

TESTIMONY OF DISTRICT ATTORNEY
ROBERT W. BUEHNER, JR.
REGARDING HOUSE BILL NO. 2585

Representative Belfanti: and members of the House Labor Relations Committee: My name is Robert W. Buehner, Jr. It is my honor and privilege to serve as the elected District Attorney here in Montour County. This is my 19th year and I am second in active seniority among Pennsylvania active district attorneys. Also, I have served as President of the PA District Attorneys Association, been an advisor to Governor Ridge, helping to draft legislation for the 1994 Special Session on Criminal Justice. My testimony today is simply my own experienced views and do not represent the opinions or positions of other district attorneys or the PDAA.

First, the passage of House Bill 2585 is of great importance to the safety and well being of the citizens of Pennsylvania because it will allow properly trained sheriffs and their deputies to have policing powers the same as local police officers.

Some will ask – What is the problem to be solved? The answer is at least two fold. First, is the need for additional man and woman power in law enforcement to cover under-served areas. Second, this legislation ends the confusion regarding the powers and duties of sheriffs and their deputies throughout the Commonwealth.

A recent news report indicated that nine local municipalities have disbanded local police departments and that the PA State Police will assume primary enforcement powers in those local areas. This stretches the coverage areas of the State Police even further and their resources even thinner and this has been an ever increasing trend that will continue – given the budget realities all levels of government face.

Let me bring it home to you here in Montour County. After 10:00 p.m. each night, a 100 square mile area of Montour County has part time coverage by one PSP patrol car with two officers who also cover large portions of Union County and upper Northumberland County this also includes a nearly 20 mile portion of Interstate 80 with an interchange and two rest areas. Sheriff's deputies would be able to respond as police officers to incidents in the county when PA State Police officers are miles away and have a long response time. I can tell you the rank and file state troopers would welcome the support and assistance – they have told me so. I am certain the same situation occurs throughout the Commonwealth.

The second problem that HB 2585 solves is the confusion over the powers and duties of the Office of Sheriff. Sheriffs have argued that what they want is their common law powers restored. Our PA Supreme Court has ruled in a series of cases in what to many is a very confusing pattern regarding those common law powers. Well, the “common law” is a lot like “common sense”. It is actually not that common and is open to a wide degree of interpretation. HB 2585 gives the statutory basis for the power and duties of sheriffs and their deputies. No more wondering about whether today's sheriff in Pennsylvania has the same common law powers as Jolly Old England's Sheriff of Nottingham pursuing Robin Hood as was actually

mentioned in a recent PA Supreme Court case known as the Leete decision – HB 2585 eliminates all the confusion and interpretation by setting forth clear powers and duties. In fact, I believe the PA Supreme Court has been asking the General Assembly to address these issues – HB 2585 does that.

Section 2113 sets forth nine enumerated statutes wherein sheriffs have powers and duties. These include the Crimes Code – title 18; and the Vehicle Code – Title 75. However, missing from the list of laws is the Controlled Substance, Drug, Device and Cosmetic Act – found in Volume 35 of Purdon’s Statutes. The act should absolutely be included.

Also, the bill gives sheriffs the power to enforce the Bingo Law. Currently, that power is within the specific purview of the District Attorney. I do think many D.A.’s would gladly give up that power to investigate bingo games. However, I truly believe some technical language is necessary to relieve D.A.’s of that authority. Now, you might think that violations of bingo laws can never happen. I spent a great bit of time investigating a complaint about violations of the Bingo Act and it was, although not the Crime of the Century, time consuming and nasty.

Also, I believe there should be clear language authorizing properly trained sheriffs and deputies to participate in electronic eavesdropping activities – the same as other police officers.

I applaud the drafters of HB 2585 for specifying qualifications for a sheriff. If you are going to give the deputies law enforcement powers, then the sheriff who supervises them should have proper educational training this is just like the requirements of a District Attorney graduating from law school and passing the PA Bar Examination.

Some opponents of HB 2585 will argue that certain negative things will happen if this bill passes. There will be jurisdictional issues – I call that the “whose in charge” argument.

Well, the answer to that is very simple. The District Attorney of each county as the prosecutor and chief law enforcement officer of the county is responsible for sorting that out.

Already, the PA State Police have statewide jurisdiction and can make arrests in municipalities which have their own police departments. It is not a problem that cannot be resolved.

In Allegheny County, the sheriff’s office has county-wide police powers and it has not proven to be a problem that goes unresolved there as well.

Members of the committee, there are more than enough bad guys – criminals – to go around. Adding sheriffs and their deputies to the team of law enforcement officials who have police powers only increases public safety ... that should really be the bottom line!

In summary, I personally applaud Representative Belfanti, a man I respect for his work, and that of the committee staff and co-sponsors on HB 2585. I urge its passage.