COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

JOINT COMMITTEE ON PUBLIC SAFETY

and EDUCATION

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, April 6, 2004
1:35 p.m.

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BILL 040114 - An Ordinance amending Section 10-800 of the Philadelphia Code, entitled "Safety" by adding a new Section 10-833 entitled "Possession of Weapons on School Property" to prohibit the possession of weapons in and around educational institutions, all under certain terms and conditions.

PRESENT:

COUNCILWOMAN DONNA REED MILLER
COUNCILMAN DARRELL CLARKE
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN BRIAN O'NEILL
COUNCILMAN JUAN RAMOS
COUNCILMAN FRANK RIZZO
COUNCILWOMAN BLONDELL REYNOLDS BROWN

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04/06/04 - SAFETY & EDUCATION - BILL 040114

COUNCILWOMAN MILLER: Good afternoon, everyone. We're going to start the public hearing of the joint public Committees on Public Safety and Education. We have a quorum. We have to my left Councilman Frank Rizzo, Councilwoman Blackwell, to my right Councilman Darrell Clarke and Councilwoman Blondell Reynolds Brown.

Will the Clerk please read the title of the bill?

THE CLERK: Bill No. 040114, an ordinance amending Section 10-800 of The Philadelphia Code entitled "Safety" by adding a new Section 10-833 entitled "Possession of Weapons on School Property" to prohibit the possession of weapons in and around educational institutions, all under certain terms and conditions.

COUNCILWOMAN MILLER: Thank you.

Is there anyone who will be testifying for this bill? Please come up to the witness and identify yourself for the record and proceed with your testimony.

Clerk, you have a list of witnesses,

don't you?

THE CLERK: Yes.

COUNCILWOMAN MILLER: Call the first witness, please.

THE CLERK: I would like to call police Commissioner Sylvester Johnson. I would also like to call Craig Johnson who is the Divisional Commander for the Philadelphia School District Police. And I would like to call Harvey M. Rice, School Safety Advocate, Department of Education of the Commonwealth of Pennsylvania

COUNCILWOMAN MILLER: Thank you.

Please come up to the witness table.

Good afternoon, please proceed with your testimony. Identify yourself first, Commissioner Johnson.

COMMISSIONER JOHNSON: My name is Commissioner Sylvester Johnson, Police Commissioner, City of Philadelphia. Along with me is Karen Simmons, the Senior Legal Aide for the Police Department.

Good afternoon, Councilwoman Miller and Members of the Public Safety Committee and

City Council members. Thank you for giving me the opportunity to appear before you this afternoon in support of this legislation which addresses one of the most serious crises facing our great city. Thank you for bringing the issue of gun violence and the changes that are desperately needed in Philadelphia from Harrisburg to the forefront.

The human cost of gun violence is devastating to the soul of our City. The numbers tells a staggering story. In 2003, there were 348 homicides in our City, of which 273, almost 80 percent, were committed with a gun. That same year, there were 1,140 gunshot victims in Philadelphia, some suffering only minor wounds, but many suffering permanent and disabling injuries. Another 1,958 Philadelphians were victims of aggravated assault by guns but suffered no injuries thanks only to the bad aim of the shooter, a malfunctioning gun, or other circumstances that spared them injury. During 2003, almost 5,500 guns were recovered by the Philadelphia Police Department throughout the City. In

2003, the resources of uniformed police and radio dispatchers were used by almost 7,500 calls to 911 reporting gunshots and nearly 30,000 reports of persons with a gun.

In a three-year period from January 1, 2001 to February 10, 2004, there were 4,859 gunshot victims killed or injured by gun violence. Of that number, at least 432 were juveniles. These are not just cold statistics, each one is a person whose hopes and dreams were forever changed.

The Philadelphia Police Department has been relentless in its efforts to fight gun violence. Our commitment of personnel to narcotics enforcement Operation Safe Streets is a direct attack on gun violence. In cooperation with federal authorities, we can remove illegal guns from the streets and track their origins to the source. Through programs such as G.R.I.P. we have encouraged residents of our communities who know of illegal guns to get information to Police so that we can take these guns off our streets. We're also looking for new innovative ways to keep guns

off the street. But law enforcement can't do it alone. This legislation addresses the environment of our City which allows gun violence to flourish. It is this type of legislation which will change the illegal-gun-friendly environment which has allowed gun violence to escalate to epidemic proportion.

The legislation prohibiting weapons in and around schools will serve as an additional tool to law enforcement in keeping our children safe. The legislation providing for temporary removal of firearms from persons posing a risk of imminent personal injury to self or others will provide an additional safeguard for the public by ensuring the swift removal of firearms from the custody of anyone who is found to be an imminent danger to themselves or others. The legislation enhances the prohibition of certain assault weapons contains desperately needed prohibitions on paramilitary assault weapons that are increasingly becoming the weapon of choice for criminals on the streets of

Philadelphia.

I would like to commend the sponsors of this legislation and the members of this Committee for recognizing the grave situation we face and looking for ways to change the environment. This legislation shows that our City Council will do all it can within the confines of the law to give law enforcement the tools it needs to effectively fight the fight and reclaim our streets. We owe it to the families and friends of every victim of gun violence to do all we can to make sure we end this epidemic now. Thank you.

COUNCILWOMAN MILLER: Thank you.

Does anyone from the Committee have any questions for this witness?

Councilman Rizzo.

COUNCILMAN RIZZO: Commissioner and Chair of the Committee, I understand the intent of the legislation, specifically Bill No. 040114, but the way I read this, are we trying to prohibit off-duty police officers that might drive their child within 100 feet of a school to drop them off to be in

violation? Because it says here, "Exceptions. The prohibition set forth in subsection shall apply to the lawful performance of official duties by a full-time officer, agent or employee of United States Commonwealth or a political subdivision who is authorized by law to engage in or supervise the prevention, detection, investigation and prosecution of any violation of the law."

A person that has a permit that wanted to drop their child off to school on the way to work, a private investigator or an off-duty police officer would be violating this law.

COMMISSIONER JOHNSON: I think that's something that can very well be resolved. I think one of the rules right now, as far as the School District is concerned, we don't let off-duty police officers even with the weapon in the schools. They're not allowed to enter the schools. So if they take their child to school, they're not allowed to take that weapon inside the school. In other words, if they come to the school and drop

their child off outside the school, I don't think that's problem. But they're not allowed to enter a school with a weapon.

COUNCILMAN RIZZO: But according to this, they'd be within 100 feet of the school. If a private investigator that has a permit to carry would want to drop their child off at the school, they would be within 100 feet of the school and subject to the consequences of this bill.

COMMISSIONER JOHNSON: Really, Councilman, I don't really have a problem with that, personally. I don't have a problem with a police officer not bringing his weapon within 100 feet of a school. That's my personal view. I think with 100 feet, you're talking about 30 yards. Within 30 yards and maybe 12 inches he doesn't bring that gun anywhere near the school, I don't think it would harm the Police Department at all.

COUNCILMAN RIZZO: What the about the person that you issue a permit to carry, why would we want to -- aren't we after the bad guys here? And I don't think the bad guys

have permits to carry. Why would we want to limit a person that has a legally licensed weapon, a permit to carry not to be able to carry their weapon on their way to work, dropping their child off?

That's just a stretch. I'm using the scenario that probably gets most people's attention.

I think when you issue a person a permit -- you know, there's even question about people coming into this building that have a legal weapon. I mean, I just personally have a problem with that restriction. You gave a person a permit and now you're trying to say they can't go within a hundred feet of a school? They're the good guys, most of the people, or you wouldn't have given them the permit.

COMMISSIONER JOHNSON: Again, this is just my personal opinion -- and I think this legislation can be refined -- but as an individual, I have no problem not taking a gun within a hundred feet of a school.

COUNCILMAN RIZZO: Say that again.

COMMISSIONER JOHNSON: I would have no problem myself not taking -- if I know I'm taking my child to a school, then I would have no problem, even though I'm legally able to carry a gun, not taking that gun within a hundred feet of the school. That's my personal view.

COUNCILMAN RIZZO: Well, we don't agree. Thank you, Commissioner.

COUNCILWOMAN MILLER: Councilman Clarke.

COUNCILMAN CLARKE: Thank you, Madam Chair.

Just a follow-up to that particular line of questioning. First, I'd like to say that statistics will show that individuals who have gotten a permit to carry in fact do not have a criminal record, but I think statistics will also show that a number of the individuals who have committed crimes or have been accused of crimes -- and I'm not a clairvoyant, but I think that the likelihood that some of these people will commit a crime is pretty high. When we talk to the ATF, we

found out that not only had individuals who had permits to carry in fact ultimately committed a crime, but what we've been told by law enforce both on the local and federal level that a part of the current security process of individuals who commit crimes, they essentially have people working for them such as a drug dealer who will actually get a person who is legally licensed to carry a weapon as a bodyguard. I think that the potential is very high for that person, although that person is legal at the point of issuance of the permit, but if the person was hired to protect a drug dealer, there's a strong likelihood that that person will potentially get into some sort of violent crime.

So I'm concerned, obviously, about the rights of people. But I think in this particular instance when we're talking about a school, frankly speaking, there's no reason to have a weapon in that close proximity to a school. A private investigation investigates based on specific time frames, and I don't

think that they should be given this opportunity to carry a weapon 24 hours a day because they clearly have assigned times when they do their investigation. Unless they're investigating somebody in the school, I, frankly speaking, don't know why there's a need to have a weapon in that close proximity to a school.

So I just wanted for the record say that I understand the Commissioner's concern and I support is concern, although do I not want to infringe on anyone's rights.

I also am a person that have a permit to carry, but I don't feel the need to carry a weapon within a hundred feet of a school.

COUNCILMAN RIZZO: Could I ask a question, Councilman Clarke?

COUNCILMAN CLARKE: Sure.

COUNCILMAN RIZZO: Based on your bill, how would it affect an off-duty police officer?

COUNCILMAN CLARKE: I don't want to answer for the Commissioner, but I will first

and then the Commissioner can obviously follow-up. It's my understanding that based on law that a police officer, although assigned an eight-hour or whatever that particular time of on duty that a police officer is bound by law to stop the commission of a crime or to respond to a crime 24 hours a day. So to say that a person is off duty, I think technically may off duty, but I believe a police officer is always on duty and he is duty bound by law to respond to any commission of crime.

COMMISSIONER JOHNSON: Councilman, you answered that correctly and the answer is exactly right. A police officer always has a responsibility to react 24 hours a day if he sees a crime being committed. So he always has a right to carry his weapon.

So again, I think based on this bill, any bill that will benefit our kids I think is something that can be worked out. But, again, my personal view, I have no problems with that.

COUNCILWOMAN BLACKWELL: Madam

Chair, I totally agree with the Commissioner. In fact, as Lucien used to say before me, he believed and so do I, that only officers should be the ones who can get permits to carry. I don't think anybody needs a gun other than an enforcement officer. We don't need them. And I don't know anybody hunting in Philadelphia. So I totally agree with the Commissioner. People shouldn't have guns and agree what my colleague said, what Councilman Clarke said about police officer. Thank you.

COUNCILMAN RIZZO: Should there been an amendment to this bill that's clearer that police officers are exempt?

COMMISSIONER JOHNSON: Well, I think that's something who wrote the legislation would have to do.

COUNCILMAN RIZZO: What would your recommendation be?

COMMISSIONER JOHNSON: I don't want to say the wrong thing, but I think a lot of it is common sense, to me. If a police officer knows that he can carry a gun 24 hours a day, you don't have to have legislation to

say that you can. But again, in my personal opinion, I just think it's common sense.

COUNCILMAN RIZZO: But the legislation says you can't.

COMMISSIONER JOHNSON: Well --

COUNCILMAN RIZZO: The legislation says a police officer can't carry a weapon off duty because it's very clear, it says "The lawful performance of a full-time police officer agent or employee." The lawful performance; so I'm not clear whether an off-duty police officer would technically be in violation. I don't think knowingly we want to pass legislation that could put a police officer in jeopardy off duty.

COUNCILWOMAN MILLER: Certainly we don't want to do that, but we also have to figure out ways to protect our children in schools. And if you're a police officer, whether you're on duty or -- well, if you're on duty you're exempt, however, if you're off duty and taking your child or picking your child up from school, maybe you can leave your gun in a car or whatever.

COUNCILMAN RIZZO: I'm not talking about -- I'm talking about a police office off duty in his car pulling up to the curb, he's within 100 feet of the school. Technically he'd be in she'd be in violation of this ordinance. And my point being is, I don't think we want to put our police officers in a position to be criticized by someone that knows that that person is off duty and may have a gun and within the hundred feet of the school. There are a lot of schools in Philadelphia. When you pull up to the curb in a car never even get out, you're within a hundred feet.

COMMISSIONER JOHNSON: Councilman, again, office police officers know that they're always on duty. If they're within a hundred feet of a school and they see a crime happening, they have an obligation to act.

I understand what the legislation says --

COUNCILMAN RIZZO: Commissioner, all I know is it says, "The lawful performance of official duties."

An off-duty police officer does not fall into Point 1 of this bill. I think we should fix it if we're going to vote on this today -- because I won't as long as it's written like this. But I can tell you that if it's fixed and it exempts police officers off duty, then I'll be for this. But I won't be as it's reason.

COUNCILWOMAN MILLER: Can we get a legal opinion on the issue of the police officer being always on duty in terms of carrying their weapon?

COMMISSIONER JOHNSON: I have my attorney here right now. There's no legal obligation for a police offer to carry his gun 24 hours a day, but he can. Whether he has a gun or not have the weapon, if he sees a crime being committed, he has an obligation to react. That's why a lot of them carry their weapons. The fact that he's within a hundred feet or 50 feet of a school and someone's being robbed or someone's being murdered or someone's doing something that is illegal, then he has an obligation as a law enforcement

officer to react. So technically, he's always on duty.

COUNCILMAN RIZZO: And that's more reason that a police officer that is off duty, if they do involve themselves in apprehending a person that's committing a crime that they are equipped with all the tools of their trade. And that officer knowing that he may be in violation dropping his child off to school may not have his weapon and in fact something develops that he wish or she wish they had their weapon to be able to provide police support.

So my point being -- and I don't want to beat this to death -- is that I don't want see us pass a piece of legislation that's going to restrict our officers from carrying their weapon within a hundred feet of a school when they're off duty. I think it's inappropriate for us to put them in that situation and then in the same breath say, if something goes down and they need to involve themselves that they're involving themselves without their weapon. So that's my concern.

COUNCILMAN CLARKE: So let me understand, Councilman. It's your belief that if an officer is not, quote/unquote, on duty, i.e., his eight-hour shift, then he is not in any official capacity?

COUNCILMAN RIZZO: Correct.

COUNCILMAN CLARKE: So if the officer is not in an official capacity, then your suggestion is that he has no right when he's off duty to stop a crime?

COUNCILMAN RIZZO: No, I didn't say that.

What I'm saying here, based on what I'm reading, that a police officer off duty carrying his weapon would be restricted, would be breaking the law if he entered the 100-foot perimeter of a school with their weapon. And you heard the Police Commissioner say that a police officer is not required to carry their weapon off duty but they are required to engage themselves in the apprehension of a person that's committing a crime. And what I'm saying is that if I were a police officer and I was going to involve myself in an

apprehension, I'd want to make sure that I had all of the tools of my trade to protect myself and to be able to make the apprehension. And if you're restricting a police officer from carrying his or her weapon within 100 feet of a school, you could be jeopardizing the students, you could be jeopardizing the police officer, you could be jeopardizing the community. My point is, I don't know why we need to include police officers in this legislation. I think they should be excluded.

COUNCILMAN CLARKE: Councilman, what it says is the performance of official duties by any full-time officer. My question is, your suggestion is that when the officer is off duty he is not acting in an official capacity. So if that individual is not acting in an official capacity, then that individual cannot officially respond to a crime. That's not the case.

COUNCILMAN RIZZO: I'm not saying that.

COUNCILMAN CLARKE: In the language it doesn't say that an off-duty officer cannot

carry a gun. What it says is an individual acting in official capacity.

COUNCILMAN RIZZO: What I'm saying when you're on the way into the school zone, you don't realize that you're going to be called to official duty. At that point, nothing's going on, you're dropping your child off, it's not official. At that point, gunshots --

COUNCILMAN CLARKE: Councilman, when you say called into official duty, the presumption is that a police officer is always on official duty if they're bound to respond to a commission of a crime.

COUNCILMAN RIZZO: But then that officer may not have their weapon.

COUNCILMAN CLARKE: The officer has a right to carry a weapon 24 hours a day. The language says "the performance of official duties." So if you're saying that the officer when he is off duty, not on his eight-hour shift, he is not longer operating in an official capacity, then that suggests that the official does not have the right to respond to

a commission of a crime.

What I'm saying, my interpretation of the language is that an officer is always in an official capacity because that officer has the right to carry a weapon 24 hours a day and has the duty-bond responsibility to respond to a crime 24 hours a day. So I interpret this as the officer or agent of the Commonwealth is always in an official capacity.

COUNCILMAN RIZZO: Well, that's not what the Police Commissioner said, at least that's what I believe --

COUNCILMAN CLARKE: But I'm speaking about what the legislation says. You're asking me to amend the legislation.

COUNCILMAN RIZZO: Well, the interpretation, I just want to make sure that when we leave here today that a police officer in the City of Philadelphia has the legal authority to travel within a hundred feet of a school off duty with their weapon. That's all I care.

COUNCILMAN CLARKE: That's my

interpretation.

COUNCILMAN RIZZO: But the initial response, I think, the Police Commissioner gave us was that he was okay with that restriction against off-duty police officers.

Did I hear you say that, Commissioner?

COMMISSIONER JOHNSON: I have a problem really either way. I didn't write the legislation and I interpret it a differently from what you interpret it. But it says the fact that a police officer is within a hundred feet of a school, the legislation says he can, he has to react, he should react to a crime. But as I said, again, I didn't write the legislation. I think the wording that's in here, the Department don't have a problem with this legislation at all. And I gave you my personal view. But at the same time, I think you're right in a way that a police officer if he's out there, he should have the proper tools to react if something does happen.

COUNCILMAN RIZZO: All I care is that it's clear on what our police officers

are allowed to do and not. If they're not allowed to carry their weapon, they need to know it. If they are, they need to know it.

Commissioner, you now have to make a statement based on being a Police Commissioner. Your personal opinion is fine, but we need to hear your interpretation because I'm going to vote on this today, and if I hear you say that off-duty officers would be excluded ten I'll be supportive of this. If I hear you say that they won't be, then I'm going to vote against it.

COMMISSIONER JOHNSON: I believe I heard Councilman Clarke say that as far as he's concerned they are excluded, and I agree with the Councilman. He wrote the bill, the way he interpret it, then I agree with whatever the Councilperson interpret it. I have no problem with that.

COUNCILWOMAN MILLER: The intent of the bill was not to put police officers in harm or prevent them from performing their obligated duty to react if there's a crime.

What about the fact that the wording

says "Lawful performance of official duties by any full-time officer?"

If a police officer is on duty or off duty, he's still a full-time officer, correct?

COMMISSIONER JOHNSON: That's correct full.

COUNCILWOMAN MILLER: And that's exactly what the wording here says, "full-time officer."

COUNCILMAN RIZZO: What I think that's referring to are --

COUNCILWOMAN MILLER: That's the exception.

COUNCILMAN RIZZO: -- would be a part-time officer, and we don't have any part-time officers.

COUNCILWOMAN MILLER: I think we're just taking this a little bit out of context as far as I'm concerned. Full-time officer to me means a person that's a police officer, period.

COUNCILMAN RIZZO: I just want to make sure that --

COUNCILWOMAN MILLER: I've never known of any part-time police officer.

COUNCILMAN RIZZO: Oh, there are. In many --

COUNCILWOMAN MILLER: Well, we're talking Philadelphia.

COUNCILMAN RIZZO: Yes, but still you have --

COUNCILWOMAN MILLER: Do we have part-time officers in Philadelphia?

COUNCILMAN RIZZO: You could have a part-time officer coming from another jurisdiction.

COUNCILWOMAN MILLER: State your name.

MS. SIMMONS: Hi, I'm Karen Simmons and I'm Commissioner Johnson's Senior Legal Counsel. Just to help, I think it may be an issue with semantics. But before we came over, and I helped prepare the testimony, I did discuss the issue because I did have a slight question myself with the Law Department. And in speaking with Richard Fader, he assured me that our police officers

were covered 24 hours a day because I'm aware of the law that allows them to take police action 24 hours a day even when they're not on our eight-hour tour of duty. So this covers them even when they are off duty and allowed to carry their guns and are allowed to take police action. So this ordinance will allow them to carry their gun even when they are within 100 feet of a school and they are carrying their gun. So they would be covered and they would not be in violation of law if they have their guns on them and they do decide to take police action or if they have their guns on them and do not take police action. They would not be violation of ordinance No. 040114.

COUNCILMAN RIZZO: Again, I don't want to get real deep here in semantics, but there are situations where Councilwoman Miller said about full-time versus part-time. We don't have any, but in the Commonwealth of Pennsylvania there are part-time police officers that could be put in this situation.

MS. SIMMONS: And I didn't ask him

about that because I knew we didn't have part-time police officers, so I didn't even address that issue because I know Philadelphia has only full-time police officer.

COUNCILMAN CLARKE: And frankly speaking, I don't think that a part-time officer from another municipality or county should have the ability to take a gun within the hundred feet zone of a Philadelphia school.

COUNCILMAN RIZZO: Again, I'm not concern about that. I'm not even sure a part-time officer can carry their weapon when they're not actually on duty. I don't think they have the luxury unless they have a private permit to carry to even carry their weapon.

Okay, I just want to make sure that we didn't have any loopholes that would come back and bite us here.

COUNCILWOMAN MILLER: Thank you, Councilman Rizzo.

Councilwoman Brown.

COUNCILWOMAN BROWN: Good afternoon,

everyone. Thank you for your testimony, first of all.

The good news here, of course, is that this legislative body again is seeking to take action in a significant way around this particular issue. The bad news is, and it's stated in the last section, "This ordinance shall become effective upon the enactment of authorizing legislation by the Pennsylvania Assembly."

I am aware that Senator Kitchen and Senator Fumo have introduced a bill.

Have you been approached by anyone in the State Legislature around this issue or any related issue of gun control of late?

COMMISSIONER JOHNSON: Nothing really specific. I recall Senator Thomas and I think Senator Kitchen had mention something that they were thinking about putting some sort of legislation in place. None of the specifics nor did we have any long discussion about it.

COUNCILWOMAN BROWN: That was my only question. Thank you very much.

COUNCILWOMAN MILLER: Any other questions of this witness?

(No response.)

COUNCILWOMAN MILLER: Seeing none, thank you very much for coming in, Commissioner.

We're going to put your testimony on record for our next hearing at 2 o'clock on the other bills. We have two other bills. The hearing is actually separated. It might be a little bit confusing, but I think your testimony is appropriate for both.

COMMISSIONER JOHNSON: Thank you very much.

COUNCILWOMAN MILLER: The next witness is Harvey Rice.

MR. RICE: Good afternoon. I am Harvey Rice, the Pennsylvania Department of Education Safe Schools Advocate, School District of Philadelphia. I am here today to offer my support for City Council Bill 040114, possession weapons on school property legislation.

On February 11th of this year, Ms.

Patricia Arnold unknowingly sent her son, Faheem Thomas Childs, on his way to school, never thinking the unthinkable. Shortly after 8:30 that morning, her 10-year-old son was struck by a bullet on his way to school and his young life was tragically cut short. Faheem was one of seventeen children so far this year killed by weapons in Philadelphia.

As a Safe Schools Advocate, it is my job to advocate for victims of school violence and to monitor the School District of Philadelphia's compliance with Act 26, the possession and/or use of weapon by a student on school property.

This City Council bill, the possession of weapons on school property legislation, will prohibit the possession of a weapon by any person, openly or concealed, in a school zone or within 100 feet of a public playground, day care center, or public or private recreation center.

I commend Councilwoman Miller and this Committee and the other members of City Council for introducing this bill and I urge

unanimous support from all 17 Councilmembers.

I also urge local members of the Pennsylvania Legislature to join forces to pass enabling legislation at the State level that will allow Philadelphia to implement this law which is a good measure aimed at stopping gun violence that kills our children.

While current state law prohibits all city or county governments from enacting any laws regulating firearms in the absence of any comprehensive state-wide gun control laws, legislation has been introduced in the State Senate by Senator Vincent Fumo and Shirley Kitchen and will be introduced in the House of Representatives by Representative Jewell Williams that captures the essence of this City Council bill.

The Fumo-Kitchen bill identifies firearm-free zones all around Pennsylvania schools and prohibits the possession, use, or control of a firearm within 1,000 feet of any property in which a school is located, included all public, private, parochial as well as colleges and universities. The bill

also makes it a crime to possess or use a firearm within 500 feet of any recreation center, playground, or near a school transportation vehicle.

This legislation outlines tough penalties for those who violate the law. It imposes mandatory prison time for possession or discharge of a firearm within a school zone as well as harsher sentences for anyone using a firearm during the commission of a crime within a school zone. Fourteen other states, as well as the District of Columbia, have similar laws already on the books.

I offer my support also for the Fumo-Kitchen bill and urge the State Senate and House of Representatives to pass this legislation as quickly as possible.

I would also like to take this opportunity to urge the Pennsylvania General Assembly to pass legislation permitting municipal and county governments to enact local gun control laws so that bills such as the bill before this Committee today can be passed and enacted into law without delay.

I believe this Council bill and the Fumo-Kitchen legislation are good first steps in the right direction, but much more must be done at the state level to get guns off our streets and out of the hands of children and criminals.

Currently in Pennsylvania, there are no restrictions on the number of handguns that can be purchased at any one time. There is no restriction on possessing or selling a military-style semi-automatic assault weapons. It is easy to buy a semi-automatic assault weapon in Pennsylvania as it is easy to purchase a hunting rifle.

There is no state requirement that gun dealers or manufacturers provide police with sample bullets or cartridges or digital images of bullets or cartridges prior to the sale of a handgun. Ballistic fingerprinting could greatly assist police in tracing bullets used in the commission of a crime.

Additionally, in Pennsylvania gun owners are not held accountable for leaving loaded guns around our children. We also have

a law requiring that guns must be sold with child safety locks. However, there is no law requiring gun owners to actually use the safety locks.

There are no waiting or cooling off period for gun sales in Pennsylvania beyond the initial check proscribed by federal law. Pennsylvania also does not require gun owners to register their firearms or obtain a handgun license or undergo any type of safety training before buying a handgun. Police in Pennsylvania have no idea how many guns are in the State at any given point. This lack of registration data makes it difficult for police to trace any weapon used in a crime.

Pennsylvania also has no restrictions on the sale or purchase of so-called "Saturday Night Specials" commonly known as "junk handguns," handguns small enough to be easily concealed by criminals.

While I am here today to urge City Council to adopt Bill 040114 and urge the Pennsylvania Senate and House of Representatives to pass the Fumo-Kitchen bill,

much more must be done to get guns out of the hands of our children and off our streets.

I urge the Pennsylvania General Assembly to adopt common sense gun control legislation and to enact a law allowing this City Council and other city councils and county governments throughout the Commonwealth to enact their own respective gun control laws.

Until we start registering handguns, restricting the sale of "Saturday Night Specials" and banning the sale and manufacture of assault weapons and enacting other gun control laws, innocent people, including our children, will continue to be killed.

The time to act and save innocent lives is now. I commend Councilwoman Miller and members of this Committee and City Council for their courage and leadership on this issue. Thank you.

COUNCILWOMAN MILLER: Thank you.

Councilmember Brown.

COUNCILWOMAN BROWN: Thank you very much for your very, very important testimony.

My question to you is the same that was offered to Police Commissioner Sylvester Johnson.

Have you been approached by Senator Fumo, Senator Kitchen, or anyone else in Harrisburg that cares about this issue in an attempt to organize around the passage of their bill at the Harrisburg level?

MR. RICE: Not as of yet. In fact when I was speaking with Councilwoman Miller's office yesterday, I contacted them and informed them that that I was going to testify and that I would like to see their bill and that I was going to testify. In my testimony, I was going to put the support of their bill also.

COUNCILWOMAN BROWN: I would ask that you keep the Chairs informed which then will keep us informed about the developments in Harrisburg, because the opportunity may come for us to speak at their hearings on this particular bill. Clearly, it's going to take a very strong strategically organized effort.

MR. RICE: In fact, I'll bring that

up when I report back about the testimony today. I'll bring that issue up to them that they should reach out to Councilwoman Miller and yourself and the rest of the Committee.

COUNCILWOMAN BROWN: Where appropriate, other legislators from around the State because there's this view that it's only an urban issue, which we know is not true.

MR. RICE: Exactly.

COUNCILWOMAN BROWN: So to the extent we can help them at the Harrisburg level, we need to be informed of that. Thank you.

MR. RICE: Thank you.

COUNCILWOMAN MILLER: Councilman Clarke.

COUNCILMAN CLARKE: Thank you, Madam Chair.

To my colleague Councilwoman Brown, I just wanted to tell you that one of the things that we clearly understood prior to starting this process is that we would need widespread support among the various counties if we were able to get enabling legislation.

What we've done is we've been working with advocates from around the State who were actually asked to testify at an earlier hearing about their efforts to get legislators in their particular counties to be supportive. And they've actually gotten some legislation in addition to that introduced on a State-wide level. I believe one is actually in one of the judicial committees in the State Legislature.

So understanding the need to have widespread support, we clearly have moved towards getting that participation. Additionally, Councilwoman Miller working her Legislative State Representative Myers has forwarded that information to him. I have forwarded information to my Legislative Representative Williams and Senator Kitchen and asked them to work with us to get the State on board, which leads me to one question with respect to Mr. Rice. And I want to thank you for your testimony. But I would also like if at all possible for you to provide some information on the 14 states and the District

of Columbia that have enacted such legislation around schools.

And the other one is a little tougher question. You, working for the Department of Education, do you in any way, shape, or form as it relates to your testimony speak for the Governor's office?

MR. RICE: Not that I know of, no. I am appointed by the Governor, but I don't -- my views today, my testimony is what I see as my role as Safe Schools Advocate and the need for this type of legislation to help with this serious problem of getting kids out of the line of fire basically.

COUNCILMAN CLARKE: Would that possibly be the official position of the Department, your testimony

MR. RICE: It would be the official position of the Office of Safe Schools Advocate. I don't know that it's the official position of the Department of Education.

COUNCILMAN CLARKE: The reason I asked that is earlier on at the onset of the initial introduction of legislation, we

weren't sure what the Governor's position was on it. The official statements were essentially that it was not time to deal with this particular issue and it was not high up on the list of priorities. I was a little dismayed at that initial response. But we will be seeking the support of the Governor, particularly on a couple of pieces of the legislation which he actually supported when he was the mayor; the one gun a month and the assault weapons bill. So we will need your support and your department's support.

MR. RICE: Any support, anything that you need me to do for that, I am here because I think it's a very important issue.

Just for the record, my office was created by the Pennsylvania House of Representatives and the Senate and then signed by the Governor. And while it is in the Department of Education, the intent of the legislature was to make my office as independent as possible because we are advocates. And they wanted me or whoever is in this position to feel free to advocate on

behalf of victims in the School District and on the situation of violence. So they sort of structured it where we have our own voice.

COUNCILMAN CLARKE: You can be free.

MR. RICE: Yes.

COUNCILMAN CLARKE: Well, knowing that now, I will extend our request to incorporate you in our discussions with Speaker of the House Perzel who is obviously a key player in any state legislation on the state level. So we would need your assistance on that also.

MR. RICE: Absolutely.

COUNCILMAN CLARKE: Thank you, Madam Chair.

COUNCILWOMAN MILLER: Any other questions of this witness?

COUNCILWOMAN BROWN: One final question.

Given this issue, do you see tie-ins to other issues around children in schools which may make the movement on this issue more palatable to those who don't see the good sense in supporting it as a stand-alone issue?

MR. RICE: Well, what I do see, I think this legislation, it boasts up Act 26, because what we're doing -- in Act 26, no student can bring a weapon in the school. So what we're doing is we're broadening that and we're putting more penalties on it and the Fumo-Kitchen bill puts more penalties on it. So I think it's going to enable the Philadelphia School District to have safer schools because it's going to be giving them another tool to ensure that weapons aren't brought in the school. And I think if this gets passed, the potential of having less guns in school will be there, but also to remove those kids who do bring weapons in the school at a much quicker pace.

COUNCILWOMAN BROWN: Thank you again.

MR. RICE: You're welcome.

COUNCILWOMAN MILLER: I want to thank you, Mr. Rice, for coming in and also thank you in your testimony for urging that the State of Pennsylvania General Assembly allow Philadelphia and other cities in the

State -- and that will be coming later, the whole effort to allow us to craft and enact our own legislation and laws as it relates to weapons. Thank you. Thank you for coming in.

Please state your name for the record.

MR. JOHNSON: My name is Craig Johnson. I am a divisional commander for the Office of School Police Operations for the School District of Philadelphia. I'm here this afternoon to, first, represent Dexter Green, the Chief Safety Executive for the School District who is unable to be here, to give our support for the House bill legislation to prohibit guns around school zones.

This school year we have confiscated 15 weapons around schools. That is the highest number of firearms that have been confiscated in five years around schools, and this legislation will greatly putting more teeth in our efforts to keep weapons and guns away from schools.

I apologize not having a full

statement prepared for Council, but I was called here to represent Mr. Green at the very last minute.

COUNCILWOMAN MILLER: We thank you for coming. Mr. Green did come to our last hearing. He said testimony for today's hearing also.

I have one question. Fifteen firearms were confiscated from children since what, September?

MR. JOHNSON: Since September of '03.

COUNCILWOMAN MILLER: That's a high number

COUNCILMAN RIZZO: Point of information.

COUNCILWOMAN MILLER: Councilman Rizzo.

COUNCILMAN RIZZO: Were they workable? How many of those guns had the ability to fire?

MR. JOHNSON: To my knowledge only two were non-workable.

COUNCILMAN RIZZO: Only two were

non-workable?

MR. JOHNSON: That is correct.

COUNCILWOMAN MILLER: And when they were going through the metal detector -- how did they discover the guns?

MR. JOHNSON: Well, most of the weapons that have been recovered this year have not been in our senior high schools where we have our metal detectors. They have been at middle schools and around elementary schools.

COUNCILWOMAN MILLER: Oh, my goodness. That's really discouraging.

COUNCILMAN RIZZO: Point of information.

COUNCILWOMAN MILLER: Yes.

COUNCILMAN RIZZO: Do you think, based on that -- we only have metal detectors in the high schools, correct?

MR. JOHNSON: That is correct.

COUNCILMAN RIZZO: Are you recommending that that program -- and I believe there's something in the school budget that eventually we'll have at least the

handheld and the walk-through in other schools?

MR. JOHNSON: Yes. Right now we do have handheld wands in our middle schools and our elementary schools. But, again, those are only used when we have reasonable suspicion that a weapon is being brought in. Unlike the situation where there was no knowledge that anyone would have carrying a weapon into the building. At our senior high schools, we have the airport type system anyone coming in must come through our X-ray and walk-through metal detectors.

COUNCILMAN RIZZO: Is there a plan -- and if you don't know, I can understand that. Is there a plan to use the walk-through in the middle schools?

MR. JOHNSON: Yes. We are discussing that this year. We have six middle schools that are converting to senior high schools. So we've started using metal detectors in those schools, bringing them into high schools. And we're also going to start looking at our persistently dangerous schools

to include them into our weapon detection process.

COUNCILMAN RIZZO: Thank you, sir.

COUNCILWOMAN BROWN: What is the number of the weapons you found and none of them were in the high schools? What was the number you mention?

COUNCILWOMAN MILLER: Fifteen.

MR. JOHNSON: There were 15 firearms confiscated around schools. And what Councilman Rizzo, I believe, asked was how many were none working. And I believe that was two which did not have firing heads.

COUNCILMAN RIZZO: Were the others loaded?

MR. JOHNSON: That, I'm not sure. There were a few that were not loaded, but the majority have been loaded.

COUNCILMAN RIZZO: I think, what I'm interesting in here is how many of those guns could have been fired the day they were discovered? Any idea?

MR. JOHNSON: No, I cannot answer that intelligently.

COUNCILWOMAN BROWN: Can you speak to procedurally what happens with those students and their parents when this type of circumstance arises? Is there conversation? Is there background taken on their family situation?

MR. JOHNSON: Well, absolutely. Of course, they're bought. In the Act 26 which, again, is a whole hearing process on the weapon. And of course, any weapon that is confiscated on the School District property, once it's turned over to Philadelphia Police and AFT to get any additional information we can on that firearm.

COUNCILWOMAN BROWN: And the reason why I raise the question is a gun, a weapon is symptomatic of other issues occurring within the family. So does a wrap-around counseling kick in as well? The criminal aspect is certainly handled, but what support services, where necessary, are provided to family and to the other children in that family who are impacted by that kind of circumstance?

MR. JOHNSON: The exact extent of

that external involvement, I can't speak to. But again, our office does refer that to our Office of Specialized Services that follows up on that to gain, A, why that student had a firearm or was in possession of a firearm.

COUNCILWOMAN BROWN: And please state again for the record the office that you represent.

MR. JOHNSON: I represent School Police Operations which is part of School Climate and Safety.

COUNCILWOMAN BROWN: Very well. Thank you for your testimony.

MR. JOHNSON: Thank you.

COUNCILWOMAN MILLER: Are there any more questions of this witness by any committee members?

(No response.)

COUNCILWOMAN MILLER: Seeing none, thank you. Thank you very much for coming into testify.

Is there anyone else to testify on this bill, on the school safety bill?

(No response.)

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COUNCILWOMAN MILLER: I don't believe there's anyone else to testify on Bill No. 040114. And this will now conclude the public hearing of the Committee of Education and Public Safety.

We will shortly go into the public meeting, the joint Committee on Education and Public Safety.

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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC MEETING

JOINT COMMITTEE ON PUBLIC SAFETY

and EDUCATION

- - - -

Tuesday, April 6, 2004

- - - -

Public meeting conducted by the Committee on Public Safety and Education, held in Room 400, City Hall, Philadelphia, Pennsylvania, on the above date, to consider action on the following:

BILL 040114.

PRESENT:

COUNCILWOMAN DONNA REED MILLER, Chair
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN DARRELL CLARKE
COUNCILMAN JUAN RAMOS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN FRANK RIZZO
COUNCILMAN BRIAN O'NEILL
COUNCIL PRESIDENT ANNA C. VERNA

04/06/04 - SAFETY & EDUCATION - PUBLIC MEETING

COUNCILWOMAN MILLER: We're now in the public meeting.

The Chair recognizes Councilman Clarke for a motion on Bill No. 040114.

COUNCILMAN CLARKE: Thank you, Madam Chair. I move that Bill No. 040114 be reported out of Committee with favorable recommendation and a request for a suspension of the Rules as to allow reading at the next Session of Council.

(Duly seconded.)

COUNCILWOMAN MILLER: All in favor?

(Aye.)

COUNCILWOMAN MILLER: Opposed?

(No response.)

COUNCILWOMAN MILLER: Thank you. Bill No. 040114 will be reported out of this Committee with a favorable recommendation, and further, we will suspend so as to permit first reading at our next Session.

This concludes the hearing of the joint Committees of Public Safety and Education.

Just for the record, we also have

04/06/04 - SAFETY & EDUCATION - PUBLIC MEETING

Councilman Juan Ramos and Councilman Brian O'Neill and Council President Anna Verna who attended this hearing. Thank you.

(Council adjourned at 2:31 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia of Tuesday, April 6, 2004, were reported fully and accurately by me, and that this is a correct transcript of the same.

RE: JOINT COMMITTEE ON PUBLIC SAFETY and EDUCATION

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Lisa C. Bradley, RPR