingly there are fewer and fewer
5 of what I consider more marginal or smaller claims that
6 maybe lawyer in the distant past would take a shot at not
7 being paid. I think that has had an effect on lawyer
8 thinking and practice.

9 What I have seen, and I serve as an arbitrator
10 frequently, both in the Courts of Compleas and also in
11 insurance arbitrations, that only more significant solid
12 cases are being taken, because of the recognition
13 economically on the part of the lawyers, that lawyering
14 means picking solid good cases.

15 I think the fear or concern that you may have,
16 although certainly of a legitimate concern, in theory, in
17 practice isn't the case. Lawyers pick good solid cases.
18 They don't take marginal ones and hope merely by a
19 blackmail-type approach to get a result.

20 The reason for that is, insurance carriers
21 don't go for it and I think the message has been sent loud
22 and clear that we're going to pay on good quality cases,
23 but where there's something less than that, you're going to
24 have a fight and its had an impact on our practice.

25 REPRESENTATIVE DRUCE: Questions from other

1 members?

2 REPRESENTATIVE WRIGHT: One of the issues that
3 you talked about was possibly of mandating uninsured
4 motorist coverage across the state.

5 MR. HONIK: Right.

6 REPRESENTATIVE WRIGHT: Maybe before you came,
7 I'm not too sure when you walked in, but earlier there was
8 a little bit of discussion about the concept of impounding
9 the cars. That there was a thought that the problem was
10 significant in the Philadelphia area, not elsewhere, so why
11 would you create, mandate a statewide program for a problem
12 that's here? There was a concern about that. I'm just
13 going to follow the same line of thought here, why would we
14 mandate uninsured motorist coverage across the state and
15 increase it 10 or 15% I think you said?

16 Therefore, when statistics said there's only a
17 7% problem across the state that we're really making
18 motorists and we're increasing motorists in other rural
19 counties, they're rates, 10 to 15, 20%. Or it may be a
20 problem that isn't very wide. So I just wanted to comment
21 about after I've made these statements, do you still say
22 that we need this statewide?

23 MR. HONIK: I believe that you do. I believe
24 that if you're going to contemplate doing it, you shouldn't
25 have a bifercated system. I don't think you want to have

1 some special provision for Southeastern Pennsylvania and
2 not include the rest of the state.

3 Let me start by observing that if the limited
4 tort, full tort selection numbers statewide are any
5 indication, and I believe they are, most people outside of
6 big urban areas in our Commonwealth, have joint coverage,
7 so you're not really imposing is significantly new burden
8 economically or otherwise by having it mandatory.

9 Let me also observe that although the
10 uninsured rate statewide and other counties may only be in
11 and around the area of 11%, I think. I think that's
12 significant. I think that there are enough rather tragic
13 stories and losses associated with somebody who may live in
14 Lancaster County that pays a visit to Philadelphia. There
15 may be risk enough in that exposure or a trip to Pittsburgh
16 that requiring them to carry what may only be a \$90 or \$100
17 enforcement on their policy, what you save is well worth
18 the cost of it to me.

19 Because the problem is so dramatic in our
20 five-county area, I think clearly there the benefit of
21 having victim protection by mandatory coverage is clear.
22 Although much more needed here, I think it is required
23 outside the Southeastern Pennsylvania area, and because the
24 economic burden wouldn't be so great, I think that it's
25 something that our legislature had before, and I think if

2

1 you look back to the history, legislative history, it was
2 inacted in '84, there was a great concern that across the
3 state, even in areas where there are not high levels of
4 uninsured drivers, it's such an important coverage to have
5 some recourse. We're talking about the difference between
6 having no recourse whatsoever.

7 That is, having a seriously injured
8 individual, someone you care about, who has no place to
9 turn to, and turning that individual into someone who has a
10 choice and the cost to him or her or the household may only
11 be \$80 or \$100. I think that's a very worthwhile thing to
12 have in place.

13 MR. PERSELLS: How could you suggest that this
14 Committee ask the other members of the General Assembly to
15 to eliminate the territorial rating system? Is there
16 justification for the rest of the Commonwealth paying for
17 the high bodily injury problem in Philadelphia?
18 How could we convince our members to do that?

19 MR. HONIK: I understand your question. Let
20 me preface my comments by saying that I'm not an insurance
21 expert level and a rate expert. But I think this is a
22 problem that has been faced in those jurisdictions and
23 they're are not a great many of them. I believe California
24 has significant limitations on territorial ratings.

25 What was done there and in other jurisdictions

1 is not to hoist onto less densely populated areas with the
2 economic burden of this sort of an issue. What w'ere
3 talking about here is just not defining an area so finely,
4 a territory so finely that you have entire segments of our
5 population, whether it's North Philadelphia or West
6 Philadelphia, that are completely disanfranchised.

7 What I'm suggesting to you is that we take
8 perhaps an intermmediate step and to soften the definition
9 of what a territorial area is and how you use that
10 territorial factor in rating. Right now and I understand
11 the system, I think it's too high a factor, too great a
12 factor. I think that a person's driving record, the number
13 of miles that they put on, other factors, which are
14 presently used should be weighted more completely, and I
15 think that there needs to be some justification, greater
16 than presently exists from territory to territory. So I
17 would stand firmly against any kind of territorial rating
18 shift. It would unfairly burden counties outside of the
19 area that you're most trying to help.

20 But I think there's something in between. A
21 compromise, if you will, where there's less emphasis on
22 territorial rating as presently conducted and completely
23 throwing territorial rating out the window.

24 REPRESENTATIVE DRUCE: Thank you very much for
25 your testimony.

1 MR. HONIK: Thanks again for having me.

2 REPRESENTATIVE DRUCE: We have just two more
3 testifiers before we'll conclude the hearing. Our next
4 testifier is Mr. Jerry Dever who's a Legislative Assistant
5 with the Philadelphia City Council, and then we'll get on
6 with members of the Philadelphia City Police Department.

7 Mr. Dever, thank you for testifying this
8 afternoon, and more importantly thank you for your patients
9 in bearing with us because we're running behind schedule.

10 MR. DEVER: Good afternoon. My name is Jerry
11 Dever. Legislative Assistant to Councilman Daniel P.
12 McElhatton. Councilman McElhatton is unable to attend
13 today's hearing because he's in City Council sessions.
14 Thank you for giving me the opportunity to testify on House
15 Resolution No. 34.

16 I'm going to try and keep my testimony brief.
17 I know you've been here all morning. I can't limit myself
18 just to the insurance issue. Here in Philadelphia we have
19 a large problem with unlicensed and unregistered vehicles
20 that creates a very dangerous situation on our streets that
21 causes more accidents and drives up insurance rates.

22 As we've heard from other testifiers
23 Legislative Budget and Finance Committee found that in
24 1992, 27% percent of Philadelphia drivers were insured. It
25 is estimated that about 10 cents of every Philadelphian's

1 insurance dollar goes to protect insured citizens against
2 the uninsured.

3 I want to take a little bit of time to let you
4 know what Councilman McElhatton and City Council has been
5 doing to try to deal with this issue. A police captain in
6 our district, Captain Sideras of the 25th Police District
7 who's now in the Internal Affairs Unit of the Philadelphia
8 Police Department, came to us last year just trying to find
9 a solution to what was the main concern of his community
10 and the 25th District. He thought it was astonishing that
11 that despite this area which is rampant with drug dealing
12 and violence, the main concern of citizens in that area was
13 the problem of unlicensed, unregistered drivers.

14 Captain Sideras invited Councilman McElhatton
15 to a ride along. The police officer stopped 11 vehicles
16 for moving violations. Only one of those vehicles had
17 proper documentation, that is, licence, insurance card and
18 registration. However, the police could only write tickets
19 that were later disregarded in most cases.

20 I have here, for the record, Philadelphia
21 Traffic Court statistics detailing the number of
22 outstanding tickets in Philadelphia.

23 After the ride along, the Councilman and
24 myself and our staff did a lot of research on this issue,
25 including talking to other jurisdictions that have a common

3

1 policy, such as, Little Rock, Arkansas, New York State, and
2 some other places. I have a copy also of the Bill for the
3 record. The Bill was passed by the Council last Thursday
4 and was voted 13 to 2. Basically the Bill is two parts:
5 The first part allows the police to confiscate and impound
6 a vehicle that's unlicensed, unregistered and uninsured
7 drivers after stopping them for a moving violation.
8 However, City Solicitors brought to our attention that
9 under the State code we probably don't have the
10 jurisdiction to impose this power. Therefore, this part of
11 the Bill does not become effective until state legislation
12 giving Cities the first class, this authority to impound
13 vehicles in enacted.

14 The second part of our Bill makes it illegal
15 to park in the City of Philadelphia without a license,
16 registration, insurance. Because of the manpower
17 consideration that have been discussed by the earlier
18 testifiers, it is not likely that police will be going
19 around checking insurance of parked vehicles.

20 However, this part of the Bill is not
21 insignificant because it will allow the police to impound
22 vehicles of uninsured, unregistered and unlicensed drivers
23 after an accident. A lot of people that we had testifying
24 in our City Council who were victims had people who drove
25 away and who got in the accident and drove away. That part

1 of our Bill becomes effective in 90 days.

2 During our public hearing we heard from a lot
3 of victims. The testifiers included a woman whose
4 13-year-old daughter was killed in an accident, a woman's
5 parents were killed, and another woman was blinded. A lot
6 of the drivers who caused this havock on the streets are
7 still driving, still without insurance, still without
8 registrations, still without a license, and and the police
9 really couldn't do much about it other than write tickets.

10 One of the most ironic things that happened
11 during our testimony was Bernadette Carter, who came to our
12 public hearing to testify her daughter who was 13-years-old
13 and injured in an accident, who thank God is alright now,
14 On her way home from testifying, Ms. Carter was in an auto
15 accident with an uninusred motorist. That just went to
16 show how rampant the problem is here in Philadelphia.

17 After hearing these victims and the grass
18 roots support for the impoundment policy, my belief and the
19 belief of Councilman McElhatton is that we need this policy
20 to me implemented in Philadelphia to deal with what we
21 consider a crisis.

22 I urge this Committee to hold hearings and
23 pass House Bill No. 28 as soon as possible. Bill No. 28
24 which was introduced by Clearance Thomas in January. As
25 I'm sure most of you are aware, would allow police

1 throughout the state to confiscate vehicles for violation
2 of at least two of the following: Section 1301 (relating
3 to registration and certificate of title required);
4 Section 1332 (relating to display of registration plate);
5 Section 1551 (relating to carrying and exhibiting driver's
6 license on demand). In addition, I would urge that this
7 Bill be amended so as to include Section 1786 (relating to
8 financial responsibility.) I would also urge it be amended
9 to change -- the way it reads now is for two of these
10 violations. That it be amended to make any of these
11 violations. We also suggest that there's a section in Bill
12 No. 28 that says that your vehicle will be booted for 72
13 hours and then impounded. If there's any way to make that,
14 at least for Philadelphia, "immediately be confiscated.
15 That would be good.

16 But my colleagues in the City Council who
17 voted for this Bill and their staffs wouldn't forgive me if
18 I didn't urge this panel to take a hard look at the
19 insurance industry and its practices in Philadelphia.
20 Clearly, our movement on this issue shows the City
21 Council's willingness to "get our House in order." Now we
22 need cooperation from the State and the insurance industry
23 to help make rates lower in whatever ways possible.

24 Other witnesses talked about tort reform,
25 insurance reform, territorial ratings, and I would make a

1 suggestion that may become feasible, for low-income
2 subsidies similar to what we're thinking about now in the
3 State for school vouchers.

4 Thank you for your time and I'll take any
5 questions you have at this time.

6 REPRESENTATIVE DRUCE: Mr. Dever, thank you
7 very much. We certainly appreciate the efforts of the City
8 Council with Philadelphia trying to solve the problem
9 that's usually unique to Philadelphia. I think if this
10 member of this Committee had full because we do have a
11 number of members, you'd find most of them are not from
12 Southeastern Pennsylvania. I think certainly we want to
13 applaud the effort that Philadelphia of trying to help in
14 that problem.

15 I'm curious to talk to the folks who are going
16 to testify next from the Police Department. I liked your
17 idea and City Council's idea. I just have a question of
18 making sure that we're enabling our police to work on the
19 matters that are most important to the public safety and
20 our community.

21 And I thought the same lines that your
22 Councilman did be how do we address uninsured motorists and
23 I thought maybe our constibles may be not a better vehicle
24 but maybe a supplement vehicle to go out and retrieve
25 license plates from automobiles where we have document

1 there's no insurance and then boot the vehicle as opposed
2 to impounding it and getting into the problem of where do
3 you store the vehicles. I realize that wouldn't solve the
4 problem when the police stops someone and know on the spot
5 that they have no insurance, so you may need to do that.
6 Although, I'm not an attorney I don't know whether you
7 could do it just for the sake of the first class and
8 knowone else Pennsylvania or not.

9 Let me ask if any other member of a the panel
10 have any questions? Representative Melio.

11 REPRESENTATIVE MELIO: If I could address two
12 things that you brought up about the enforcement and also
13 where we would store the cars. Our discussions with the
14 Bureau of Administrative Adjudication, although it would be
15 a large undertaking, obviously, especially since it's 27
16 percent of vehicles in Philadelphia.

17 MR. DEVER: Our discussions with the Bureau of
18 Administrative Judication, allthough, it would be a large
19 undertaking obviously. But Deputy Commissioner Seman in
20 our police department suggested that we work with the
21 enforcement of this similar to what the County had with the
22 abandoned vehicles program where abandoned vehicles are
23 towed by private salvagers.

24 REPRESENTATIVE MELIO: That was one of the
25 questions I wanted to ask, did you have the area to put the

1 abandoned vehicles?

2 MR. DEVER: Not exactly, but it's my
3 understanding that a lot of the private salvagers in our
4 discussions with salvagers do have additional space at this
5 time and would be willing to expand if the Bill was
6 enforced.

7 REPRESENTATIVE MELIO: How long will you keep
8 the vehicles, until they showed --

9 MR. DEVER: Until they show the proper
10 documentation and it is not -- that would have to be
11 written in the regulations, how long after that.
12 Eventually it would be auctioned.

13 REPRESENTATIVE MELIO: Then you can eventually
14 own the vehicle?

15 MR. DEVER: Right.

16 REPRESENTATIVE MELIO: I think it's a great
17 idea. I would help you with Curtis Thomas's Bill and the
18 amendments also.

19 Do you have to give the residents in this area
20 the knowledge that we mean business, and I think that's a
21 great Bill and I would help support it.

22 MR. PERSELLS: Only 22% of the people who
23 receive tickets are convicted.

24 Are we doing anything with that?

25 MR. DEVER: The traffic court has been looking

1 at trying to work on that and that is a big problem. One
2 of the big problems that you might not have in other parts
3 of the state, that people who are stopped and don't have a
4 driver's license or any kind of documentation will just
5 give a fake name. They may get ten tickets under John
6 Smith, 15 tickets under George Smith, but that's a big
7 problem in the city right now. The police will write
8 tickets and it's just frustrating for police officers. And
9 they will tell you, they get sick and tired of stopping
10 people.

11 MR. PERSELLS: Is that a court problem?

12 MR. DEVER: That's a court problem but its
13 also a tracking problem. One of the things we talked about
14 here was this is a large undertaking. It's also a large
15 undertaking to try and run around and find out who gave
16 fake names and fake license numbers, and there is fraud in
17 licencing issue. It's a real problem.

18 REPRESENTATIVE PERZEL: I didn't quite catch
19 what you said, voucher program?

20 MR. DEVER: I just thought that this is just
21 something that I came up with actually on the way here to
22 talk about maybe if there's any way that low income
23 Philadelphian's and low income citizens throughout the
24 state who really can't afford the high insurance rates
25 would have some kind of low income subsidy similar to what

1 we have on the Federal level with Section Eight, Housing
2 Program.

3 I know the state is looking at now for school
4 reform for the private schools for school voucher program.
5 That may or may not be feasible given the apparent
6 political climate.

7 REPRESENTATIVE DRUCE: Any other questions?

8 REPRESENTATIVE WRIGHT: In your research or
9 the Council's research, do you know of any other states or
10 municipalities in the country that currently impound cars
11 for lack of financial responsibility?

12 MR. DEVER: The one I know best is Little Rock
13 Arkansas. We invited Judge William Watt in Little Rock
14 Arkansas to testify. He did it by court order, which was
15 interesting. His City Council wasn't willing to take the
16 political heat, so he said we have to do something.
17 Everytime a case came in, they didn't have anything and it
18 was frustrating for him. So he wrote this impoundment
19 policy that, from his testimony, really works down there.

20 I don't have the documentation with me but I can
21 provide that.

22 REPRESENTATIVE WRIGHT: In practicality, law
23 enforcement comes across a vehicle that can't prove and
24 they have reason to believe it doesn't have insurance,
25 let's say. Let's say we grant the authority. They have

1 the authority to impound. The impoundment based on the
2 Philadelphia ordinance is what, you get the car back when
3 you come back with proof of insurance?

4 MR. DEVER: Yes, and you have to pay the
5 towing and storage fee. It's similar now to what we have
6 now for parking violations.

7 REPRESENTATIVE WRIGHT: Do you know off the
8 top of your head what the towing and storage fee is?

9 MR. DEVER: I want to say \$30.

10 REPRESENTATIVE WRIGHT: If the police can
11 answer that, we'll wait for that.

12 MR. DEVER: I believe it's \$30 a day for
13 storage.

14 REPRESENTATIVE WRIGHT: We can ask that
15 question later. I'm probably going to assume that a fair
16 number of the vehicles ultimately would never be picked up?

17 MR. DEVER: That's a fair assumption.

18 REPRESENTATIVE WRIGHT: Would you happen to
19 know off the top of your head -- I'm not sure if it's a
20 state law or Philadelphia's ordinance, what the length of
21 time is to salvage that vehicle?

22 MR. DEVER: It was purposely avoided in the
23 legislation. The regulation will be worked out by the
24 Bureau of Administrative Adjudication with the Police
25 Department. That has not yet been done. The Bill was

1 passed on Thursday. They have not stated amount of days.
2 I wouldn't want to say only 30 or 60 because there's a lot
3 of people out there who would go and try and get
4 insurance, so it would really have to be something that's
5 worked out.

6 REPRESENTATIVE DRUCE: Thank you very much for
7 your testimony.

8 MR. DEVER: Thank you.

9 REPRESENTATIVE DRUCE: Our final witness today
10 testifying is Captain James Murphy with the Accident
11 Investigation District Police Department for the City of
12 Philadelphia.

13 MR. MURPHY: This is the first time I've ever
14 appeared in front of a Committee. I didn't know that I had
15 to prepare copies.

16 MR. DOMZALSKI: Briefly, for the record, I'm
17 David Domzalski and I'm counsel for the police department.
18 I'm an Assistant City Solicitor with the City of
19 Philadelphia.

20 REPRESENTATIVE PERZEL: I think we want to
21 know, do you really want to impound these things?

22 MR. MURPHY: Before I start my statement,
23 that's a consideration. One of the things that we're
24 concerned about is we want to make the streets safer, but
25 where do we put these vehicles once we get them and how do

5

1 we dispose of them. There's going to be property in them.
2 It's not like an abandoned vehicle where you take an
3 abandoned vehicle. The person that has a vehicle that's
4 left on the street, they're aware that, you know, sooner or
5 later, the police are going to come by and they're going to
6 confiscate it. If we just take the car off this person,
7 they may have a lot of personal items in there. We're
8 going to have to take that into consideration, what we're
9 going to do with the items that are confiscated along with
10 the vehicle. How long do we leave the vehicle out. You
11 can leave a vehicle on the highway for say 72 hours and
12 there's no effect on that, but if you do that Philadelphia,
13 when you come back, that probable vehicle is now flipped
14 over and burned and it's an abandoned vehicle. This is a
15 part of life in this city.

16 MR. DOMZALSKI: We did have discussions with
17 Councilman McElhatton and there are enforcement areas,
18 logistical problems that we are trying to work out. Jerry
19 Dever did bring up the fact of private salvagers. Using
20 private contractors to pick up these vehicles if we did
21 have power. But it certainly is a concern and
22 consideration of the police department where to put them.

23 Also, if you're dealing with parked vehicles
24 in certain areas of the city, the Philadelphia Parking
25 Authority has a lot more tow trucks than the Philadelphia

1 Police Department that could be used in those two type of
2 situations. That usually operate in the Center City areas
3 of Philadelphia, so the concern was for the outlining areas
4 in the city and how an impoundment program can get off the
5 ground.

6 REPRESENTATIVE PERZEL: What if we took
7 constibles and had them go take the tags and boot the car
8 or whatever, would they get a fee to do that? Would that
9 concrete a hardship?

10 MR. DOMZALSKI: Philadelphia Traffic Court
11 currently has individuals called Traffic Warrant Officers
12 and basically they go out an arrest people for moving
13 violations or whatever if they have bench warrants against
14 them. I don't know the number or the sizes of Traffic
15 Warrant Officers. I don't thinks it's a significant
16 number, maybe 10 or 15 people who do that. But certainly
17 there's a possibility that that type of situation could
18 occur.

19 The Philadelphia Police Department has a
20 limited enforcement in seizing motor vehicles registration
21 from the proper people, seizing the driver's licenses.
22 Commissioner Neel is anticipating issuing a directive to
23 put a policy in affect where police officers would on a
24 city-wide basis become more involved in that process. But
25 obviously alternative resources are certainly a key to the

1 police department. The police department does have limited
2 resources as Captain Murphy indicated. There is a concern
3 about how much expenditure it would be resource wise.

4 REPRESENTATIVE PERZEL: I told Representative
5 Druce that rather than people just clipping a little square
6 or tag they steal the whole tag now.

7 OFFICER MURPHY: That's exactly right.

8 REPRESENTATIVE DRUCE: You said you arrest the
9 individual. Can I just walk through with you, if a traffic
10 court individual picks up an individual to arrest them I
11 assume that they're arraigned and then released and the car
12 is still out there somewhere uninsured?

13 OFFICER MURPHY: We're talking about people
14 that have multiple violations against them, have failed to
15 appear in court, so if there's any warrants issued for
16 their failure to appear at a court hearing, if a
17 accumulated number of them, the Traffic Warrant Officer
18 will go out and try to seize that individual and bring them
19 before Traffic Court.

20 REPRESENTATIVE DRUCE: When they come before
21 Traffic Court, is this person potentially detained?

22 OFFICER MURPHY: Yes.

23 REPRESENTATIVE DRUCE: Till when?

24 OFFICER MURPHY: Well, basically --

25 REPRESENTATIVE DRUCE: Just overnight?

1 OFFICER MURPHY: Again, not to complicate the
2 matter, it would depend on the situation. Basically, they
3 would be held at the Police Department Detention Unit till
4 the next day, during the week. On the weekends, and I may
5 be wrong, but there may be problems with detaining people
6 for over the weekend. Basically, the police department is
7 under other constraints. There's a consent decree that we
8 have to process people in a certain amount of time to get
9 them out of the Police Administration Building or send them
10 to prison. I don't believe its a weekend the person
11 actually would make the net, so to peak. I think they
12 would just be getting court notice to reappear.

13 REPRESENTATIVE PERZEL: You've been around a
14 long time and I'm sure you've talked to other policemen who
15 had the same problems and said, boy, if we could just do
16 this.

17 What do you think we could do that would make
18 some sense?

19 OFFICER MURPHY: I'll tell you what you could
20 do in my opinion is, you could pass this Bill and what it
21 would do is it would give us a little teeth.

22 REPRESENTATIVE PERZEL: 28?

23 OFFICER MURPHY: 28, exactly. The reason I'm
24 saying that is, this is just my opinion now, right now we
25 can take the tag off the individual but that's not removing

1 the vehicle. So what does he do, he'll go out and take the
2 tag off of somebody else's car. The vehicle's still out
3 <TKHR>, so until you take the vehicle I mean this just goes
4 on and on and on. I had that in my statement, it just
5 doesn't ends. So the only answer in my personal opinion is
6 to take the vehicle.

7 REPRESENTATIVE PERZEL: Would that be
8 something that would be just for Philadelphia, allow the
9 other counties the option.. They could do that, but we
10 could enforce it right away here in Philadelphia.

11 OFFICER MURPHY: I can't speak for the other
12 counties. I can only speak for the problem that I'm aware
13 of. I know in Philadelphia it's a very serious problem.

14 REPRESENTATIVE PERZEL: What do you think we
15 should put in 28 or some type of modification to 28 for
16 that personal property?

17 OFFICER MURPHY: I don't know. These are just
18 things that I wanted to bring out. As far as the storage
19 of the vehicle, as far as towing the vehicle.

20 MR. DOMZALSKI: That becomes a problem even
21 with abandoned vehicles. Certain times abandoned vehicles
22 would have property in them. It's always an issue that
23 comes down between the salvager who we contract with and
24 the person whose car has been seized, which basically
25 they're going to say it comes up in a couple different

1 ways. One is, I had \$2,000 worth of tools there or can I
2 get my tools and the salvager says, you can get your tools
3 as soon as you pay me my money for towing and storage and
4 whatever other fees that are there. Those are the two
5 specific situations. But I think the salvager or whoever
6 has the property becomes the bailee and has some
7 responsibility for the control.

8 OFFICER MURPHY: That seems to be working now
9 with salvagers, with the abandoned autos.

10 REPRESENTATIVE PERZEL: Do you pay them to
11 take each car or do they pay you "x" number of dollars for
12 each car that that they take? Say you get 20 abandoned
13 cars, does the City pay pay the salvager to take the 20
14 cars?

15 MR. DOMZALSKI: Basically it's a no-cost
16 contract to the City. Basically there is no set amount of
17 cars that we guarantee to give them. They get the state
18 fee for the abandoned vehicle, which I think is \$15. The
19 other part that they do is they can get a reconstructed
20 title. They can either sell it off as heap and strip the
21 car for parts or they can turn it around and with a
22 reconstructed title and sell it.

23 REPRESENTATIVE PERZEL: Would you want the
24 ability to be able to sell some of the not so bad -- I can
25 imagine there would be any real, real nice cars, would you

1 want the ability to be able to keep some of those and sell
2 those off yourself?

3 MR. DOMZALSKI: Again, basically, I don't know
4 whether Jerry mentioned it, there was also companion
5 legislation, well, not companion legislation, but there was
6 legislation also passed recently by City Council that would
7 give us an ability to at least go into court and get the
8 right to auction vehicles off that were seized, but these
9 are vehicles, right now the way that Bill is, vehicles that
10 are on Parking Authority grounds or Police Department
11 impoundment lots.

12 We would certainly support that.

13 REPRESENTATIVE PERZEL: What we need to do is
14 incorporate all the different ideas. We really like to do
15 it in one piece, not four pieces, to give you the authority
16 to do all the things that you're saying. That would be 28,
17 that would be 1326.

18 REPRESENTATIVE WRIGHT: Who's "you,"
19 Philadelphia or the State?

20 REPRESENTATIVE PERZEL: Any municipality.

21 MR. DOMZALSKI: Pittsburgh has been doing that
22 for a number of years, selling off vehicles. They've been
23 running a program for a number of years.

24 REPRESENTATIVE MELIO: We want to help you and
25 we're here to help you if you tell us how we can do that

1 that would be a big help for us. It's frustrating to sit
2 here and see that statistically for not still roaming
3 around being able to do this type of thing, so if you can
4 tell us how we can help you to resolve that we'll be sure
5 to do that.

6 OFFICER MURPHY: I think passing this Bill as
7 a companion Bill with the ordinance, it's awaiting to be
8 signed by the mayor, I think that would be helpful. Right
9 now I believe that the ordinance really only deals with
10 cars that are parked and this would deal with being able to
11 stop an individual.

12 REPRESENTATIVE PERZEL: When you stop someone,
13 what would you do? I mean, right now you don't do it. You
14 can't carry a boot for Christ sake.

15 OFFICER MURPHY: My understanding is we would
16 disable the car. That would mean taking the coil out of
17 the car.

18 REPRESENTATIVE PERZEL: You would need that
19 authority in this statute?

20 OFFICER MURPHY: My understanding is in order
21 to take a car that's on the highway being operated by an
22 uninsured or unlicensed driver, it would have to be parked.

23 REPRESENTATIVE PERZEL: Would that give them a
24 certain amount of time to be able to come back and show us
25 they have insurance to give them the car back.

1 OFFICER MURPHY: I think it's 72 hours. We
2 have to hold them for about, well, with abandoned autos,
3 we have to hold them for 45 days before we can dispose of
4 them. I see it really as an increasing problem.

5 The most recent stat would be in 1995 this is
6 just the year to date and it deals with fatal accidents. I
7 don't know if you want to me to read this. Read the whole
8 thing.

9 REPRESENTATIVE DRUCE: If you could. If you
10 want to make a copy of your report that you have to today
11 for the Committee's record.

12 OFFICER MURPHY: Well, I don't have to tell
13 you, already aware it's a serious problem. I have some
14 stats here from 1994. As far as the number of tickets that
15 were issued and the tickets for financial responsibility
16 that required that sort of thing.

17 REPRESENTATIVE PERZEL: How many was it?

18 OFFICER MURPHY: This is just for '94 now.
19 There was 20,456 tickets issued for unregistered vehicles,
20 another 47,347 issued for unlicensed driver's with a
21 category of financial responsibility required, there were
22 42,374 tickets issued.

23 As Commanding Officer of the Accident
24 Investigation District, I've compiled some statistics on
25 accidents investigated by my unit. We investigate major

7
1 accidents in this city where there's very very serious
2 bodily injury or where there's death or all hit and runs or
3 accidents involving city vehicles or damage I should say
4 the city state or federal property. Conservatively we're
5 estimating in 1994 approximately 30% of the operators did
6 not possess a valid driver's license.

7 One area that I was particularly interested in
8 is the category of fatal accidents involving unlicensed
9 operators. In 1993, it was a total of 157 fatal accidents
10 investigated and 50 unlicensed operators were involved with
11 30% of all operators involved in fatal accidents. In 1994
12 the total was 151 fatal accidents investigated and 54
13 unlicensed operators were involved or 36% of the operators
14 involved in fatal accidents.

15 1995, now this number has jumped, in 1995 to
16 date there's been 34 fatal accidents investigated and 16
17 unlicensed operators were involved. 47% of all operators
18 involved in fatal accidents in the city. In the three-year
19 period that these statistics have been compiled, fatal
20 accidents involving unlicensed drivers are on the rise. In
21 just two and a half years there's been a 15% increase from
22 unlicensed operators involved in fatal accidents.

23 Review an statistics supplied by PennDOT, the
24 National Association of Independent Insurers and its
25 greenbook, noted that between the years 1988 and 1992, 27

1 to 35 percent of all accidents involved unlicensed drivers.
2 These statistics only the deal with individuals involved in
3 auto accidents. The greenbook is published by the National
4 Association of Independent Insurers who are located in
5 Deplane, Illinois. They represent approximately 570
6 property and liability insurance companies.

7 They are an authorized statistical agency and
8 national trade organization and an advocate of insurance
9 issues. The book's published yearly. Now this is the
10 feeling of just the individual that work in accident
11 investigation. Historically, if we believe that unlicensed
12 and uninsured operators maybe involved in a substantial
13 number of our "leaving the scene accidents," because they
14 pocess proper documentation, licenses, insurance, whatever.

15 Unfortunately in this city it seems like now
16 there is an awful lot of individuals who don't feel that
17 it's necessary to carry proper documenation. I was going
18 to talk about Councilman McElhatton with his ride-along.
19 The fact that nine out of ten people that they stopped on
20 the ride-along didn't have all the documents that were
21 needed, that's deplorable.

22 REPRESENTATIVE WRIGHT: Officer Murphy, you
23 were talking about when you were using those statistics,
24 you were talking about unlicensed drivers. The thrust of
25 what my intent of the Resolution was not necessarily

1 unlicensed drivers, but vehicles that didn't have insurance
2 or unregistered vehicles. I want to clarify a point here,
3 the Committee can decide whether it's a valid point or not,
4 I think this is a valid statement, that if you're
5 unlicensed under the Philadelphia proposal, do you want to
6 confiscate a car? Are you only going to confiscate a car
7 when its uninsured or unregistered?

8 It's one thing if you have the actions of a
9 driver. You have a guy who's driving a car and the car is
10 under his wife's name, he's unlicensed. It may have
11 insurance. It may be legitimately registered. She may
12 have a legitimate license. He's driving it, he's pulled
13 over, you notice that he doesn't have a license, you
14 confiscate her car. This is where the direction of the
15 Committee has to look at whether it wants to go toward
16 impoundment in that direction. Does it want to also extend
17 the authority to seizure of cars for licensing and even
18 broader, strictly registration and insurance? I perceive
19 your statistics that you gave, I kept hearing "unlicensed."

20 I assume the driver was unlicensed, and you
21 may not necessarily have the information that talks about
22 okay maybe an unlicensed driver, but may be the vehicle was
23 legitimate. That raises the issue, do we seize a
24 legitimate legal vehicle?

25 OFFICER MURPHY: The person has that vehicle,

1 the owner of that vehicle, would have the opportunity after
2 tickets are issued, to come and get the vehicle. They
3 would be given a ticket for allowing an unlicensed driver
4 to operate the vehicle. If they did have insurance, they'd
5 be given the proper summons for not carrying that
6 information with them. They'd be given these tickets,
7 they'd have to appear in traffic court. Once they showed
8 us the documents, they could and get their vehicle.

9 REPRESENTATIVE WRIGHT: If you pull over a car
10 and the car is legitimately titled, registered, insured, but
11 the driver is not licensed, you could seize the car and
12 then you make the owner of the car come down and provide
13 proof of proper insurance? But you already know the car is
14 insured, you don't need to provide proof. If the car is
15 legitimately registered, insured, titled, inspected,
16 everything, but the driver is unlicensed. You pulled the
17 driver over and you noticed the driver's unlicensed.
18 You're going to seize that car until the owner comes down
19 and provided proof that it was insured, but you already
20 know it is insured?

21 OFFICER MURPHY: In those cases really what it
22 would come down to is that person would be able to drive
23 the car. That person would be given a ticket for operating
24 without a license.

25 REPRESENTATIVE WRIGHT: What do you do, then

1 you drive away and the guy gets back in the car and drives
2 away.

3 OFFICER MURPHY: That is part of the problem.
4 Then that person, they have to park the car and leave the
5 car and later I'm sure they probably come back and get the
6 car. But in reality, we're supposed -- the owner of the
7 vehicle is supposed to come down and get that car.

8 REPRESENTATIVE WRIGHT: The only reason I'm
9 pursuing that line of thought is, in trying to sell
10 something to the rest of the State, that issue will
11 definately come up about, I lend my properly registered,
12 insured car to somebody who I think really is legitimately
13 licensed. Little do I know that he was suspended.

14 OFFICER MURPHY: See that doesn't relieve you
15 of responsibility.

16 REPRESENTATIVE WRIGHT: True somebody will
17 say, well, you should know about the people that drive your
18 car, that is true. But across the state were the problem's
19 not as persuasive, you're going to get legislators standing
20 up and say, that's very onerous and that that portion of
21 seizing a legitimate car of an unlicensed person it might
22 be overzealous, and I perceive we're going to get a lot of
23 flack, especially over that proposal from rural
24 Pennsylvania.

25 OFFICER MURPHY: My understanding is, if their

1 license is suspended, it's supposed to be mailed back to
2 Harrisburg so they shouldn't be in possession of a driver's
3 license.

4 REPRESENTATIVE WRIGHT: I agree, but what does
5 that have to do with the car?

6 OFFICER MURPHY: As far as confiscating the
7 car? Like now as far as confiscating the car, we don't
8 confiscate the car. We simply give this person a ticket
9 and make them park the car.

10 REPRESENTATIVE WRIGHT: Under the proposal
11 though?

12 OFFICER MURPHY: Under the proposal --

13 MR. DOMZALSKI: Basically I think they could
14 seize the car. I think basically what you're saying is, at
15 least what I'm hearing is, an innocent owner defense should
16 preclude the seizure of the vehicle, but what is the
17 innocent owner? Did they knowingly and willingly and
18 intelligently give this car to an unlicensed driver? If
19 that's the conduct you want to excuse here, I don't know if
20 you necessarily want to excuse it.

21 REPRESENTATIVE WRIGHT: I understand that and
22 I agree but I'm telling you that point will be a hard sell
23 point to the rest of Pennsylvania. Then if it's wrapped up
24 into a total package, we may have a serious problem trying
25 to attempt. If any portion of a package is resisted by a

1 group of legislators, then the whole package becomes a
2 problem. So sometimes we have to pick and chose who goes
3 into that passage or you float separate bills or different
4 proposals. Then you try to pass them one at a time.

5 I can read the legislator. I would suspect
6 that they're going to raise a lot of rucous over seizing
7 legitimate vehicles because of an unlicensed person.

8 I thought the intent originally was vehicles
9 that were "unsafe," they didn't have insurance. The
10 insurance isn't really on the driver. It precipitates a
11 part of the payment scale. The insurance is actually on
12 the car. We don't want to insure drivers anymore, we
13 insure cars. That's what my intent was really to move
14 through violations of the vehicle, not so much the driver.
15 That is an important issue, but I thought it was a little
16 bit separate, eventhough they are combined.

17 I just wanted to raise that point and make the
18 Committee understand and try to drive that home.

19 REPRESENTATIVE DRUCE: Is there anything we
20 should do also with PennDOT or with the Insurance
21 Department that would help fascilitate the information you
22 need at the scene where you've stopped a vehicle? Let's
23 say if legitimate individuals may not be carrying proper
24 information with them, you then call in or try to find out
25 some information. Its always been my understanding that we

1 have been very slow at the state level where the Insurance
2 Department doesn't share with PennDOT. I'd like to have
3 the ability to call up and say, this person is not carrying
4 their insurance card, are they insured, here's the vehicle
5 information and you're able from the squad car to get that
6 information. I believe the technology exists for that.

7 OFFICER MURPHY: That would be great but we
8 can't at this time.

9 REPRESENTATIVE DRUCE: What can you get when
10 you call in a license plate, just if there's outstanding
11 warrants on the vehicle?

12 OFFICER MURPHY: What they'll do is they'll
13 tell us if there's a clean check on it. They'll tell us if
14 they're scofflaw violations and the number of tickets that
15 they have.

16 REPRESENTATIVE DRUCE: Just for the City of
17 Philadelphia though?

18 OFFICER MURPHY: City of Philadelphia.

19 REPRESENTATIVE DRUCE: So if I live in Bucks
20 County but I get stopped in the city and I have no city
21 violations, I'm going to show up clean on your check of me?

22 OFFICER MURPHY: To the best of my knowledge,
23 yes.

24 REPRESENTATIVE DRUCE: Insurance information?

25 OFFICER MURPHY: No, we can't get that even in

1 accident investigations.

2 REPRESENTATIVE DRUCE: What about operator's
3 investigation.

4 OFFICER MURPHY: We can get operator's
5 information.

6 REPRESENTATIVE DRUCE: That number you can
7 verify with PennDOT whether that license has been suspended
8 or revoked?

9 OFFICER MURPHY: Insurance is a problem,
10 especially in the area that I'm in. People give you cards
11 and it turns out ultimately that the card's no good. Grant
12 it, they paid the first payment in January, but now it's
13 April and they haven't paid anything since January.

14 REPRESENTATIVE DRUCE: I thought that was a
15 problem.

16 OFFICER MURPHY: If something could be done in
17 that respect, that would be very good.

18 REPRESENTATIVE WRIGHT: Along the same
19 thought, right now we have the capability of -- we have
20 constituents come into our office, we call PennDOT and give
21 the driver's license number, give the car registration
22 number, vehicle identification, et cetera, over and they
23 tap right into the computer and give us some information.

24 For instance, if the registration has been
25 suspended for lack of financial insurance, if there's an

1 "F" stop on it, they can tell us right off the bat, that
2 vehicle has been suspended.

3 Now, this is to follow-up what Tom said, why
4 can't, and I need you to explain to me the process, what do
5 you do when you call the radio room, what are you checking
6 into and why can't you when you call your radio room, what
7 are you checking?

8 OFFICER MURPHY: You're checking like the car
9 to make sure that it's -- say you stop the individual there
10 and they don't have the proper cards. Say you want to find
11 out if it is their car to make sure it's not reported
12 stolen. Maybe you're running for a scofflaw to see if
13 there's any outstanding tickets on the car. They'll tell
14 you that it is a hit and they have five outstanding
15 tickets.

16 REPRESENTATIVE WRIGHT: But is it going
17 directly to PennDOT? They're tapping directly into
18 PennDOT?

19 OFFICER MURPHY: That's a radio room, I would
20 imagine that they are.

21 REPRESENTATIVE DRUCE: When we contact PennDOT
22 and we get a computer person and they're tapping in what's
23 the vehicle identification number, they can pull up the
24 account directly and they say, suspended. If you're
25 directly in contact with the computers at PennDOT, why

9

1 can't you get that?

2 MR. DOMZALSKI: The state won't give us access
3 to that information.

4 REPRESENTATIVE WRIGHT: Is that something that
5 you would like to have?

6 OFFICER MURPHY: We need it.

7 REPRESENTATIVE WRIGHT: You would like to have
8 a direct hookup.

9 OFFICER MURPHY: If you give me an insurance
10 card, I have to take you on your word that this card is
11 good. Other than that, it takes several weeks to get it if
12 we're lucky.

13 OFFICER WALSH: My name is Officer Walsh, W A
14 L S H. I'm the Administrative Aid for Captain Murphy in
15 Accident Investigations. The city does have the capability
16 to interface with Harrisburg and PennDOT in reference to
17 insurance information. PennDOT refuses to interface with
18 the City of Philadelphia. All that information is
19 available through our Information Services Bureau. The
20 only problem is, Harrisburg stonewalls, we can't get
21 anything. If we request a driving record on an individual
22 which in accident investigation we do quite frequently, it
23 takes us, minimum of 14 days. Now, we're talking about
24 people who are killed, seriously injured. Our
25 investigation takes a minimum of 14 days before we can tell

1 anybody whether you or I have a clean driving record.

2 It's incredible that it's 1995 and we can't do
3 that. We make every effort to conduct investigations
4 professionally, but once we step outside the city limits,
5 we get stonewalled. It's constant, it's consistent. 3.
6 It's incredible to me that we can't do it. If you're
7 asking what needs to be done, that's what needs to be done.

8 What needs to be done is, that PennDOT is
9 forced to give us that information. We wouldn't have to
10 worry about it. We have the capability. We can access the
11 data bases in Harrisburg. PennDOT refuses to do it. They
12 won't let us do it.

13 REPRESENTATIVE WRIGHT: Why?

14 REPRESENTATIVE DRUCE: We can probably ask
15 PennDOT that.

16 REPRESENTATIVE WRIGHT: Well, we will.

17 OFFICER WALSH: There has never been an
18 explanation given.

19 REPRESENTATIVE WRIGHT: So actually if you
20 have a regular patrol that pulls over a car and if that
21 person shows an insurance card that at least has dates on
22 it, you really can't challenge that?

23 OFFICER WALSH: We have to take them on their
24 word.

25 REPRESENTATIVE WRIGHT: So then even if you

1 had the power to impound, really you still can't impound
2 that many unless the guy tells you he doesn't have
3 insurance?

4 OFFICER WALSH: Exactly.

5 REPRESENTATIVE WRIGHT: Or he can't produce a
6 card or something like that? Finally, 14 days later you
7 find out that guy didn't have insurance, well, he is gone
8 now. It may have been a different address anyway and you
9 never find him.

10 OFFICER WALSH: Insurance and driving records
11 are two different things. Insurance takes longer than
12 driving. Driving records come back in 14 days, a minimum
13 of 14 days. Insurance information is much longer.

14 REPRESENTATIVE DRUCE: Captain, thank you very
15 much and thank you gentleman for being with us.

16 - - -

17 (Whereupon, at 1:30 p.m., the hearing was
18 adjourned.)

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I hereby certify as the Notary Reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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BY: 
Stacey R. Jackson
Notary Reporter