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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

IRVIS OFFICE BUILDING
ROOM G-50
HARRISBURG, PENNSYLVANIA

WEDNESDAY, OCTOBER 15, 2008
10:03 A.M.

BEFORE:

- HONORABLE THOMAS R. CALTAGIRONE, CHAIRMAN
- HONORABLE KATHY M. MANDERINO
- HONORABLE JOHN E. PALLONE
- HONORABLE DON WALKO
- HONORABLE HAROLD JAMES
- HONORABLE DEBERAH KULA
- HONORABLE JOSEPH A. PETRARCA
- HONORABLE SEAN M. RAMALEY
- HONORABLE JEWELL WILLIAMS
- HONORABLE GLEN R. GRELL
- HONORABLE CARL W. MANTZ

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ALSO PRESENT:

HONORABLE JOHN J. SIPTROTH
HONORABLE PAUL COSTA
HONORABLE CHRIS SAINATO
HONORABLE JOSEPH F. BRENNAN

DAVE MCGLAUGHLIN, MAJORITY COUNSEL
KAREN COATES, MINORITY COUNSEL

JETTA HARTMAN, LEGISLATIVE ASSISTANT (D)
V. KURT BELLMAN, LEGISLATIVE ASSISTANT (D)
MICHELLE MOORE, ADMINISTRATIVE ASSISTANT TO
THE CHAIRMAN (R)

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

1
2 CHAIRMAN CALTAGIRONE: I guess we can
3 open the hearing. I'm Tom Caltagirone,
4 chairman of the House Judiciary Committee,
5 127th legislative district, Berks County.

6 If we could have the members,
7 starting with the back and work our way over
8 and staff.

9 REPRESENTATIVE COSTA: Good morning.
10 Representative Paul Costa, Allegheny County.

11 REPRESENTATIVE GRELL: Good morning.
12 Representative Glen Grell, '87th district,
13 Cumberland County.

14 REPRESENTATIVE MANTZ: Representative
15 Carl Mantz, 187th legislative district,
16 straddling both Berks and Lehigh Counties.

17 MR. MCGLAUGHLIN: Good morning,
18 ladies and gentlemen. My name is Dave
19 McGlaughlin. I'm judiciary committee staff.

20 MS. COATES: Karen Coates, counsel to
21 the judiciary committee.

22 REPRESENTATIVE SIPTROTH: State
23 Representative John Siptroth, Monroe-Pike
24 County and prime sponsor of 2547.

25 REPRESENTATIVE RAMALEY: Good

1 morning. Sean Ramaley, 16th district, Beaver
2 and Allegheny Counties.

3 REPRESENTATIVE SAINATO: Robert Chris
4 Sainato of the 9th legislative district. I
5 have Lawrence and a small section of Beaver
6 County.

7 CHAIRMAN CALTAGIRONE: Okay. We'll
8 start off with Representative Siptroth.

9 REPRESENTATIVE SIPTROTH: Thank you,
10 Mr. Chairman, Chairman Caltagirone, and
11 members of the judiciary committee.

12 I want to thank you for consideration
13 of House Bill 2547, for allowing me to speak
14 on this legislation today. House Bill 2547 is
15 aimed at granting limited immunity for civil
16 action for damages to humane society police
17 officers, investigating and enforcing animal
18 protection laws.

19 Many other states already offer this
20 type of civil immunity to humane society
21 police officers, and in Pennsylvania,
22 firefighters, EMT and others already enjoy the
23 protection of civil immunity, and I think it
24 is only fair that the same protection be
25 offered to those working to protect

1 Pennsylvania's helpless animals.

2 In recent years, Pennsylvania has
3 grown in reputation as a breeding ground for
4 puppy mills and various forms of animal
5 cruelty. It is due to the hard work and
6 determination of these HSPOs and other animal
7 rights groups that this issue was brought to
8 the forefront in Pennsylvania.

9 As a result, the legislature recently
10 past the dog law reforms that call for strict
11 regulations on breeders and kennels, create
12 greater oversight of the breeding industry and
13 provide protections for animals.

14 Due to the new provisions, the HSPOs
15 will have even more responsibility and
16 investigation tools, thus creating workloads.

17 House Bill 2547 will reduce interest
18 costs and allow more HSPOs to be hired and
19 operate in Pennsylvania by protecting them
20 from the threat of frivolous lawsuits.

21 This is a common-sense bill, and ask
22 that you vote it out of committee when
23 appropriate. And thank you very much for the
24 individuals testifying today and your
25 attention.

1 Thank you, Mr. Chairman.

2 CHAIRMAN CALTAGIRONE: Thank you,
3 John.

4 Just for the benefit of the members
5 and people that are here today, as you know,
6 we got the kennel bill through, and that's
7 only half of it, as I refer to it.

8 We have my bill, which would have
9 controlled the horrendous debarking and
10 cesarean operations without benefit of
11 anesthesia and many of the other areas that
12 were covered in that piece of legislation, and
13 I understand that our colleagues in the Senate
14 basically gave the administration a choice of
15 picking one bill, which kind of irritates me
16 just a little bit.

17 I'm not going to give up. Same way
18 with John's bill. I know we're not going to
19 have enough time. We are coming back in the
20 session. And we probably will be doing some
21 legislation votes on the 17th, the week of the
22 17th of November. And you can rest assured
23 that my bill and I'm sure John's bill will be
24 reintroduced in the new session, and we'll get
25 down to work early on those bills to get those

1 moving, and hopefully get them through to the
2 House.

3 We don't have any problem in the
4 House with this type of legislation. It just
5 seems that there's some problems that we have
6 to deal with over in the Senate. And I have a
7 strategy for dealing with our colleagues over
8 there, and I'll implement that strategy at the
9 appropriate time in the next session, and
10 basically that strategy will be they will not
11 get any Senate bills through this committee
12 until they deal with what we want them to deal
13 with over that.

14 I have been too kind to my brothers
15 and sisters over there. And it is like
16 they're poking us in the eye in the House and
17 we've, I think, locked arms, both the
18 democrats and republicans in the House, to try
19 to deal with that situation in the Senate,
20 only to be rebuffed. That's not going to
21 happen again.

22 You know, I don't mind getting
23 punched in the gut once. You're not going to
24 punch me a second time and think you're going
25 to get away with it. And they played a little

1 bit of roughhouse with us over there, and I've
2 just about drawn the line in the sand now and
3 figure that we'll do our strategy and then
4 we'll see what happens. Enough of that.

5 We'll next move to Adrian (sic) Pace,
6 Esquire, who is counsel for PSPCA. If you'd
7 like to -- is there a chair there for you?

8 MS. PACE: Hello. My name is Andrea
9 Pace, Mr. Chairman and ladies and gentlemen --
10 ladies and gentlemen of the committee. Thank
11 you for granting a hearing on this important
12 bill.

13 Currently I'm employed by the PSPCA
14 in the investigations department, and as of
15 next week, I will be chief counsel for the
16 PSPCA.

17 At the PSPCA, we currently employ
18 eleven humane society police officers, and we
19 are training a class of seven future
20 officers.

21 The role and scope of the service for
22 the humane society police officers is laid out
23 in Title 22, Chapter 37, of the Pennsylvania
24 Consolidated Statutes. For the purposes of
25 the Pennsylvania Anti-Cruelty Law, Section

1 5511 of the Criminal Code, humane society
2 police officers have full police powers.

3 Officers investigate allegations of
4 cruelty, serve search warrants, initiate
5 arrest warrants, and fill the same roles as
6 police offices, except for the fact that their
7 jurisdiction is limited. As specialized
8 officers, our agents often serve as a resource
9 for municipal and state police officers when
10 faced with animal cruelty issues.

11 The PSPCA supports the proposition
12 that humane society police officers should
13 receive the same immunity afforded to
14 municipal police officers while acting within
15 the scope of their job and within the
16 boundaries of the Constitution and laws of the
17 commonwealth.

18 The immunity offered in this bill
19 merely protects humane society police officers
20 from civil liability while they are acting
21 within the scope of the employment. Citizens
22 should not fear that this bill would allow
23 humane society police officers to violate
24 fundamental rights or break any laws. The
25 rights of private citizens will remain

1 intact. The only change will be that humane
2 society police officers and their nonprofit
3 employers will no longer live in fear of
4 litigation for performing their statutory
5 grant -- excuse me -- statutorily granted
6 duties.

7 Currently, without immunity, the cost
8 of enforcing the Pennsylvania Anti-Cruelty
9 Laws is sizable. SPCAs and humane societies
10 are forced to carry a large insurance burden
11 in order to be able to work in the field. As
12 such, nonprofit organizations employing humane
13 society police officers are at the mercy of
14 insurance companies.

15 If insurers continue to raise rates
16 or if the insurers begin to end coverage
17 altogether for the humane society police
18 officers, many local SPCAs and humane
19 societies will be unable to continue to
20 enforce the Pennsylvania Anti-Cruelty Law.

21 The PSPCA alone has fielded thousands
22 of complaints since the beginning of the year,
23 and there are currently hundreds of open
24 investigations. The PSPCA agents comprise
25 only approximately one-tenth of the total

1 number of sworn-in agents in the state.
2 Causing further reduction in the humane
3 society police officer numbers would be
4 catastrophic to the enforcement of the
5 Pennsylvania Anti-Cruelty Law.

6 If the SPCAs and humane societies are
7 forced out of law enforcement roles, the
8 burden of enforcing the Pennsylvania Anti-
9 Cruelty Law will fall onto municipal and state
10 police officers. With enforcement of the
11 anti-cruelty law, public police will need to
12 adapt in order to fill the void.

13 The state will need to create
14 facilities that will be able to house animals
15 that are evidence until trial. The state will
16 need to provide veterinary care to the animals
17 waiting for trial. Staff will need to be
18 trained in handling all types of domestic and
19 exotic animals. And officers would need to
20 receive specialty training so they are able to
21 easily recognize violations of the anti-
22 cruelty law.

23 For the facilities, staffing, and
24 training, the state could incur millions of
25 dollars in costs to replace infrastructure

1 that the SPCA and humane societies already
2 provide.

3 The role of humane society police
4 officers is necessary in our society. Animals
5 are often found to be associated with other
6 types of crimes. They can be abandoned
7 following an arrest, be additional victims, or
8 be part of a separate or related criminal
9 enterprise.

10 In one of our cases that is moving
11 through the Philadelphia courts, we were
12 called in by the state police when they
13 discovered evidence of cockfighting when they
14 served a search warrant targeting drug
15 dealing. That case yielded over a hundred
16 birds, thirteen of which were roosters dressed
17 for fighting, twenty-two dogs -- some dead,
18 some mutilated -- and one hawk. The state
19 police recognized that they could not handle
20 the animal portion of that case, even though
21 they were the primary investigators.

22 In that case, PSPCA and the state
23 police created an ideal partnership to handle
24 a case that neither one was equipped to deal
25 with on their own.

1 However, in that raid, the police had
2 immunity and the PSPCA agents did not. Both
3 types of officers were acting within the scope
4 of the law -- of the law and their roles as
5 police officers, but only the state police are
6 immune from civil suits at the end of the
7 criminal trial.

8 The PSPCA, although acting alongside
9 and at the request of the state police, may be
10 sued for performing their job in a lawful and
11 competent manner.

12 Thank you.

13 The PSPCA urges this committee to
14 vote in favor of granting immunity to humane
15 society police officers so that we may
16 continue to do our job without fear of
17 litigation.

18 CHAIRMAN CALTAGIRONE: Thank you.
19 Would you stand for questions?

20 MS. PACE: Oh, I'm sorry.

21 CHAIRMAN CALTAGIRONE: Counsel.

22 MR. MCGLAUGHLIN: Thank you,
23 Mr. Chairman.

24 Good morning, ma'am. Thank you very
25 much for your testimony. The reason I wanted

1 to ask a few questions -- you're going to get
2 some softballs. And basically -- but I wanted
3 to -- since we are on the record, I wanted to
4 confirm that your humane officers -- it isn't
5 like you just fill out an application and
6 you're hired and then you go out with a badge
7 and authority. Those officers are trained,
8 aren't they?

9 MS. PACE: Correct, sir.

10 MR. MCGLAUGHLIN: And they take
11 courses in constitutional rights and search
12 and seizure and that sort of thing during this
13 course of training that they must undergo; is
14 that correct?

15 MS. PACE: Yes, they do. They have a
16 course that has a legal component and also an
17 animal component. And all of the legal
18 components are focused towards the duties of
19 their job as a humane society police officer.
20 So the courses are focused on pretty much all
21 the examples, with constitutional law and
22 issues dealing with arrest and things like
23 that, use examples of animals, but especially
24 a criminal justice course.

25 MR. MCGLAUGHLIN: Yes, ma'am.

1 That's -- I suppose the reason for my comments
2 was to more or less confirm that, through you
3 and your answers, that our humane officers in
4 Pennsylvania are, in fact, given significant
5 training in terms of how to perform their job
6 effectively; is that correct? Including
7 concerns about legal -- the public's legal
8 rights and their limits of their authority,
9 that sort of thing; is that right?

10 MS. PACE: Correct. It is part of
11 that training course that is offered. It used
12 to be offered once a year; now it's currently
13 offered twice a year. And on top of that, the
14 humane society police officers at the
15 Pennsylvania SPCA do receive additional
16 on-site training through the field supervisor
17 and the department supervisor to make sure
18 that they understand their rights and
19 obligations as they go through their duties.

20 MR. MCGLAUGHLIN: Thank you very
21 much.

22 REPRESENTATIVE GRELL: Two
23 questions. Thanks for your testimony.

24 I'm a little confused why we need to
25 designate these officers as public employees

1 when I think I heard you testify that they are
2 actually employed by the nonprofit
3 organization?

4 MS. PACE: They are employed by the
5 nonprofit organization; however, because we
6 are granted these powers by the state, we are
7 seeking the same type of immunity as the state
8 police officers. So in terms of definitions,
9 it's true that we are not public employees,
10 but we seek the same protections since we
11 perform the same duties as the public
12 employees.

13 REPRESENTATIVE GRELL: Thank you.
14 And I would just like to make clear with staff
15 or clarify with staff that we are not opening
16 up other issues by defining them as public
17 employees, whether it's for purposes of
18 pension or any other benefits.

19 And my second question is, have there
20 been incidents -- or how many incidents have
21 there been in recent years of humane officers
22 being sued civilly, and what has been the
23 outcome of those actions?

24 MS. PACE: Currently, we have no
25 pending cases against us stemming from our

1 actions. We did -- we had -- we don't have
2 any civil actions currently pending and none
3 in recent history that I'm aware of.

4 REPRESENTATIVE GRELL: Thank you.

5 CHAIRMAN CALTAGIRONE: Kathy.

6 REPRESENTATIVE MANDERINO: Thank you,
7 Ms. Pace. One question for you and one
8 question probably better for our staff. Give
9 us -- 'cause this makes me a little nervous,
10 I'll be very honest with you, and especially
11 because you just told Representative Grell
12 there aren't any instances, but you did in
13 your testimony talk about insurance
14 implications.

15 So can you give me a picture
16 specifically about what that means? Have you
17 been advised by insurance carriers that your
18 liability insurance would be much less if you
19 had this, or are we guessing here that this is
20 going to have an effect? Can you give me some
21 idea of either how insurance premiums have
22 increased over the years --

23 MS. PACE: I personally have not
24 spoken with the insurers, so I do not know the
25 exact terms of our policy or potential

1 increases or decreases in our liability
2 coverage.

3 However, I can return to you with the
4 information once I speak to our CEO and the
5 appropriate executives to discover what
6 exactly our policy would change.

7 REPRESENTATIVE MANDERINO:

8 Mr. Chairman, my second question is probably
9 better directed to staff either now or, you
10 know, afterwards, if we need to do a little
11 research. The issue of constable is in the
12 back of my mind as we're talking about this,
13 and concerns about immunity, acting out of the
14 scope of practice, who supervises who, where
15 the conflicts are. And I just want to have
16 some assurance that we are not creating the
17 same kind of concern that seems to always
18 being arising in that situation.

19 So I -- and game wardens. I'm just
20 thinking of other ones where these kinds of
21 issues go in the other direction sometimes.
22 And when we hear complaints about game wardens
23 and operating -- where citizens think they're
24 operating out of the scope of their police
25 powers, but they think they're operating

1 within the scope of their police powers, and I
2 don't know if game wardens have this same kind
3 of immunity as given a status of a public
4 employee if they probably more directly work
5 for a state entity.

6 So I think those are kind of
7 analogous situations that we should look at.
8 Thank you.

9 CHAIRMAN CALTAGIRONE: I would agree
10 with you, Kathy.

11 The other thing I'd share with the
12 members of the committee is that I have been
13 approached by the president of the -- since
14 you touched on constables -- constables
15 association. They would like for us to work
16 with them to develop codification, single code
17 for all the constable statutes in the next
18 session, and I agreed to do that. We're
19 probably going to be putting something
20 together over the month of December for the
21 committee to look at once we reorganize
22 whoever's in the majority.

23 I think that's something that's long
24 overdue and they're asking for that. So
25 hopefully we'll face that issue, but more

1 directly get some answers for you on the
2 questions you raised here.

3 Carl.

4 REPRESENTATIVE MANTZ: This is
5 suggestion, really, to the -- the draftsman of
6 this legislation, just to make, sort of, an
7 application of what Representative Grell
8 pointed out. I might suggest that perhaps
9 words be added at the end of line eleven so
10 that it should read humane society police
11 officers shall be treated "as if they were"
12 public employees, to emphasize the fact that
13 they are not, the condition contrary to fact,
14 but they are, for the purposes of this act, to
15 be considered as if they were. Editorial
16 suggestion. That's merely what I would
17 suggest.

18 REPRESENTATIVE SIPTROTH: Thank you,
19 Carl. We will take that under advisement.

20 CHAIRMAN CALTAGIRONE: Karen.

21 MS. COATES: The language in this
22 bill also indicates that this action shall not
23 be construed to reduce or eliminate any other
24 immunity provided to humane society police
25 officers by law. Currently, is there any

1 immunity provided to humane society police
2 officers by law?

3 MS. PACE: No.

4 MS. COATES: And are you -- you're
5 seeking immunity that would be comparable to
6 what the Pennsylvania State Police currently
7 possess?

8 MS. PACE: Correct, in terms of
9 acting within the scope of their duties in the
10 field.

11 MS. COATES: But their training is
12 significantly less than what Pennsylvania
13 State Police or other even municipal police
14 officers have; is that correct?

15 MS. PACE: It is correct that it
16 is -- unless they come from a law enforcement
17 background, they do not receive the same law
18 enforcement training. However, our scope is
19 limited; therefore, we are able to focus
20 more -- in a more -- we're able to focus on
21 our one statute that we have jurisdiction
22 over.

23 MS. COATES: It's also less than what
24 the state constables currently receive too; is
25 that correct?

1 MS. PACE: I'm not aware of the state
2 constable training.

3 MS. COATES: Less than the -- what
4 deputy sheriffs receive?

5 MS. PACE: Unfortunately, I haven't
6 looked at those so I don't know specifically
7 their training.

8 MS. COATES: My notes indicate that
9 the HSPO undergo sixty hours of instruction?

10 MS. PACE: Yes.

11 MS. COATES: Is that a one-time or a
12 continuing education instructional
13 requirement?

14 MS. PACE: There are continuing
15 education opportunities.

16 MS. COATES: Do you know what those
17 are?

18 MS. PACE: I think they're --

19 MS. SPEED: Sixty hours' continuing
20 education, and sixty hours generally completed
21 over a four-day period before application for
22 badge.

23 MS. COATES: Thank you.

24 CHAIRMAN CALTAGIRONE: Are there
25 other questions?

1 I'm sorry. Jewell.

2 REPRESENTATIVE WILLIAMS: Thank you.
3 I'm just trying to role-play the job of the
4 humane society worker. Most of their -- most
5 of the complaints they get is sight. Someone
6 recognizes an animal being mistreated.

7 From the sight or complaint, normally
8 goes to the local police, and the humane
9 society officer gathers the information via
10 pictures or a complaint.

11 Why would they need authority to
12 perform these other scopes of their job? I
13 mean, what -- I mean --

14 MS. PACE: Are you asking about our
15 warrant powers and arrest powers?

16 REPRESENTATIVE WILLIAMS: Your
17 warrant powers and arrest powers are normally
18 as a professional witness, and police would
19 take that information under, I guess, probable
20 cause?

21 MS. PACE: Well, we've -- please let
22 me know if I'm not answering your question
23 fully. We often work with the police officers
24 who do not wish to take animal cruelty cases.
25 We do receive dispatches from the police

1 stations in Philadelphia at least and some of
2 the other outer areas where they have cases
3 that they do not want to handle or cannot
4 handle, so we are seen as their specialty
5 helpers.

6 In terms of the warrant and arrest
7 powers that we have, we are trained to
8 specifically recognize animal cruelty in terms
9 of condition of the animals and other
10 specialized deals such as animal fighting,
11 where recognizing specific implements that are
12 used in animal fighting -- we have specialized
13 training to be able to recognize that beyond
14 the normal police officers.

15 In terms of going through the police
16 officers, we do, at certain occasions, come
17 through the police, and they are the primary
18 investigators; however, they often do not want
19 this job, so we take it. We take many of the
20 cases as primary investigator because they'll
21 just pass off the dispatch.

22 REPRESENTATIVE WILLIAMS: So the real
23 issue is, from this legislation, that speaks
24 to the liability.

25 MS. PACE: Correct.

1 REPRESENTATIVE WILLIAMS: What kind
2 of issues will be considered as liability if
3 you enter a person's property and then you
4 find that they don't have fighting dogs or
5 fighting cocks or -- or you enter someone's
6 property and you see that a dog has been --
7 not being treated in a humane way?

8 MS. PACE: Correct. We're afraid of
9 litigation such as if we were to enter with a
10 warrant that was approved by the district
11 attorney and also approved by the district
12 justice in whatever area. If we enter and do
13 not find the items, we worry that we could be
14 sued for infringing on that person's privacy.

15 We worry that if we lose a case, that
16 we could be brought liable for holding their
17 animals during the time of the trial.

18 There are -- unfortunately, there
19 aren't many cases that I can point to that say
20 this is specifically the lawsuit that we're
21 looking out for, and I'm not a plaintiff's
22 attorney, so I don't know what types of cases
23 they could come up with necessarily against
24 us, but we worry that there is a body of
25 litigation that could exist based upon our

1 actions and the person's property when dealing
2 with animal rights.

3 REPRESENTATIVE WILLIAMS: So when you
4 got a warrant and you entered the property,
5 you enter a property without police officers?

6 MS. PACE: Yes, we do. Sometimes we
7 do have state police or municipal officers,
8 but often we serve warrants on our own.

9 REPRESENTATIVE WILLIAMS: Thank you.

10 I can understand the liability issue
11 of entering a property, and my concern is how
12 does the scope of being a professional -- you
13 become a professional witness from the dog
14 case because the prosecutors process these
15 cases. So you guys don't have the powers to
16 prosecute; you have the powers to --

17 MS. PACE: We are.

18 REPRESENTATIVE WILLIAMS: -- bring a
19 case together to file a complaint?

20 MS. PACE: Correct. We have the
21 powers of a normal police officer to issue
22 citations or arrest parties involved with
23 cases involved with animal cruelty. And then
24 we pass it along to the district attorney's
25 office to prosecute on our behalf.

1 REPRESENTATIVE WILLIAMS: Okay. To
2 make it a bill, I can understand an agency
3 worrying about their liability, and, in my
4 opinion, I think an agency such as this should
5 have protection. I don't know if it should be
6 as equal to law enforcement officers, but it
7 should have some protection under the law from
8 civil liabilities.

9 If they got a -- a complaint or a
10 professional witness when they're making their
11 complaint as a part of probable cause for a --
12 for a warrant to enter a property, I mean,
13 there could be some liability there if they
14 got a complaint and they hit the house or
15 knock the door down or whatever and then
16 there's no dogs there or there is no residue
17 of a dog fighting or cock fighting or
18 something like that. It could be some legal
19 issues there of civil liabilities.

20 I know in our local -- I know in the
21 city of Philadelphia, we would refer that to
22 risk management, if the police were involved.
23 Now, I don't know -- that's where I was
24 concerned about who -- if you -- humane
25 society is perceived as a professional witness

1 of probable cause for that warrant, then it
2 may be covered under risk management if the
3 police officer is involved with it. So --
4 okay.

5 Thank you.

6 MS. PACE: Thank you.

7 CHAIRMAN CALTAGIRONE: John.

8 REPRESENTATIVE SIPTROTH:

9 Representative Williams, if I may -- like to
10 respond a little bit. I come from what are
11 classified very rural counties. Many of our
12 municipalities are served solely by
13 Pennsylvania State Police. And Pennsylvania
14 State Police is basically unresponsive to
15 these types of calls, and we've had numerous
16 incidents of animals being chained for
17 extensive periods of time -- I am talking
18 weeks and days without food or water -- and
19 the only folks that we could get to respond
20 were the humane society police officers, and
21 it took some doing to get that.

22 And that fear factor of the
23 possibility of a civil suit being brought on
24 them is part of that. And that's the intent
25 of this legislation as well.

1 Thank you.

2 REPRESENTATIVE PALLONE: Thank you,
3 Mr. Chairman. I apologize for my tardiness.
4 I'm familiar with the issue and certainly your
5 testimony. Thank you for appearing here
6 today.

7 As Representative Siptroth alluded
8 to, Pennsylvania State Police do not generally
9 in the rural areas and some of the suburban
10 area where they offer patrol and police
11 protection, don't enforce local ordinances and
12 things of the like, and it's left to humane
13 society agencies to do that.

14 And as you are -- probably this panel
15 knows, I have legislation introduced that
16 deals with providing additional funding either
17 to the state police to expand duties and
18 services in troops and/or encourage local
19 communities to provide local law enforcement
20 services. And I think that would kind of go
21 hand and glove with that.

22 My inquiry today is merely on
23 legislative intent, and it may refer to,
24 Representative Siptroth, perhaps you, relative
25 to empowering these officials as police-like.

1 Will that change their status relative to
2 collective bargaining capabilities and force
3 them into binding arbitration for the
4 companies and agencies who manage them?

5 B, does it open them up to, in terms
6 of the workers' compensation provisions, heart
7 and lung rather than workers' comp, regular
8 workmen's compensation?

9 And, C, what does that do relative to
10 licensure and/or training in regulations?
11 Will they be MOPEC qualified? Do they need to
12 be MOPEC qualified or not? Will they have
13 general police powers, or will they be limited
14 to, I don't know, animal-related activities
15 when they're on-site or whatever?

16 I understand the intent here. And I
17 just want to clarify for our purposes.

18 Then the very last question I would
19 ask, and have we heard from whether or not the
20 FOP and/or PSP concur in expanding this
21 liability protection only? And I don't know
22 that we have the ability to be able to
23 designate just liability restrictions like
24 this.

25 I'm concerned as to what other doors

1 it will kick open, particularly with
2 collective bargaining, heart and lung, and
3 whether or not certifications come into play
4 that we end up having to have a special
5 certification training program and licensure
6 program.

7 MS. PACE: Currently, our humane
8 society police officers are designated by the
9 law as only being able to work for Section
10 5511 of the Criminal Code. So our
11 jurisdiction is very limited in terms of what
12 laws we can actually pursue.

13 Also within that, we have to be
14 linked -- the humane society police officer
15 must be employed by a nonprofit humane
16 society, SPCA, or something of a similar
17 mission in order to function. So we do not
18 try to put ourselves out as public officers in
19 any way. And I can't speak for Representative
20 Siptroth, but it is not our intent to seek
21 traditional police powers or police benefits.

22 For our SPCA, we take care of
23 everyone's benefits, workmen's comp and
24 training cost for our officers. So we're not
25 seeking to become members of the state police

1 or public officers.

2 I don't know if you would be more
3 appropriate to speak on that?

4 REPRESENTATIVE SIPTROTH: Thank you
5 very much, Representative Pallone.

6 At this time I have not been
7 contacted by Pennsylvania State Police or any
8 representative organization such as the FOP
9 regarding the collective bargaining status of
10 these individuals.

11 Again, they would be very limited in
12 their scope of work and would not be able
13 to -- similar to fire police, that are sworn
14 by the state of Pennsylvania, and they have
15 very restrictive role that they're allowed to
16 play as fire police officers. So I think that
17 they would -- the humane society police
18 officers would fall into a specific scope of
19 work and designated only for those provisions
20 of the law of which they uphold.

21 REPRESENTATIVE PALLONE: Thank you,
22 Mr. Chairman. Thank you, Representative.
23 Thank you.

24 Again, my inquiry is relative to
25 legislative intent. I think the idea or the

1 concept is certainly worth a second look for
2 us to take a look at and move forward with.
3 The issues, however, still need to be
4 addressed as to whether or not it does affect
5 that collective bargaining issues as well as
6 the workers' comp versus heart and lung,
7 because there is a different formula in terms
8 of benefits under those two different
9 programs.

10 And if we end up doing this, does
11 that, you know, kick the door open for things
12 like binding arbitration and things like
13 that? We just want to be a little bit
14 cautious as we go forward there.

15 Thank you very much.

16 Thank you, Mr. Chairman.

17 REPRESENTATIVE SIPTROTH: Could I
18 interject one, and I'll ask -- I'll pose the
19 question. Are any of the humane special
20 police officers part of a collective
21 bargaining unit at the present time?

22 MS. PACE: Not at the present time.

23 REPRESENTATIVE SIPTROTH: Thank you.

24 CHAIRMAN CALTAGIRONE: Okay. Are
25 there any other questions?

1 If not, thank you very much for your
2 testimony.

3 Next hear from a very, very dear
4 friend, Mr. Barrie Pease, retired state
5 trooper, and he's the president of the Animal
6 Rescue League, Berks County.

7 MR. PEASE: Good morning.

8 Before I start with the testimony
9 today, I would like to take this opportunity
10 before the whole committee here to thank
11 Chairman Tom Caltagirone and the rest of this
12 committee and the entire House, actually, for
13 its hard work on HR 2525. It's too bad that
14 2532 is languishing in the Senate because that
15 is another very needed bill, but I think it's
16 very clear to all involved that the new puppy
17 mill laws that's come to be known will improve
18 the lives of thousands of dogs in Pennsylvania
19 and while improving our image nationally.

20 As Tom said, I am a retired state
21 trooper. I retired out of the bureau of
22 criminal investigation at the departmental
23 headquarters. I followed that with a career
24 as director of special investigations for a
25 large insurance and financial services company

1 in New York.

2 I currently volunteer as president of
3 the board of the Animal Rescue League of Berks
4 County, the 501(c)(3) animal rescue shelter
5 serving all of Berks County for state dog law
6 enforcement and animal control. We are also
7 the only shelter in Berks County that does
8 large-animal rescue.

9 This year our shelter will handle
10 about 10,000 animals. When I say Berks
11 County, we also have contract with the city of
12 Reading, so our number of animals is going to
13 go up considerably.

14 At least ten of those will be horses
15 taken on cruelty complaint. We currently have
16 three in the barn, and I know for a fact
17 there's two more coming in this afternoon.

18 In addition to the adoption
19 programs, we provide grooming, boarding,
20 low-cost or free spay/neuter clinics,
21 community education, low-cost vaccine clinics,
22 and have four full-time, state-certified
23 humane officers handling animal abuse and
24 cruelty investigations along with various
25 other community programs.

1 We have -- just a little background
2 on the shelter -- 19 full-time employees and
3 four part-time employees, plus several full-
4 time volunteers. Our shelter is located on
5 ten acres and includes a barn, barnyard,
6 kennels, cat room, critter room, dog and cat
7 quarantine rooms, kennel, kitchen, office
8 space, and a newly built 5,000-square-foot
9 addition that houses additional offices, our
10 reception area, waiting room, and a public
11 education room.

12 We're currently renovating the
13 existing building, updating and adding kennels
14 and additional cat spaces, replacing chain-
15 link fence, and one of my pet projects is
16 we're investigating the possibilities of a
17 wind turbine to reduce our carbon footprint,
18 produce our own electricity, and as I'm always
19 looking to do, lower the cost of operating the
20 shelter.

21 As you can imagine, an operating
22 budget for a shelter such as ours is in excess
23 of \$1.3 million a year, while our expansion
24 and renovation budget is in excess of
25 \$1.4 million.

1 So it seems like I spend most of my
2 time, my volunteer time -- which after I
3 retired has now turned into more hours than I
4 actually put in when I was working -- is to
5 keep finding us operating funds and begging
6 people for money.

7 The service that we provide that is
8 obviously the highest profile is animal abuse
9 and cruelty investigations. They also seem to
10 be the most likely to cause us legal problems,
11 consume the most time, tie up kennel space or
12 barn stalls for the longest periods of time,
13 and expose the shelter to the greatest
14 liability risks.

15 One of the ways that we get exposed
16 to those risks is at the request of local,
17 county, and municipal and state police
18 officers. At the Animal Rescue League in
19 Berks County, we have a very good working
20 relationship with all the different law
21 enforcement agencies in the county: county
22 detectives; Reading city police; state police
23 Troop L, Reading; and most of the municipal
24 police departments.

25 They constantly call us to go with

1 them when they are serving drug warrants,
2 search warrants on their investigation,
3 whether they're doing eviction, whether
4 they're doing arrests.

5 In this day and age, you very seldom
6 serve drug warrants that don't encounter some
7 type of large, aggressive dogs. I don't want
8 to just specify pit bulls because we find
9 mixed breeds; we find rottweilers; we find
10 Dobermans. Police departments have nothing in
11 their arsenal to handle these aggressive dogs
12 except the semiautomatics they carry on their
13 belts.

14 As animal welfare agents -- agencies,
15 we try to find a whole lot more humane ways of
16 handling them. The ironic part of that is if
17 a police department obtains a search warrant,
18 breaks down a door, goes in, and we seize a
19 dog and they find no drugs, they have immunity
20 from civil liability; we do not. And that's
21 one of the things that this bill will help us
22 provide.

23 We've done those cockfighting rings.
24 We've done dog-fighting rings. Some
25 investigations instigated by us and we've

1 given to the state police. Normally where you
2 find cockfighting and dog fighting, you also
3 find drug trafficking, illegal gambling, and
4 quite a few other things.

5 Again, on those raids, the police
6 officers going in have immunity; our humane
7 police officers that go along with them to
8 handle the animals do not.

9 The other thing I'd like to clear up
10 from just some of the questions here today.
11 My interpretation -- and, again, it's just my
12 interpretation -- of this legislation is not
13 that we are asking for full police powers for
14 our humane officers. So they would not become
15 members of the FOP. They would not be
16 required to get municipal police officers
17 training the same as deputy sheriffs or
18 municipal police or state police.

19 What we're asking for is the same
20 immunity from civil suits that's granted to
21 public servants: EMS, firefighters, a lot of
22 people other than police officers. Our four
23 full-time humane officers, one of which is
24 also our executive director, undergo the
25 mandatory state training, additional

1 training.

2 Their investigations are constantly
3 monitored by our executive director. I try to
4 stay out of that, even though my background is
5 over thirty years of criminal investigation
6 and ten years teaching criminal justice in a
7 community college. I try to stay out of that
8 because I'm a volunteer and I don't want to
9 subject myself to that kind of liability. I
10 did that enough as a state employee.

11 But in addition to that, all of our
12 search warrants are reviewed by the district
13 attorney's office and approved before they're
14 ever taken to a district magistrate where
15 they're again reviewed at issuance.

16 When we serve search warrants, when
17 we get complaints to go out and have the
18 search warrants issued, we always ask
19 municipal police officers to go along with us
20 or state police, because there are areas in
21 Berks County that are particularly covered by
22 the state police. And being a former state
23 trooper, I agree. The state police, a lot of
24 times, are irresponsible -- not irresponsible,
25 unresponsive to animal cruelty complaints.

1 Dogs chained out.

2 They don't enforce municipal
3 ordinances, township ordinances on barking, on
4 leash laws, things like that.

5 A lot of the shelters that work in
6 those counties will contract with the
7 municipalities. We contract, for instance,
8 with the city of Reading, just as an example,
9 plus every other county -- every other
10 municipality in Berks County, with the
11 exception of Muhlenberg Township, who
12 contracts with the local Berks County Humane
13 Society.

14 In those contracts, it specifies that
15 we will enforce their ordinances as well.
16 Now, we do that in conjunction with the
17 municipal police, if they have a municipal
18 police department. In townships where they
19 don't, we are the ones that enforce the local
20 township ordinances.

21 Our humane police officers, as I'm
22 sure everybody on this committee is aware,
23 have the authority to issue citations and make
24 arrests and obtain search warrants.

25 As far as civil suits are concerned,

1 I am familiar with one. We hired a humane
2 officer that had been employed by another
3 shelter. She came to us because our liability
4 coverage that we negotiated not only protects
5 our humane police officers but also requires
6 the insurance company to provide legal
7 representation for them.

8 She worked someplace where that
9 wasn't the case. The shelter had to hire
10 their own attorney for civil suit, as did she,
11 so even though the civil suit was basically
12 filed as a chip in a plea bargain, for a
13 criminal case that she was involved in that
14 went away at the same time the plea bargain
15 was reached, she still had to expend some of
16 her own funds, which she later -- I'm not sure
17 whether she was reimbursed or not.

18 That's the kind of liability that
19 humane police officers should not have to face
20 just to do their job. That part of threats of
21 civil suits should be removed. And criminal
22 cases on animal cruelty and other things and
23 force them under the Pennsylvania dog law
24 should be based strictly on what the facts of
25 the case are and negotiations between the

1 prosecutor and the defense attorney.

2 I know that humane police officers
3 constantly update their knowledge. Like I
4 said before, clear our investigations with our
5 executive director and seek the advice of the
6 local district attorney.

7 I am very much in favor of this
8 immunity statute for several reasons. It
9 takes -- kind of takes the monkey off the back
10 of our humane officers, and maybe I can
11 negotiate a better deal with our insurance
12 liability carrier rather than the exorbitant
13 premiums we are paying now.

14 I thank you for the opportunity to
15 come here and testify. And I'd be happy to
16 answer any questions that anybody has.

17 CHAIRMAN CALTAGIRONE: Thank you very
18 much.

19 REPRESENTATIVE SIPTROTH: Thank you,
20 Mr. Chairman.

21 Barrie, just for the record, when you
22 had indicated that you enforce local
23 ordinances, those local ordinances would only
24 pertain to cruelty to animal or animal laws
25 that have been written by the local

1 municipalities; is that correct?

2 MR. PEASE: That's correct. As an
3 example, in the city of Reading, the executive
4 director and myself, as president, are
5 automatically part of the city animal control
6 board. The city has ordinances that prohibit
7 such things as farm animals being kept in the
8 city of Reading, certain reptiles, things like
9 that. Our humane officers enforce those
10 ordinances, but it deals strictly with
11 animals, nothing else.

12 REPRESENTATIVE SIPTROTH: Thank you
13 very much.

14 Thank you, Mr. Chairman.

15 CHAIRMAN CALTAGIRONE: Did you want
16 to share the story we talked about in our
17 office with what you came across recently? I
18 don't think many members realize, you know,
19 what all you deal with and the type of
20 animals.

21 MR. PEASE: There is some
22 representatives here from Philadelphia. I
23 don't know if there's any other
24 representatives here from counties that have
25 cities such as Reading, Allentown, Bethlehem,

1 and those areas, Pittsburgh, in their area.

2 We have been getting this year a
3 significant increase in the amount of
4 evictions and foreclosures because of the
5 economy. We then get calls from the
6 constables or deputy sheriffs to serve those
7 eviction notice because there's animals left
8 behind.

9 What I shared with Representative
10 Caltagirone was recently we took a four-foot
11 alligator, about a six-foot boa constrictor,
12 and two turtles out of an apartment in the
13 city of Reading. Now, had they been reported
14 to our humane officer originally, we would
15 have gotten a search warrant, gone in and
16 seized them for violation of city code. They
17 weren't. The people moved out, left them
18 behind in the apartment, so we then deal with
19 them.

20 Like I said, we also deal with
21 cruelty complaints of the large animals.
22 Being a rural community, we get sheep, goats,
23 cows, horses, and the expense to that is you
24 got to buy a pickup truck and a two-place
25 horse trailer. And you have to have a barn

1 and a barnyard and the acreage to handle the
2 large animals, and the ability to have staff
3 that can handle large animals to care for
4 them, especially if you take them on a cruelty
5 complaint that's going to be contested in
6 court.

7 I don't have to tell anybody here in
8 the judicial committee that our court system
9 is backlogged, takes time for hearings, which
10 are continually continued, suppression
11 hearings, and in the meantime, the animals are
12 evidence and have to be maintained, which
13 includes veterinary bills, feed, maintenance,
14 and whatever else.

15 I know there are some shelters that
16 feel that governmental agencies ought to incur
17 that expense. I'm not sure how I feel on
18 that, where animal welfare agencies, our job
19 is animal welfare, and if that means that I
20 beg a few extra people for money to take care
21 of a few extra horses, I have nothing better
22 to do right now anyway. And I think most of
23 the shelters feel the same way.

24 CHAIRMAN CALTAGIRONE: Thank you for
25 sharing that.

1 Any other questions?

2 Thank you, Barrie.

3 We'll next hear from Ms. Sarah Speed,
4 Esquire, state director of HSUS.

5 MS. SPEED: Hello. Good morning.

6 On behalf of our 650,000 members and
7 supporters of Humane Society of the United
8 States here in Pennsylvania, I would like to
9 thank you, Chairman Caltagirone and House
10 judiciary committee, for considering this
11 important piece of legislation and my
12 testimony in support.

13 I would also like to thank
14 Representative Siptroth for introducing this
15 legislation.

16 My name is Sarah Speed. I'm the
17 Pennsylvania state director of the Humane
18 Society of the United States. Pennsylvania's
19 humane society police officers currently
20 receive no immunity under the law, and
21 Representative Siptroth's bill will provide
22 protections that are necessary to ensure
23 humane society police officers can fulfill
24 their enforcement obligation.

25 In examining this bill and attempting

1 to explain to others just what civil immunity
2 means and how it is applied to different
3 professions, it occurred to me that I may be
4 most helpful to this committee by providing an
5 overview of civil immunity for humane police
6 officers across the United States.

7 There is a two-step analysis
8 generally applied to determine whether a law
9 enforcement official in general -- so this
10 would be all civil servants -- is shielded
11 from civil liability. The first is whether
12 considering the allegations in the light most
13 favorable to the party injured, a
14 constitutional right has been violated, and,
15 second, whether that right was clearly
16 established.

17 If this test is met, then the burden
18 is shifted to the plaintiff to demonstrate
19 that the official is not entitled to qualified
20 immunity either. So that's what we're
21 discussing today, a level of qualified
22 immunity granted to humane police officers.

23 The determination of an officer's
24 qualified immunity may depend upon whether a
25 reasonable officer under the circumstances

1 would have believed that his conduct was
2 lawful in light of the law that was clearly
3 established at the moment of the incident.
4 This analysis was created in case law and thus
5 is not codified in statute in Pennsylvania or
6 most other states.

7 What type of immunity do other states
8 grant to humane society police officers?
9 Unlike other law enforcement officials, humane
10 officers have a status that varies from state
11 to state. Some states accord humane officers
12 full law enforcement authority, including
13 police powers of arrest and authority to
14 execute warrants.

15 In other states, humane officers are
16 simply agents of nongovernmental charitable
17 organizations who have very little law
18 enforcement authority and who must coordinate
19 with police before enforcing the law in any
20 real way.

21 Humane society police officers in
22 Pennsylvania are a kind of hybrid of these two
23 models in that they have limited law
24 enforcement authority and are employed by
25 charitable organizations rather than the state

1 and yet are officers of the court and thus
2 charged with enforcing a key portion at
3 criminal code, namely the animal cruelty
4 statutes.

5 What would be the scope of the
6 immunity that is provided? No state provides
7 a specific grant to immunity for all acts
8 undertaken as a humane officer. This may be
9 because in most states, humane officers are
10 employees of the state. For example, in
11 California, where there is a difference
12 between humane officer and animal control
13 officer. Animal control officers are
14 considered employees of the state and have
15 sovereign immunity.

16 At least four states, including
17 Maine, Nebraska, and New York, have laws that
18 provide immunity in specific situations, such
19 as immunity for the disposition of seized or
20 surrendered or stray animals or for acts taken
21 in furtherance of search or seizure.

22 Humane officers working for
23 charitable organizations may also receive
24 protection under charitable immunity laws in
25 states that have not yet abolished such

1 immunity. Charitable immunity laws are
2 complicated and vary vastly from state to
3 state. For examples, South Carolina takes
4 charitable immunity one step further by
5 extending immunity to any person, humane
6 officer, charitable worker, veterinarian, or
7 lay person who, in good faith and not for
8 compensation, assists an animal who is ill,
9 abandoned, or in distress with emergency care.

10 What type of immunity does
11 Pennsylvania grant to other officers?
12 Pennsylvania grants civil immunity for actions
13 undertaken by a judicial officer in
14 furtherance of their duties and within the
15 scope of their employment. This immunity is
16 extended to federal officers who come into
17 Pennsylvania, and variations of this immunity
18 is awarded to Pennsylvania's good Samaritans,
19 coaches, volunteer firefighters, corporate
20 representatives, parole officers, school
21 employees, and railroads, but not our humane
22 society police officers.

23 Either legislatively or via sovereign
24 immunity, most states provide civil immunity
25 to the officers who enforce their cruelty

1 code. Pennsylvania has set up a system by
2 which officers who are not state or municipal
3 employees assist with enforcement of the state
4 animal cruelty laws.

5 Since these officers are not granted
6 sovereign immunity, statutory immunity should
7 be extended to those officers so that they
8 have the necessary protections to afford their
9 enforcement responsibilities.

10 It is for this reason that I urge a
11 positive vote on House Bill 2547.

12 CHAIRMAN CALTAGIRONE: Thank you.

13 Questions?

14 REPRESENTATIVE MANDERINO: Thank you,
15 Mr. Chairman.

16 And thank you very much for your
17 testimony -- is it Ms. Kaunas?

18 MS. SPEED: No, I'm Miss Speed.

19 REPRESENTATIVE MANDERINO: Oh, I'm
20 looking wrong. Sarah -- I'm sorry. Miss
21 Speed.

22 In these states where the humane
23 officers are employees of the humane society
24 and not animal control or other state or
25 municipal employees -- you may not know the

1 answer off the top of your head -- but I'm
2 specifically interested in the language of the
3 statute that grants them immunity and whether
4 it's going by route -- I think the part of
5 this bill as currently drafted that causes me
6 the most concern is the designation as public
7 employees.

8 Now, maybe Representative Mantz's
9 language is all that we need, that just says
10 should be treated as if they were acting in
11 similar scope to public employees just for the
12 purposes of Section 1511. That may solve it.
13 But I am interested in what other folks do.

14 From our end, I think this suggestion
15 that Sarah made of looking at our a
16 firefighters and emergency -- EMSs are
17 probably a more closely analogous situation to
18 see how did we grant them immunity, because
19 they mostly work for nonprofits too, and
20 whether or not we did it through a police
21 power or whether we did it through some other
22 way.

23 So I thank you very much for your
24 testimony. I think those pieces of
25 information will help us. I don't think

1 there's much resistance to understanding your
2 problem that you're trying to solve. I think
3 it's making sure we do it right in a way that
4 is kind of the appropriate scope.

5 Thank you.

6 CHAIRMAN CALTAGIRONE: If I could
7 just follow that up with Karen and I were just
8 -- Miss Coates and I were just talking about
9 some of these issues. And maybe what we could
10 plan on doing, with the help of some of you
11 attorneys, with your legal counsel, to get the
12 crafting of the right language so that we
13 could address those concerns, because we were
14 just sidebarring here about the training, what
15 firefighters, volunteer firefighters, and what
16 they go through in order to be certified, and,
17 of course, being covered, I guess, by local
18 municipalities, and it -- I --

19 REPRESENTATIVE MANDERINO: It's
20 complicated.

21 CHAIRMAN CALTAGIRONE: Yes, it is.

22 REPRESENTATIVE MANDERINO: But the
23 real issue is the training. I don't mean
24 to -- in this case it's not -- the training
25 that you have to fight fires or for emergency

1 preparedness or for life savings is not the
2 training we're worried about. The training
3 we're worried about is constitutional rights
4 and understanding what is the proper scope and
5 what isn't the proper scope.

6 MS. COATES: And I think also you
7 have to look at there may be distinctions made
8 for community purposes to volunteers versus
9 paid employees. My understanding is that the
10 HSPOs are paid employees; they are not
11 volunteers. So the immunity that's extended
12 to volunteer firefighters may be a little bit
13 different than the broad blanket of immunity
14 that is being sought.

15 This is -- the way I read this
16 legislation, it is a broad blanket of immunity
17 except in the instances of what's gross
18 negligence or intentional conduct.

19 Is the liability that's contemplated
20 here liability for a person asserting a
21 violation of their constitutional rights or
22 liability relating to the treatment of or
23 seizure of the animals?

24 MS. SPEED: It is liability based on
25 constitutional rights, as I understand it,

1 that the suits are being brought, like Section
2 1983 claims, essentially that someone was
3 deprived the use and enjoyment of their
4 property by a humane officer seizing an
5 animal.

6 MS. COATES: How do you get to 1983
7 claim if they are not a state actor?

8 MS. SPEED: Well, sometimes -- I
9 think in the case that I was looking at which
10 PSPCA was actually involved in, as was
11 Harrisburg Area Humane Society, will be coming
12 up in 2007 where a Section 1983, I believe --

13 Were regular police officers involved
14 in that or was it --

15 MS. KAUNAS: No. It was just totally
16 humane officers.

17 MS. SPEED: Humane officers but
18 acting under the color, because they are
19 judicial officers and attempting to get at it
20 that way.

21 MS. COATES: Well, then if they are
22 acting as a color of state law protection for
23 1983 purposes, they would be entitled to the
24 same immunity afforded other officers under
25 Section 1983.

1 MS. SPEED: The court said no.

2 MS. KAUNAS: The court said no.

3 MS. SPEED: So since they're not
4 state employees, not sovereign -- held by
5 sovereign immunity. And then we do have in
6 Pennsylvania charitable immunity laws. We do
7 have good Samaritan immunity. So if you are
8 just Joe Schmoe on the street or a volunteer
9 and you see an animal in distress and render
10 it aid, you are immune to civil immunity
11 (sic), for example, for that aiding quash, you
12 actually harm it more than you hurt (sic),
13 that's covered, but not for professionals.

14 And this level of immunity was
15 actually cobbled together by -- it's
16 substantially similar to a lot of the other
17 grants of immunity like those granted to
18 coaches and volunteer firefighters. The
19 language is substantially similar, but I would
20 think that it would be a good idea to have
21 another look at it from the perspective of
22 someone who is a professional acting within
23 the scope of their employment solely.

24 CHAIRMAN CALTAGIRONE: Thank you.

25 And I would like if you would be able

1 to make some time available for counsels to
2 sit down with you to see if we can refine it
3 just a bit so that those issues -- once we
4 consider the bill, this committee, and
5 numerous attorneys that we have, Karen and I
6 were just saying, they'll be taking a very
7 hard look at what is done, and they do review
8 the work very carefully. But I would like to
9 put out a good product. If you could do that
10 at your leisure, just let us know when you'd
11 be available.

12 MS. SPEED: Sure. Will do.

13 CHAIRMAN CALTAGIRONE: Okay. Thank
14 you.

15 We will next hear from Amy Kaunas,
16 executive director of the Humane Society of
17 Harrisburg Area.

18 MS. KAUNAS: Thank you. Thank you
19 for the opportunity.

20 I don't have a formal written
21 statement. I think, being that I'm last, it's
22 probably best. I'd like to try to just touch
23 on some points and clarify what was already
24 said from my perspective.

25 I am the executive director of the

1 Harrisburg Humane Society. I have been there
2 for two years. Prior to that, I was an
3 attorney with Ballard Spahr. So I am more
4 familiar than the average executive director
5 with these issues.

6 Our humane society has a budget of
7 one and a half million dollars a year. We
8 employ thirty-five people; two hundred active
9 volunteers. We serve three and a half
10 counties: Dauphin, Cumberland, Perry and
11 northern York, which constitutes a little over
12 a half a million people. So that is our
13 service area. That's the area we cover for
14 animal cruelty calls.

15 Right now, I only currently employ
16 one humane police officer. We are licensing
17 and badging a second humane police officer
18 next year. There is definitely a real need in
19 our community for this service. If I could
20 afford more, I would employ more, but it is
21 really a matter of budget.

22 We respond to over 3,000 calls of
23 animal cruelty a year in those three and a
24 half counties. So it's out there. It is a
25 real community issue. And I think -- I think,

1 as this committee has recognized, this is not
2 a humane society issue. This is a community
3 issue.

4 We need to be addressing ways to
5 make -- make our humane police officer jobs
6 easier, because if we don't, it is going to
7 fall back to local municipalities, and it is
8 going to fall back to our police force.

9 At some point the issue has to be
10 addressed for the sake of our community. It
11 is not just the humane societies that are
12 dealing with this problem. You know, and I
13 say it's a community issue because no one
14 wants animal abuse in their community.

15 We go in regularly, as Barrie said,
16 to really, really bad situations. We go in
17 homes that have been abandoned and many, many
18 animals are left behind. We accompany police
19 officers or constables when they're serving
20 eviction notices.

21 Just two weeks ago, we got called
22 2 o'clock in the afternoon. We're serving an
23 eviction notice. There are at least forty
24 cats in this house living with these people.
25 And we had to stop what we're doing, go out.

1 And we have to gear up because the children
2 are being taken because of the filth. The
3 home is being condemned because of the filth.
4 We are putting on masks to protect ourselves
5 because you can't breathe in the home,
6 covering ourselves with appropriate medical
7 gear because the house is that -- in that bad
8 a shape that we can't safely walk in there
9 without some type of protection, and we're
10 taking those cats.

11 There are many, many times -- and I'm
12 sure Barrie can nod to this -- that we're
13 going into a home, and we are not just looking
14 at animal abuse. Okay. We are looking at
15 child abuse. We are pulling in domestic
16 violence services. We're pulling in the area
17 agency on aging because there is elder abuse.

18 So eliminating -- you know, if we can
19 make the humane police officers' function or
20 not, when we investigate animal abuse, we're
21 also looking and seeing other things, and we
22 are helping other people in the community at
23 the same time that we're doing this.

24 And it opens us up to additional
25 liability. As Barrie had pointed out, we get

1 pulled in on a drug investigation case. The
2 police say we are going to enforce this drug
3 warrant. We want you to come with us because
4 we think there's going to be a dog there.

5 We get there, and there is a dog;
6 there is no drugs. What do we do? And it's a
7 tough situation. It is a tough situation for
8 all of us.

9 But I would like to touch on the
10 training as well, real quickly. What we offer
11 at our shelter, we require the humane police
12 officer to go for additional training up to
13 twenty hours a year. So their total is twenty
14 hours a year at our shelter. The mandatory is
15 six.

16 I can say from my position that I
17 would not be opposed to -- if part of this
18 solution is coming up with more required
19 training, I would not be opposed to it. I can
20 tell you none of my -- no one that I have come
21 across as a humane police officer would be
22 opposed to it. I think they would actually
23 welcome it.

24 They would welcome that additional
25 training and that additional certification. I

1 think it would make them feel better. It
2 certainly would make me feel better as an
3 employer. So if that is part of the solution
4 or if that's where the committee's leaning, I
5 would wholeheartedly back that. And I know my
6 humane police officers would definitely
7 appreciate that.

8 I can talk a little bit about the
9 Section 1983 claim. That was brought pre my
10 administration and pre me taking over the
11 shelter. The claim is very, very difficult.
12 We successfully settled that case. But it
13 could have brought our shelter down. That's a
14 fact.

15 We were being sued for an outrageous
16 amount of money, and it could have brought our
17 shelter down, and what it stemmed from was the
18 seizure of animals being on the property,
19 whether or not we had the right to be on the
20 property. We had a warrant that was reviewed
21 and approved by the DA. And we were still
22 being sued.

23 It was not only our humane police
24 officers that were being sued, but it was also
25 our director of public relations. It was also

1 our executive director. And it was also our
2 shelter as an entity.

3 So for me, this is the tip of the
4 iceberg. This is civil immunity for HPO, but
5 we still have an enormous amount of liability
6 as an organization in enforcing these laws
7 going forward. And that was -- that was a
8 very difficult case.

9 And I'm limited to what I can say
10 about the case unfortunately because of the
11 settlement agreement, but I can tell you that
12 it is out there, and it is real, and I'd be
13 more than happy to provide the committee in
14 follow-up with the name of the case if you
15 wanted to review it. That might be -- might
16 be helpful.

17 Questions?

18 CHAIRMAN CALTAGIRONE: Yes. One of
19 the things that I'd like to discuss in this
20 roundtable with you all and any of the members
21 and staff here that I think we really should
22 do that the suggestion that you just made
23 about expanding the scope of your training and
24 your certification. And I think we need to
25 take a look at that. Because I don't think

1 that it hurts -- I got the attorneys --
2 especially the staff attorneys with their
3 continuing education, and any of the attorneys
4 that continue to practice, they know what I'm
5 talking about. It's true in many other
6 professions where you have ongoing educational
7 requirements, and upgrading and training.

8 And I think that would be very, very
9 useful, number one. And number two, I think
10 looking at some type of certification or
11 professional standards that you may want to
12 develop in this think tank to try to beef up
13 the legislation -- I think the legislation's
14 good. I think we know where you're headed
15 with this particular situation, the liability
16 factor.

17 But I think added to that we may want
18 to take another look at trying to upgrade the
19 standards and certification.

20 Questions?

21 REPRESENTATIVE SIPTROTH: Only to
22 comment, Mr. Chairman, I think we would have
23 to work very closely with the Department of
24 Agriculture and the agriculture committee so
25 that we could have some wrap legislation, if

1 you will, that would encompass some of the new
2 training criteria and responsibilities of the
3 humane society police officers. I think that
4 may be a good undertaking as well.

5 CHAIRMAN CALTAGIRONE: Karen.

6 MS. COATES: Thank you very much for
7 your testimony.

8 By making them public employees, is
9 it contemplated that there would be a public
10 entity responsible for the insurance coverage
11 for these officer?

12 MS. KAUNAS: No. No. I --

13 MS. COATES: Still that the nonprofit
14 would cover the insurance as a cost issue?

15 MS. KAUNAS: Absolutely. I can tell
16 you from -- you know, from a cost perspective,
17 it does cost us several thousand additional
18 dollars to -- I didn't bring a copy of our
19 insurance policy with you, but I know -- or
20 with me, but I know that we do have to carry a
21 side type of insurance for employing humane
22 police officers that we would not have to
23 carry if we did not employ them.

24 And I believe that that's -- I'm
25 going to take a stab at this -- probably about

1 a \$4,000 portion of our premium, which, you
2 know, at the end of the day, in my personal
3 opinion, that is a lot of -- it is a lot of
4 money to have to raise. Is it going to make
5 or break us? No, but then you add on the
6 issue that Barrie had brought up, this
7 person's going to have to defend themselves;
8 there is no defense cost. I'm sure our
9 premiums would be even higher if we did have
10 those defense costs associated with it, and
11 one reason we don't is because obviously it is
12 going to make the premium significantly higher
13 than it currently is.

14 MS. COATES: And I just want to get
15 back to the 1983 action. I would like to
16 review that case, but the changing state law,
17 if it was an 1983 action, how does that -- I'm
18 assuming it was a federal court action?

19 MS. KAUNAS: Yes.

20 MS. COATES: And so those issues
21 would be governed by federal law --

22 MS. KAUNAS: Correct.

23 MS. COATES: -- on the immunity
24 issues. So how does changing state law
25 insulate you from those types of action under

1 federal law?

2 MS. KAUNAS: I think it just
3 eliminates more possibilities. We were -- I
4 believe in that case, we were sued both in --
5 I think the case may have started in state --
6 I don't recall. Did they -- didn't they -- I
7 can't recall. I don't recall the entire
8 history of the case. The case went out for
9 about seven years, but, in my opinion, it's
10 basically just eliminating the options people
11 can pick from.

12 And I think it is making it very
13 clear that any claim that says they're -- it
14 is just eliminating claims. That's my opinion
15 on it.

16 I brought up this Section 1983 as one
17 of the cases I'm very familiar with to say
18 that suing us is very real. People are
19 looking for ways to sue us for taking what is
20 considered property in our state. So --

21 CHAIRMAN CALTAGIRONE: Just for the
22 benefit of the members and the audience, this
23 very committee did work a number of years back
24 in upgrading the standards of training,
25 certification with the constables and the

REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

BRENDA J. PARDUN, RPR
Court Reporter
Notary Public