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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING
COMMITTEE ON LAW AND GOVERNMENT

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Room 401, City Hall
Philadelphia, Pennsylvania
Monday, March 7, 2005, 1:50 p.m.

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7 050107 - An Ordinance providing for the
8 submission to the qualified electors
9 of the City of Philadelphia of an
10 amendment to the Philadelphia Home
11 Rule Charter creating a new Chapter
12 5 entitled "Referenda Approved By
13 the Voters" in Article VIII,
14 Provisions of General Application,
15 and creating a new Section 8-500
16 entitled "Home Rule Power to Prevent
17 and Reduce Gun Violence" calling on
18 the Pennsylvania General Assembly
19 and the Governor to pass legislation
20 that will permit Philadelphia to
21 enact constitutionally lawful
22 legislation to prevent and reduce
23 gun violence; fixing the date of a
24 special election for such purpose;
25 prescribing the form of ballot
questions to be voted on; and
authorizing the appropriate officers
to publish notice and to make
arrangements for the special
election.

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2 050120 - Resolution proposing an amendment to
3 the Philadelphia Home Rule Charter
4 creating a new Chapter 5 entitled
5 "Referenda Approved By the Voters"
6 in Article VIII, Provisions of
7 General Application, and creating a
8 new Section 8-500 entitled "Home
9 Rule Power to Prevent and Reduce Gun
10 Violence" calling on the
11 Pennsylvania General Assembly and
12 the Governor to pass legislation
13 that will permit Philadelphia to
14 enact constitutionally lawful
15 legislation to prevent and reduce
16 gun violence.

10

11 PRESENT:

12 COUNCILMAN DAVID COHEN, Chair
13 COUNCILMAN DARRELL L. CLARKE
14 COUNCILMAN W. WILSON GOODE, JR.
15 COUNCILMAN RICHARD T. MARIANO
16 COUNCILMAN MICHAEL A. NUTTER
17 COUNCILMAN FRANK RIZZO

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2 PROCEEDINGS

3 COUNCILMAN COHEN: Law and
4 Government Committee, City Council of the
5 City of Philadelphia, is now in session
6 considering the proposal to amend the
7 Charter. I ask the clerk of the
8 committee to read the proposed
9 legislation.

10 THE CLERK: Bill No. 050107:
11 An ordinance providing for the submission
12 to the qualified electors of the City of
13 Philadelphia of an amendment to the
14 Philadelphia Home Rule Charter creating a
15 new Chapter 5 entitled "Referenda
16 Approved by the Voters" in Article VIII,
17 Provisions of General Application, and
18 creating a new Section 8-500 entitled
19 "Home Rule Power to Prevent and Reduce
20 Gun Violence" calling on the Pennsylvania
21 General Assembly and the Governor to pass
22 legislation that will permit Philadelphia
23 to enact constitutionally lawful
24 legislation to prevent and reduce gun
25 violence; fixing the date of a special

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2 election for such purpose; prescribing
3 the form of ballot questions to be voted
4 on; and authorizing the appropriate
5 officers to publish notice and to make
6 arrangements for the special election.

7 And Resolution 050120: A
8 resolution proposing an amendment to the
9 Philadelphia Home Rule Charter creating a
10 new Chapter 5 entitled "Referenda
11 Approved by the Voters" in Article VIII,
12 Provisions of General Application, and
13 creating a new Section 8-500 entitled
14 "Home Rule Power to Prevent and Reduce
15 Gun Violence" calling on the Pennsylvania
16 General Assembly and the Governor to pass
17 legislation that will permit Philadelphia
18 to enact constitutionally lawful
19 legislation to prevent and reduce gun
20 violence.

21 COUNCILMAN COHEN: Thank you,
22 Mr. Greenlee.

23 Mr. Clarke.

24 COUNCILMAN CLARKE: Thank you,
25 Mr. Chairman. First of all, I would like

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2 to thank City Council for its support for
3 the number of bills that Council and rest
4 of the members introduced and supported.
5 I thank you for your support over the
6 last two years. And actually some people
7 thought that there was not an opportunity
8 for -- and I hate to use this term -- a
9 snowball's chance in hell that we would
10 have an opportunity to locally help
11 legislation deal with the level of crime
12 that we've been experiencing in the City
13 of Philadelphia, but I'm happy to say
14 that today we actually have a number of
15 legislators on the state level who are
16 circulating a bill that would give the
17 City of Philadelphia the power to enact
18 legislation. State Representative Myers
19 is a prime sponsor. He has indicated
20 he's got substantial support throughout
21 the Commonwealth and that upon the
22 introduction of that bill, we'll be
23 having a press conference to talk about
24 the prospects of the passing of that
25 bill.

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2 Without the support of this
3 Council, we wouldn't be in a position to
4 move this forward. That will on the
5 state level essentially authorize the
6 City of Philadelphia by referendum to
7 pass a law to enact legislation that will
8 be solely used in the City of
9 Philadelphia. The purpose of these bills
10 today will set the table for that
11 referendum. Hopefully we will get the
12 support of the minimum of 12 members of
13 Council to get that on the ballot this
14 spring. And, additionally, you will have
15 a bill that will talk about our ability
16 to regulate gun violence on a local
17 level.

18 And I'm quite excited about the
19 prospects of getting this done. So again
20 I just want to thank you and look forward
21 to the support of this committee. And I
22 think also both people in Harrisburg and
23 people in the Commonwealth have a true
24 sense of what is the center of this
25 particular community. Right now we

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2 essentially act as Council body, but I
3 think it's important for the citizens to
4 have an opportunity to speak.

5 COUNCILMAN COHEN: I think it's
6 a very creative way. You have it clearly
7 on the record for the people of
8 Philadelphia and maybe the State will
9 recognize full authority Philadelphia
10 ought to have. So thank you very much
11 for introducing this legislation.

12 Introduce yourselves for the
13 record and state your affiliation.

14 MR. QAYYUM: Good afternoon.
15 My name is Bilal, spelled B-I-L-A-L, last
16 name Q-A-Y-Y-U-M. And on my right is Mr.
17 Raymond Jones. We are both cochairs of
18 Men United For a Better Philadelphia.
19 Men United is an organization of
20 concerned men whose sole purpose is to
21 reduce violence and homicide in the City
22 of Philadelphia. Every day one member of
23 Men United is on the corners in
24 Philadelphia trying to stop the senseless
25 violence in our city. I appreciate this

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2 opportunity to testify in favor of Bill
3 050107, an ordinance calling for
4 amendment to the Philadelphia Home Rule
5 Charter creating a new section entitled
6 Home Rule Power for Prevention and
7 Reduction in Gun Violence, and also
8 support of Resolution No. 050120
9 proposing an amendment to the
10 Philadelphia Home Rule Charter and
11 creating a new section titled Home Rule
12 Power to Prevent and Reduce Gun Violence.
13 Our comments today will be brief and I
14 hope to the point.

15 Men United, today myself and
16 Ray Jones, we represent Men United with
17 over 500 members of our organization. We
18 see gun violence in the city as the
19 number one problem facing the citizens of
20 our city. Therefore, we are very happy
21 to see our Council representatives step
22 up and take the bold move and action to
23 help solve the senseless killing taking
24 place in our neighborhoods.

25 First let me state that last

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2 year in 2004 more than 3,000 citizens of
3 our great city were victims of gun
4 violence. This number is a number you
5 hear very little about in the newspaper.
6 You always hear about the homicide number
7 but not the number of citizens that were
8 victims in the city of gun violence. In
9 the City of Philadelphia, these numbers
10 represent individuals that 80 percent of
11 them were victims of violence from guns,
12 handguns in particular. So we see this
13 effort as a major effort to help reduce
14 this problem in the city. As mentioned
15 earlier by Councilman Clarke, we also are
16 strongly supporting State Representative
17 John Myers' legislation he's proposing in
18 Harrisburg.

19 Second, let me state very
20 clearly that last year Men United for a
21 Better Philadelphia has visited over 350
22 corners in every section of the City of
23 Philadelphia in our street campaign and
24 in each of these corner neighborhoods gun
25 violence and gun activity has become the

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2 normal daily life for the citizens who
3 live in these neighborhoods. Therefore,
4 there is no doubt in our minds that
5 limiting the number of guns will be a big
6 help for our daily work as we move
7 forward in the city but also save lives
8 in the City of Philadelphia. So we hope
9 Council will take the necessary steps to
10 stop this senseless violence and support
11 both of these bills unanimously. Thank
12 you, sir.

13 COUNCILMAN COHEN: Thank you
14 very much.

15 Any questions by members of the
16 committee?

17 COUNCILMAN CLARKE: I don't
18 have a question, Mr. Chairman. I just
19 would like to take the opportunity to
20 thank Men United for their consistent
21 support not only supporting our efforts
22 to curb gun violence but their consistent
23 efforts with employment resolution,
24 conflict resolution and other issues
25 going on. I just want to say on the

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2 record I really appreciate the support
3 you give this Council and this city.

4 COUNCILMAN COHEN: How many
5 years have you been at work actually on
6 this matter? It seems to me for a long
7 time.

8 MR. QAYYUM: Well, we might not
9 be too far apart, but in all seriousness
10 I have been involved since really -- when
11 I started, I worked in West Philadelphia
12 working in the early '70s trying to
13 reduce gang violence in the city. That
14 work was I would say very rewarding
15 because our work did reduce, as you're
16 well aware, the gang violence in the city
17 where homicides were taking place and 80
18 young folks were being killed per year
19 down to zero young folks being killed,
20 eliminating gangs in the City of
21 Philadelphia.

22 Since that time, we have been
23 involved with the Men United for a Better
24 Philadelphia in our third year of
25 operation. The first year we became

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2 organized we did see a drop in homicides
3 in the City of Philadelphia down to the
4 lowest it has been in 22 years, which is
5 288 murders in the City of Philadelphia.
6 But once again even 288 murders were too
7 many residents of our city being killed
8 on the streets. Eighty to 90 percent of
9 those murders could have been prevented
10 if those guns were not in the hands of
11 the perpetrators that committed those
12 crimes. And once again, most of the
13 homicides in the city are committed by
14 individuals who use guns as a weapon of
15 choice. So over the years, Councilman,
16 we have seen dips and highs and lows with
17 the homicide rate. But to be very honest
18 with you, if we do see increase of acts
19 of violence in the city as stated by the
20 testimony, what you don't hear about is
21 the number of gun victims not being
22 killed but people being shot. And if you
23 notice as you go around the streets in
24 the City of Philadelphia, you see a lot
25 of young folks now walking with canes and

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2 in wheelchairs. They are the victims of
3 this gun violence that is taking place in
4 our community. So we look at the number
5 of folks that have been shot over the
6 years. We are witnessed in the City of
7 Philadelphia as many folks being shot and
8 killed as over in Iraq. We feel once
9 again eliminating the number of guns is
10 definitely going to help our work and
11 also the work of decreasing the number of
12 homicides in particular or shootings in
13 the City of Philadelphia.

14 COUNCILMAN COHEN: Thank you
15 very much.

16 Any comments by members of
17 Council?

18 If not, would the next member
19 of the panel state his or her name?

20 MR. HIGGINS: Yes, sir, thank
21 you. My name is James Higgins. I am a
22 vice president of the Million Mom March
23 United with the Brady Campaign,
24 Pennsylvania Chapter. I am not a mom. I
25 am a father and husband. I'm married to

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2 a mom. I'm very proud to work for this
3 organization. We were founded as a
4 citizens' lobby dedicated to passage of
5 sensible gun violence prevention laws.
6 We have over 8,000 members in
7 Pennsylvania and 4,000 members in five
8 Philadelphia area counties. Our national
9 organization has chapters in all 50
10 states and counts its membership in
11 hundreds of thousands of men, women, and
12 children.

13 I am pleased to give testimony
14 today to City Council's Committee on Law
15 and Government on the subject of the
16 passage of an ordinance providing for the
17 submission to the voters of Philadelphia
18 of an amendment to the Philadelphia Home
19 Rule Charter. Mr. Qayyum has already
20 indicated what the purpose of the
21 amendment is. Our chapter wholeheartedly
22 proposes the ordinance and referendum.
23 Widespread gun violence in Pennsylvania
24 and the City of Philadelphia is a
25 preventable tragedy. Legislation is

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2 needed to allow City Council to take the
3 steps to prevent such tragedy, but it
4 will take action by a majority of the
5 members of the Pennsylvania General
6 Assembly, following enactment of your
7 ordinance and passage of the referendum,
8 to help Philadelphia attack gun violence.

9 As we know, the General
10 Assembly has preempted Philadelphia and
11 other local governments in the field of
12 regulation of gun sales, distribution,
13 gun tracing, recordkeeping, and a host of
14 related endeavors. In justification of
15 this preemption, the legislative leaders
16 argue there must be uniformity throughout
17 the 67 counties in the Commonwealth in
18 the matter of gun regulation and only the
19 legislature can guarantee such
20 uniformity.

21 Unfortunately, the philosophy
22 of the General Assembly overlooks the
23 significant difference between and among
24 those 67 counties as to the nature and
25 extent of the use of guns in the

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2 commission of crimes. It is beyond
3 argument that Philadelphia and Pittsburgh
4 have significantly different and more
5 severe gun crime problems than, say,
6 Centre, Armstrong, or Elk Counties.
7 Since we have measured greater gun crime
8 problems in Philadelphia, it stands to
9 reason that Philadelphia should have Home
10 Rule Power to address such problems with
11 legislation.

12 Other arguments are repeatedly
13 used to stop common sense gun laws. It
14 is unfortunate that narrow special
15 interests in Pennsylvania time and again
16 dwarf the passage of law that the
17 overwhelming majority of Pennsylvanians
18 favor. Polls repeatedly show that 60,
19 70, 80 percent of the public endorse
20 changes in laws to some or all of the
21 areas I will discuss in a moment.

22 Now, our organization does not
23 seek -- I'd like to pause just here for a
24 second. Our organization does not seek
25 to deprive people of the right to own and

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2 use guns. Guns have a legitimate place
3 in our society. We are not opposed to
4 the right to have handguns or rifles in
5 the home. We are certainly not opposed
6 to hunting. In fact, hunting is a
7 positive, beneficial recreational
8 activity for hundreds of thousands of
9 Pennsylvanians.

10 Councilman Clarke and
11 Councilwoman Miller and others have noted
12 and you, Councilman Cohen, have noted
13 time and time again that officials of our
14 Sheriff's Department and Police
15 Department are severely handicapped in
16 their efforts to stem the tide of gun
17 violence. Simple changes in our
18 ordinances would help immeasurably.

19 On the national level, my
20 organization, the Million Mom March
21 United with the Brady Campaign, advocates
22 changes in federal laws in areas very
23 similar to what City Council currently
24 seeks authority to regulate, and we
25 endorse ordinances pending before Council

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2 on such subjects.

3 For example -- with your
4 permission, I'll go through quickly four
5 of your pending ordinances so that
6 members of the public who are in
7 attendance and other council members and
8 the press understand how this referendum
9 can help the citizens of Philadelphia.

10 COUNCILMAN COHEN: Please
11 proceed.

12 MR. HIGGINS: First of all is
13 gun-running and straw purchasing. These
14 are two very, very hurtful activities
15 that result in large numbers of crimes
16 with guns. It is well known that a
17 person who is disqualified from buying a
18 weapon because of a criminal conviction
19 or his age can and does hire a person to
20 make the purchases for him. It is not
21 unusual for a dozen weapons to be
22 purchased at one time under circumstances
23 such as these. Immediately, the weapons
24 are transferred to the person barred by
25 law from making the purchase, and in turn

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2 he sells the weapons on the street to
3 criminals and others for antisocial
4 activity. When we read of a street
5 shooting or a shooting outside a school
6 in Philadelphia, we can most likely
7 assume the weapon was purchased in the
8 above scenario.

9 Your Bill No. 040117 would
10 prohibit such straw purchasing by
11 reducing the current right to purchase
12 unlimited numbers of weapons to a scheme
13 allowing one gun per month to be
14 purchased as Mr. Qayyum has noted. Such
15 a bill also has been introduced in the
16 General Assembly.

17 The second major areas we hope
18 are --

19 COUNCILMAN COHEN: May I ask a
20 question? Why would a person need one
21 gun a month? It would be a tremendous
22 improvement, but I've never understood
23 why or how anybody could use up a gun a
24 month.

25 MR. HIGGINS: I've been asked

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2 that question many times. When you look
3 at the current situation, which is an
4 infinite number of allowable purchases,
5 then one gun seems like a tremendous
6 achievement. And we realize we have
7 capable opponents who are going to fight
8 us on these issues. If we advocated you
9 could only have one gun per year, I think
10 you'd have tremendous opposition. I
11 think one a month, 12 a year, which is
12 plenty for one person, is an alternative
13 we should strive for as a solution.

14 Secondly, assault weapons are
15 semiautomatic civilian versions of
16 weapons designed for military use. They
17 are capable of holding large-capacity
18 magazines that allow a shooter to fire up
19 to 150 shots without having to reload.
20 These are favored weapons of street
21 criminals and drug pushers and have no
22 other purpose than to kill or harm
23 people, usually large numbers of people
24 in a matter of seconds. Your Bill 040315
25 would ban the ownership, use, transfer,

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2 and possession of these firearms.

3 Thirdly, the lack of licensing
4 in persons owning a firearm results in
5 people purchasing weapons who have no
6 business doing so. A person convicted of
7 a violent crime or of the Uniform
8 Firearms Act, a convicted drug dealer, or
9 a person under age 18 should not be
10 allowed to purchase or sell a firearm.
11 Bill 040136 would allow the police to
12 screen out persons who do not meet
13 objective eligibility criteria while at
14 the same time allowing the purchase by
15 honest law-abiding citizens.

16 And, fourth, establishing a
17 system of gun tracing. The Police
18 Department needs authority to trace
19 recovered firearms from persons not
20 permitted to possess them. The tracing
21 would be through the Federal Bureau of
22 Alcohol, Tobacco, and Firearms.

23 And, lastly, three or four
24 pending ordinances in one category:
25 Reporting requirements regarding

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2 concealed firearms, temporary removal of
3 guns from people posing a risk of harm,
4 and the reporting of ammunition sales.

5 These are other areas deserving of
6 legislation by City Council which would
7 help the police in stemming the tide of
8 gun violence.

9 I think I have spoken too long.

10 I apologize for that.

11 COUNCILMAN COHEN: Not at all.

12 MR. HIGGINS: I would like to
13 just conclude saying the Million Mom
14 March United with the Brady Campaign,
15 Pennsylvania Chapter, fully endorses Bill
16 050107 and Resolution 050120 and hopes
17 the City Council of Philadelphia will
18 move to pass them swiftly. Thank you
19 very much.

20 COUNCILMAN COHEN: Thank you.

21 Any questions or comments by
22 members?

23 COUNCILMAN CLARKE: Thank you,
24 Mr. Chairman. I just wanted to say ditto
25 to the support that has been given by the

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2 Brady Campaign, Million Mom March. Their
3 support over the last year or two has
4 been invaluable. I just wanted to say I
5 congratulate you on what you're doing and
6 look forward to your continued support.

7 MR. HIGGINS: Thank you. I
8 congratulate you on your efforts to try
9 and change the picture of legislation in
10 Philadelphia.

11 COUNCILMAN CLARKE: I will make
12 sure all of you have a seat on the bus
13 when we take our fight to Harrisburg to
14 try and get the needed legislation passed
15 in the state legislature. I'm quite sure
16 we will have to take our battle to them.

17 MR. HIGGINS: I look forward to
18 it. Thank you, sir.

19 COUNCILMAN COHEN: Next member
20 of the panel?

21 MS. EDBRIL: Good afternoon.
22 Thank you Councilman Clarke, Chairman
23 Cohen, any other members of the Committee
24 on Law and Government and the
25 Council-At-Large for asking CeaseFire PA

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2 to participate in today's proceeding. My
3 name is Diane Edbril. I'm the executive
4 director of CeaseFire PA. The CeaseFire
5 was founded approximately three and a
6 half years ago by a group of concerned
7 citizens from all corners of the state
8 who felt that state-based response was
9 what was really needed. The way I see
10 it, today's hearings are about two
11 things, the means and the end. The end
12 we all agree is an end to epidemic levels
13 of gun violence in the City of
14 Philadelphia. Whether we do that by
15 measures such as one handgun per month,
16 licensing and registration, an assault
17 weapon ban, or tough standards for
18 permits is certainly important. However,
19 I believe the means is far more pressing
20 right now. How exactly are we all to
21 accomplish our goals? CeaseFire PA
22 wholeheartedly endorses the bills whose
23 numbers have been read over and over by
24 the members and the participants in this
25 hearing. We too support the referendum

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2 and the ordinance that is before this
3 committee right now.

4 I think one thing I wanted to
5 bring to this meeting today was to
6 discuss the tactics that the opposition
7 has used over the years in determining
8 our own path on how to undue the progress
9 that's been made. About 10 to 12 years
10 ago in wake of the federal Brady Bill's
11 passage and enactment of the latest state
12 legislation, the extremist gun lobby, a
13 relatively small but well-organized
14 coalition, began to undo whatever
15 progress had recently been made. They
16 were galvanized by the perceived threat
17 that gun regulation would pose to the
18 lifestyle of rugged individualism that
19 these extremists espoused.

20 The gun lobby saw that
21 Pennsylvania has a split personality in
22 terms of its population demographic, and
23 correspondingly the people's
24 relationships to guns. About half our
25 citizens live in rural areas where gun

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2 usage is largely related to hunting,
3 recreation, and in many isolated
4 communities self-protection. On either
5 end of the state, however, in our large
6 cities of Philadelphia and Pittsburgh and
7 more recently in cities within the Lehigh
8 Valley and the northeastern corner of the
9 state and northwestern corner of the
10 state, gun use was more frequently
11 observed among criminal elements. Seeing
12 this dichotomy, the gun lobby seized on
13 it and has done several things to
14 increase its power base.

15 Many years ago there was no
16 preemption statute in Pennsylvania, and
17 it was up to local government to
18 determine how many concealed carry
19 permits to issue. Philadelphia was
20 allowed to and did limit the possession
21 of firearms within its boundaries. It
22 determined who should receive a gun carry
23 permit and gave out only a few hundred
24 each year. Then the gun lobby did two
25 things. First, it persuaded the members

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2 of the General Assembly to pass
3 preemption legislation so that local
4 government could no longer regulate guns
5 and ammunition, and then it got them to
6 pass "shall issue" concealed carry
7 legislation. That meant as long as
8 someone was not disqualified by virtue of
9 a felony conviction or commitment for
10 mental illness, they must be issued a
11 permit to carry a concealed weapon. This
12 had the effect of increasing by many,
13 many times the numbers of Pennsylvanians
14 now permitted to carry a loaded firearm
15 when and wherever they wanted. And we
16 all know that it is much harder to take
17 something away once people have become
18 accustomed to it than it is to keep
19 something away in the first place. So
20 the gun lobby in pretty short order
21 created a whole new gang of supporters by
22 creating this demand for guns and the
23 ability to carry them everywhere they
24 went.

25 From there, it has been a

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2 constant battle to keep the gun lobby
3 from making even further strides. On the
4 federal level, the gun lobby is working
5 mightily to close off courts to litigants
6 seeking redress and industry change for
7 practices and products that cause injury
8 and death. At the same time, they're
9 trying to create a federal cause of
10 action against police and prosecutors who
11 enforce the gun laws we have on the
12 books. They've been very effective in
13 keeping gun violence-related public
14 health data from being collected so
15 average Americans and policymakers alike
16 can't see the financial and health care
17 burden we are all carrying as a result of
18 this epidemic.

19 But the tide is turning I
20 believe and the gun lobby has overplayed
21 its hand. By ignoring the reasonable
22 requests of law enforcement, by opposing
23 measures that will strengthen our
24 homeland security, by closing its eyes
25 and ears to the pleas of urban

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2 communities unable to let their children
3 play outside, the gun lobby has written
4 its own death warrant. It is up to all
5 of us to keep drawing the public's
6 attention to the craven positions
7 advocated by organizations like The
8 National Shooting Sports Association and
9 others, to show these untruths, these
10 inconsistencies, and the propaganda for
11 what it is.

12 Here in Philadelphia, the
13 message is rising up loud and clear that
14 gun violence is a public health epidemic
15 and public safety crisis, that it is
16 better for all Pennsylvanians to reduce
17 gun violence than not to, that we can
18 save lives and money and still respect
19 the range of views about lawful gun use
20 enjoyed by our citizens. Just as the gun
21 lobby expanded its power base ten years
22 ago, so must we now. We must ally with
23 health care advocates, with children's
24 advocates, with law enforcement agencies
25 and groups, with faith-based

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2 organizations. We must reach out to
3 these constituencies throughout the state
4 just as the gun lobby did to reach out to
5 their constituencies a while back.

6 By holding these hearings, City
7 Council has begun the process. Many
8 experts have and will come before this
9 body and give testimony, thereby
10 increasing the amount of information
11 available to the general public. In
12 Harrisburg, we must seek hearings as well
13 so lawmakers throughout the state can
14 hear the truth as well. Physicians must
15 talk about gun violence with their
16 patients and peers, ministers with their
17 congregations, parents with their
18 children, and neighbors with their
19 friends. We must reach out to different
20 communities across the state to find our
21 allies and find those who have yet to
22 become our allies. We must be
23 relentless, creative, and highly focused
24 on our goals just as the NRA and other
25 organizations have been on theirs.

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2 CeaseFire PA applauds the
3 efforts of Councilman Clarke and others,
4 and we thank you for this opportunity
5 today. We've been working with
6 like-minded advocates across the state
7 and nation and will help Philadelphia's
8 effort in any and all ways possible.
9 Once we get over this first hurdle which
10 is being considered here today, we
11 believe our first legislative priority
12 should be one handgun per month. As our
13 law enforcement leaders know all too
14 well, the gun violence epidemic in
15 Philadelphia is fueled by easy access to
16 handguns. Whether from a straw purchaser
17 who buys a handgun for a friend with a
18 felony conviction or from a trafficker
19 who sells them on the street market to
20 gang members and youths, prohibited
21 persons find it all too easy to get
22 handguns in Philadelphia. Until we stop
23 this by limiting access to handguns, we
24 will be seeing 5,000 or more crime guns
25 recovered in our city streets each year.

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2 We will be seeing four, five, or more gun
3 injuries in our emergency departments
4 each day. One handgun per month has been
5 shown to work in other places and it will
6 reduce the number of crime guns
7 circulating in our communities.

8 The particular legislation that
9 CeaseFire PA supports on a state level
10 has been vetted by local police agencies
11 as well as the Pennsylvania State Police.
12 It has exceptions for legitimate
13 situations such as lost or stolen
14 handguns and licensed gun collectors. It
15 will not affect new purchases of guns and
16 the status of handguns that people
17 already own. It has been designed to
18 work with Pennsylvania's existing
19 background check system and will be very,
20 very cost-effective to implement. In
21 short, it is a good fix for a real
22 problem.

23 We're familiar with the
24 legislation Representative Myers is or is
25 about to introduce in Harrisburg. And we

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2 applaud it too as the first step in a
3 long road in the right direction.
4 However, we would urge this Council and
5 its allies throughout the city and state
6 to consider legislation on a statewide
7 basis as our foremost priority. While
8 banning multiple handgun sales in
9 Philadelphia is a good start, the only
10 thing it's going to accomplish in the
11 practical world is to push multiple sales
12 out to the surrounding communities. This
13 was found to be the case in Illinois
14 years ago. The City of Chicago enacted
15 very strict handgun limits and, in so
16 doing, after time crime guns were
17 increasingly traced back to gun sellers
18 in the suburban communities beyond the
19 city's limits. We fear that this is
20 exactly what will happen here if we pass
21 legislation that doesn't reach to the
22 four corners of the states but, rather,
23 stops citywide.
24 I've brought a couple of
25 copies -- many thanks for helping me out

1 Law/Gov't - Nos. 050107, 050120 - 3/7/05
2 with them in my xerox machine meltdown --
3 of our legislation and I'll be sending
4 along some more. I urge all the members
5 of City Council to look at this
6 legislation, to copy it and talk about it
7 as you see fit. We believe this is the
8 first step in a long road in the right
9 direction and we thank you for helping
10 put us on the path with you. Once again,
11 thank you all for your opportunity today,
12 for this opportunity. On behalf of
13 CeaseFire PA, I look forward to working
14 with the City Council of Philadelphia on
15 this worthy act. Thank you.

16 COUNCILMAN COHEN: Any
17 comments?

18 COUNCILMAN CLARKE: Yes. Thank
19 you, Mr. Chairman.

20 Thank you so much for your
21 testimony. Real briefly, in response to
22 the whole -- and I agree with you the
23 need to have statewide legislation. As
24 an elected official, I sometimes have to
25 be somewhat practical. I understand the

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2 nature of the beast that we deal with in
3 the State of Pennsylvania. I understand
4 we probably have per capita the highest
5 number of NRA representatives in the
6 State of Pennsylvania, which was quite
7 amazing to me when I found that out. So
8 the reality is in the short term to be
9 able to get statewide legislation I think
10 is beyond now. I felt, as members of
11 Council that support this measure felt,
12 that sometimes the willingness of elected
13 officials to support something that
14 doesn't affect friends dear to the
15 constituency but enhance our chances of
16 getting it, while I agree with your
17 statewide lead, I think we're trying to
18 take baby steps first.

19 As an example, I happen to
20 chair the Mayor's task force on auto
21 insurance reduction, chaired that for the
22 last three years, and early on in that
23 process again it was thought we would
24 never get reduction in the City of
25 Philadelphia. We believed we were being

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2 treated unfairly by the insurance
3 industry. We did, in fact, ultimately
4 get an agreement that reduced the
5 insurance for citizens of the City of
6 Philadelphia, auto insurance, which is
7 unprecedented. But as a part of that
8 process, it was also understood that
9 people across the state were paying more
10 than they should for insurance, both for
11 limited tort and full tort. Ultimately,
12 we ended up getting reductions for
13 everybody in the State of Pennsylvania.
14 Hopefully, this will be a similar process
15 and we can replicate what we did. Again,
16 we start it here.

17 I did have a couple questions.
18 And actually Police Commissioner Johnson
19 was going to be here, but I think he had
20 a family emergency. My understanding is
21 he would be very supportive of this
22 legislation as he indicated in earlier
23 hearings. We had a question as it
24 relates to the time line without a permit
25 to carry. It's my understanding you have

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2 a permit to carry, you can walk in the
3 store and that's your preapproved
4 authorization. Is there a difference if
5 you don't have a permit to carry in terms
6 of the time line to walk out of the store
7 with the gun?

8 MS. EDBRIL: Well, my
9 understanding is even if you do have a
10 permit that a background check still has
11 to be run at the time of the purchase
12 because, as you know, a disqualifying
13 event could happen, somebody gets
14 convicted of a felony, unless -- I don't
15 think that the state and local agencies
16 when they give out the permits do that
17 followup on a regular basis, which is the
18 kind of followup that would be needed.
19 There is a short waiting period in the
20 event that the check cannot be concluded
21 definitively immediately.

22 Pennsylvania is a cooperating
23 state within the national instant check
24 system and so some large percentage of
25 the time you get back your result then,

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2 but if there's some question that's left
3 open such as maybe an open and pending
4 case and the fact an arrest has gone
5 about on but there's no disposition
6 reported, there's a certain amount of
7 time that law enforcement agencies have
8 to follow up in determining an answer to
9 that. Under Pennsylvania law, the state
10 has two weeks to figure that out, but
11 under federal law, that time frame used
12 to be 72 hours and now it's been whittled
13 down by administrative regulations to
14 just 24. In Pennsylvania, the default
15 position if they couldn't get an answer
16 in that time frame was to deny the sale,
17 but under federal law, the default
18 position is to allow the sale. And
19 because the records are only being
20 maintained for a very short period of
21 time, as a practical result of that, the
22 sale does occur to the person. Law
23 enforcement doesn't have any time to
24 prepare that sale and find out that a
25 mistake was made.

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2 I do want to say that I do
3 support the efforts to accomplish what
4 this hearing is setting out to do,
5 Representative Myers' legislation is
6 setting out to do. I mentioned the state
7 versus local solution simply because I
8 think it's part of our responsibility as
9 advocates to make the policymakers aware
10 of everything that might bear on the
11 decision to pass that particular
12 legislation or not. We certainly support
13 an effort within the City of
14 Philadelphia. And, in fact, knowing that
15 the potential exists for purchasing
16 patterns to change, we would suggest that
17 perhaps there be some money if that's
18 available anywhere or some effort made to
19 compare changes in gun crime patterns
20 over time if we do pass a local law and
21 see whether crime guns get traced back to
22 Philadelphia gun dealers at lower levels
23 but suburban gun dealers at higher
24 levels. And certainly I think it would
25 support the argument we do need stand-by

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2 legislation and for people to really
3 understand what's happening and you can't
4 just draw the line at a city limits but
5 you really need to do it across the
6 state. As a matter of federal law, you
7 can't go to another state to buy a
8 handgun. That's not the case with all
9 guns, but you can only buy a handgun in
10 your state of residence. So a lot of gun
11 advocates say, well, they're just going
12 to go somewhere else, go buy their guns
13 in New Jersey or New York and Maryland.
14 That's simply not the case. You can't
15 buy a gun lawfully in another state. If
16 you are buying them on the street,
17 there's plenty here in Pennsylvania. I
18 certainly didn't want to put any
19 pressure.

20 COUNCILMAN CLARKE: Trust me.
21 I understand. Reality is when we did the
22 research, we found out that
23 approximately -- I don't recall the
24 specific number, but I do recall it was
25 in the mid 30s in terms of percentage

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2 used in the commission of crimes were
3 purchased in the city of Philadelphia.
4 So I think that's a substantially higher
5 number. If somehow we can force people
6 to not purchase that 30 percent of guns
7 used in the commission of crimes, to go
8 to other municipalities, while that's not
9 the intended purpose, I think if those
10 guns are subsequently traced to other
11 counties, people will feel the need to do
12 something on their level. But right now
13 we see it as a substantial problem in the
14 City of Philadelphia and a good
15 percentage are being purchased local,
16 particularly ones purchased by straw
17 purchasers.

18 MS. EDBRIL: Absolutely. And I
19 think too the byproduct of limiting
20 purchases, it's an economic analysis.
21 When the product gets scarcer, the price
22 goes up. If there's fewer handguns, then
23 their street price is going to go up and
24 become somewhat less accessible to
25 purchasers on the street as well.

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2 COUNCILMAN COHEN: Any studies
3 made in the Chicago case after Chicago
4 banned purchasers within Chicago and the
5 sales increased in suburban Illinois and
6 the guns come back to Chicago?

7 MS. EDBRIL: Yeah, the guns
8 were still being used in crimes in
9 Chicago.

10 COUNCILMAN COHEN: At the same
11 rate?

12 MS. EDBRIL: You know, I don't
13 have that information exactly, but I can
14 try to nail that down for you,
15 Councilman, and get back to you with the
16 actual statistics. But they saw that
17 crime gun tracings resulted in greater
18 tracings -- fewer tracings coming back to
19 Chicago gun dealers and greater numbers
20 in tracings going to gun dealers in the
21 suburbs, but I don't know if it affected
22 overall crime rates within or outside of
23 the city of Chicago. I'll see if that
24 study -- if that information is
25 available.

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2 COUNCILMAN COHEN: That would
3 be a very important question.

4 COUNCILMAN CLARKE: We actually
5 had a situation in the State of
6 California where the City of Los Angeles
7 enacted one gun law and subsequently the
8 state enacted one gun law based on what
9 was happening in the city. So it was
10 successful in Los Angeles to a degree in
11 terms of reducing violence and
12 subsequently was adopted by the State of
13 California. Actually, I think
14 Massachusetts within the last few months
15 enacted a gun law.

16 COUNCILMAN COHEN: Any study
17 made about gun and gun violence in the
18 schools? Because I assume there must be
19 some somewhere.

20 MR. HIGGINS: I don't know that
21 I have studies on it, sir, but I know
22 that our organization nationwide is very
23 active in education. Margaret
24 Montgomery, who is president of the
25 Pennsylvania chapter of our organization,

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2 spends half of her waking hours taking
3 kids into the schools in Philadelphia,
4 public and private and parochial, and
5 teaching kids about avoiding guns and
6 avoiding using guns and also talking
7 about avoiding violence in general. I'm
8 not sure that we have studies yet. It
9 might be a little soon because that is a
10 relatively new phenomenon that reflects
11 the epidemic -- reflects the fact we are
12 trying to grapple with these epidemic of
13 school shootings that have happened in
14 the last six or seven years. But if
15 there are some studies, I'll try to find
16 them for you and get them to you.

17 COUNCILMAN COHEN: I would
18 appreciate it because I've always had
19 difficulty understanding how the gun
20 lobbies were so successful in getting
21 people to believe that other people had
22 rights to guns. The easiest way not to
23 have gun violence is not have guns. No
24 kid could get hurt with a gun if there's
25 no gun in the house.

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2 MS. EDBRIL: Well, that's
3 exactly true, Councilman. The studies in
4 your question -- I think you asked two
5 different things: Number one, whether
6 educational programs resulted in lower
7 rates of gun violence. And I think there
8 are some studies out there and I can try
9 to get you that information. Guns in the
10 home, as you recognize, are the single
11 greatest factor for predicting gun
12 violence. A home with a gun in it is --
13 if there's a gun in the home, it's 22
14 times more likely that a member of that
15 household or friends of that household
16 will be injured with that gun than that
17 gun will be used to overpower an intruder
18 or prevent a crime in that household.
19 That statistic is easily obtainable for
20 you as well.

21 COUNCILMAN COHEN: I think that
22 figure ought to be constantly raised in
23 the language of the groups opposing gun
24 violence because to me the simplest, most
25 dramatic way you can make immediate

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2 improvement is by taking the guns away.
3 Now, I know the gun lobby has been very
4 successful in convincing many people that
5 people have a right to guns, but I've
6 never understood it. I've never heard of
7 one single reason why the kind of guns
8 that kill on the street should be
9 permitted, even in the parts of
10 Pennsylvania where hunting is a favorite
11 activity.

12 MR. HIGGINS: Our organization
13 does not stand for the confiscation of
14 guns or abolition. I think if we ever
15 took that position, we would have a far
16 more difficult time getting legislation
17 passed at any level, this level, state,
18 or federal. We think that the opposition
19 is on the extreme. To take another
20 extreme position where we abolish the
21 private ownership to defeat our goals --
22 I'd like to be right in the middle. Let
23 people own guns, let them have them in
24 their homes, let them hunt, but enact
25 reasonable restrictions on what type of

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2 weapons are available, how often they can
3 buy them, and what they have to show to
4 purchase them. If we do those things --
5 as far as in the home, maybe legislation
6 requires a manufacturer to have a locking
7 device to lock children out of the
8 ability to use the gun. If we do those
9 things, we'll have a much better world,
10 more safer world, and in the meantime we
11 won't take away the right of people to
12 own and use firearms.

13 MR. QAYYUM: Councilman, I
14 support your decision. That's my
15 personal. I think we should eliminate
16 guns completely. I agree with you. I
17 think that that's the most we can do as
18 citizens. But I understand Councilman
19 Clarke saying that isn't very practical
20 and that would never fly. There is a
21 study I'm aware of that was done in
22 Seattle, Washington, where they tracked
23 it appears -- I think five or six years
24 ago where they tracked 60 legally
25 purchased guns that ended up over this

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2 five-year period being used in some kind
3 of illegal activities and they were
4 legally purchased guns. The majority of
5 the guns were stolen and some of those
6 guns were actually used where a family
7 member had used them against another
8 family member. So there are some studies
9 out there that show having a legal gun in
10 the house is not necessarily the best
11 thing to have either. And I think that
12 this whole effort once again trying to
13 eliminate the number of guns is going to
14 make a big difference in reducing gun
15 violence and also reducing the high
16 incidence of young folks getting their
17 hands on guns in some neighborhoods. And
18 I know there's a gentleman that can talk
19 about that some young folks in the City
20 of Philadelphia can buy a gun easier than
21 they can buy crack cocaine because of the
22 availability of the guns.

23 MR. JONES: If I may add
24 something, we were out on the street
25 corners in neighborhoods across the city

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2 and ironically enough there are too many
3 children familiar with guns, know someone
4 who has a gun, have seen a gun and in
5 some cases handled a gun. I think that
6 it's incumbent upon us to move swiftly
7 and in a distinct focus in spite of the
8 powerful resources of the opposition. I
9 think in a lot of ways this is going to
10 be our civil rights movement and in terms
11 of the impact guns have on the quality of
12 life across the city and state. So I
13 think we even need these to continue to
14 keep us focused.

15 COUNCILMAN CLARKE: Mr.
16 Chairman, for the record, since we're
17 talking about positions on guns versus
18 non guns, I am a gun owner. As a matter
19 of fact, I own two guns. So I'm just on
20 the record telling people I'm not against
21 people owning weapons legally and
22 responsibly. In today's times, I think
23 it is prudent for me to have a gun in my
24 home.

25 MR. JONES: But you're not

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2 buying 60 guns a month.

3 COUNCILMAN CLARKE: I have two

4 guns, so the assumption is that I

5 purchased them over a period of time.

6 But I think that the need to have

7 multiple guns, 15, 20 at a time, is just,

8 frankly speaking, ridiculous. I also

9 have an issue with the fact that local

10 law enforcement is not allowed to have

11 any level of registry of weapons. The

12 reality is on a national level if there

13 are consistent multiple purchases by an

14 individual legally, at some point the ATM

15 is triggered -- ATF. I'm sorry. I'm

16 thinking about getting some money -- ATF

17 is triggered at some point in time. But,

18 as you know, federal investigations take

19 a long time. And I actually spoke off

20 the record with a representative of the

21 ATF and he talked about investigations

22 for a multiple straw purchaser and it was

23 three years.

24 I think if we had the ability

25 on a local level to have some sort of

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2 registry so the City of Philadelphia
3 Police Department if a person was
4 purchasing 15 weapons, was not a
5 collector, was not even a hunter, that
6 would trigger a signal something's going
7 on here, but unfortunately we don't have
8 the wherewithal to do that. That's why
9 one of the pieces of litigation talked
10 about the ability to register a weapon,
11 particularly if that individual is
12 authorized to carry that weapon on the
13 streets of the City of Philadelphia. I
14 think if the person has the ability to
15 buy 15 guns, we should have the ability
16 to know how many guns do you have,
17 particularly since we administer the
18 program. We issue the permit to carry,
19 but yet we can't ask that person how many
20 guns they have. I think that's
21 ridiculous.

22 So I think there are a number
23 of ways. I'm not trying to eliminate
24 guns. I just don't think that's
25 reasonable in all due respect to your

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2 opinions. I just don't think it's going
3 to happen. But I do, in fact, feel the
4 need to limit the number of weapons that
5 are sold on a legal basis and eliminate
6 straw purchasers.

7 COUNCILMAN COHEN: At least
8 once in every discussion I have to
9 express my view. I think we ourselves
10 have been kind of brainwashed into
11 believing that there is something very
12 important about the right to possess a
13 gun. I don't know of anything that fits
14 that category. And that's the reason I
15 expressed it although I agree with you
16 gentlemen that probably makes the job
17 much harder to eliminate them. And,
18 therefore, I remain quiet most of the
19 time.

20 For heaven's sake, there seems
21 to be so many different ways to be
22 handled to accommodate the needs of
23 hunters. I'm not trying to do anything
24 about the sport of hunting. There could
25 be a way of having lawful weapons.

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2 People do it in other sports. They have
3 their golf clubs held somewhere else if
4 there's no room in the house or if the
5 wife or husband complained too much about
6 the presence at home, people find other
7 ways. I'm hoping that some day we'll
8 decide it's much more important to worry
9 about the life of the youngsters and the
10 safety of everybody in society than even
11 bowing necessarily to the notion guns are
12 an interest.

13 As a war veteran, I see no good
14 about the presence of a weapon because I
15 think many more times it induces a
16 feeling of confidence which causes lack
17 of safety. But I don't intend that to be
18 a major meeting campaign because I
19 respect others who are sensitive about it
20 and hunters' needs. But, frankly, I
21 don't see the usefulness of weapons
22 except when you're at war. And then
23 that's an entirely different situation.

24 But I think we have to end the
25 war in the city streets. And to me if I

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2 were to get mad at somebody and want to
3 do them in, I'd be a safe individual to
4 be around if there were no weapons that
5 could feed my feeling of aggression. And
6 I think that's true of everybody. You
7 can't throw something at somebody if
8 there's nothing to throw at them. So the
9 feeling will ultimately pass and nobody
10 will be hurt.

11 I find this discussion very,
12 very helpful in focusing attention.

13 MR. HIGGINS: Sir, we have one
14 more member of the panel.

15 COUNCILMAN COHEN: Yes, please.

16 MR. MILLER: I'm Bryan Miller.
17 I'm the director of CeaseFire New Jersey
18 from across the river. Thank you very
19 much for allowing me to come over here
20 and speak to you all. I have written
21 testimony which I have provided so I'm
22 going to speak off the cuff and short if
23 you will. What I'm here to talk about
24 basically is I'm here to make a plea to
25 the citizens of Philadelphia and City

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2 Council to enact this legislation. And
3 the reason I say that is because as you
4 may know, Councilman, the City of Camden,
5 New Jersey, right across the bridge was
6 recently chosen America's most dangerous
7 city. The reason it's the most dangerous
8 city is it's just a bridge between
9 Philadelphia and its gun black market and
10 the City of Camden. Straw buying in any
11 ATF statistics, you'll see gun buying and
12 gun trafficking is more powerful in this
13 city, Philadelphia, than any city in the
14 United States, which means guns are very
15 available in the illegal market, which is
16 increasingly efficient in Philadelphia,
17 and they can come across the bridge.

18 In New Jersey, we have very
19 strong laws, gun laws relative to
20 Pennsylvania. And we don't have straw
21 buying. We have very little straw
22 buying. People don't go to a gun shop in
23 New Jersey and buy 15 handguns because in
24 order to do that, they have to go to the
25 local police department, fill out a form

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2 for each of those 15 handguns,
3 fingerprint it and go through a
4 significant background check that takes
5 at least two weeks. No bad guys can go
6 through that local police department. So
7 we don't have straw buying. But as long
8 as Philadelphia's gun black market is so
9 close to the City of Camden, which is
10 trying so hard, so hard to lift itself up
11 out of poverty and disease and all the
12 many problems that the city has, as long
13 as Philadelphia has such gun black market
14 working so efficiently, it will never
15 happen. Camden will continue to be the
16 poor sister, if you will, of the City of
17 Brotherly Love.

18 So we in New Jersey, myself
19 representing the statewide group, are
20 here to say please, please enact this
21 legislation, please start to get a handle
22 on the issue of gun trafficking in
23 Philadelphia. You'll be doing it not
24 only for the citizens of Philadelphia.
25 You'll be doing it for the citizens of

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2 Camden, New Jersey. They need you to do
3 this. We really support this litigation
4 and ask you to do it.

5 COUNCILMAN COHEN: Thank you
6 very much for that statement with special
7 emphasis on the testimony today because
8 Philadelphians look at Camden and feel
9 they're superior. In fact, Philadelphia
10 is maybe feeding crime and violence that
11 occurs in Camden. So we thank you very
12 much for coming.

13 Darrell, I think there's
14 another panel.

15 MR. LEVIN: My name is Howard
16 Levin. I'm an attorney with Anapol,
17 Schwartz, Weiss, Cohan, Feldman &
18 Smalley. I wanted to thank you all for
19 giving us the opportunity here today to
20 address very brief comments. A few
21 months ago I was listening to the
22 national public radio and had the
23 privilege of hearing Councilman Clarke
24 discuss this issue. I have to admit it
25 occurred to me that good social change is

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2 effective oftentimes by not only good
3 legislation but by civil liability.
4 That's why I'm here. I wanted to
5 introduce my partners to you. That's Dan
6 Siegel to my immediate right and Mark
7 LeWinter to my far right. We are a civil
8 litigation firm representing victims'
9 rights. And so I thought by coming here
10 and having them give you a brief
11 dissertation on our view of this issue,
12 it might lend some new insights into this
13 matter. Thank you.

14 COUNCILMAN COHEN: Welcome.

15 MR. SIEGEL: Thank you, members
16 of Council. I'm Dan Siegel. When I
17 walked in this room, it brought back a
18 lot of memories. The first time I was in
19 this room was roughly 15 to 20 years ago
20 when this body was debating the assault
21 weapons ban. And at that time I was
22 wearing a hat as a representative of
23 handgun control in Washington. I've
24 worked with Councilman Cohen. I remember
25 when Councilman Clarke was --

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2 COUNCILMAN CLARKE: The young
3 buck.

4 MR. SIEGEL: Yes. I guess I've
5 aged as well. But what hasn't changed
6 and why I'm glad I'm here is because I'm
7 still involved. I'm on the board of
8 Pennsylvania Against Handgun Violence. I
9 was their founding president. But this
10 body even back 15 years ago what you were
11 doing with the assault weapons ban was
12 the momentum that propelled Pennsylvania
13 to change, some of it good, some of it
14 not so good. And what you're doing now
15 is again starting that momentum.

16 Back when you passed the
17 assault weapons ban, it was then that the
18 legislature over Governor Casey's veto
19 tightened preemption. There had been
20 preemption in Pennsylvania since the
21 initial Uniform Firearms Act in the '20s
22 and '30s, but there was a loophole.
23 Councilman Ortiz and others along with
24 the City Solicitor saw that loophole and
25 used it. Unfortunately, the legislature

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2 tightened the loophole, but then
3 Harrisburg looked at the issue and we had
4 the Uniform Firearms Act in 1995 from the
5 Fumo Commission, which I was on as a
6 representative for gun control.

7 That legislation as it was
8 presented was a model piece of
9 legislation and that came about because
10 of what this body did on the assault
11 weapon ban. Unfortunately, the things
12 that we opposed in amendments came true.
13 They removed the heightened scrutiny in
14 Philadelphia for permits to carry
15 allowing anyone to carry. They removed
16 with a vote -- the swing vote was then
17 Senator Salvatore, who flipped. And as a
18 result, we no longer had a waiting period
19 for handgun purchases in Pennsylvania.
20 Those two provisions were disastrous and
21 they have led to the problems that bring
22 us here today. There are provisions in
23 the bill, one of which I authored dealing
24 with promoting civil liability, which my
25 firm is involved in, where you sue

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2 dealers for illegal sales, but the
3 reality is that we're here because the
4 legislature did some good things and they
5 did some very bad things, but they did
6 them all because this board had the
7 gumption to challenge what was out there
8 and to say it's time to make another
9 change. And you pushed the assault
10 weapons ban and even though I think
11 everyone knew how difficult it would be
12 and what would happen. You did it and
13 started the gun control movement as a
14 viable loud issue in Pennsylvania.

15 Gun control isn't a viable loud
16 issue in Pennsylvania anymore and that is
17 not good. People don't realize the
18 amount of violence that goes on in the
19 cities because if they're not in the
20 cities, they simply don't care. I have
21 always said it's about them, not about
22 us. When it hits in State College with a
23 sniper, then they care for a few months,
24 but they simply don't care. So I'm
25 pleased to see that this body is pushing

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2 for home rule on the issue. We know
3 there are issues with preemption, but
4 it's time that you take the lead and that
5 you are taking the lead to bring back gun
6 control as an issue within both the city
7 and the state. And people talk about it
8 in all different languages, but the
9 reality is it is gun control. It is
10 keeping the guns out of the wrong hands
11 and preventing people who never should
12 have had the gun from getting it, whether
13 it's straw sales, whether it's children,
14 all those types of people. There's a lot
15 of good that can come out of this. I
16 applaud you and appreciate the
17 opportunity. It's been a long time, 15
18 years at least, since I was in this room,
19 but it brings back memories and I hope
20 again it's a spark for another movement.

21 MR. LeWINTER: My name is Mark
22 LeWinter. I am a partner at Anapol,
23 Schwartz as well as. I'm here
24 specifically to talk about a 7-year-old
25 boy by the name of Nafis Jefferson.

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2 Council may recall he was a 7-year-old
3 gunned down in South Philadelphia on
4 April 19, 1999, coming up on the sixth
5 anniversary on his death. This was
6 covered extensively in the media. He was
7 riding his scooter in South Philadelphia
8 when another 7-year-old picked up a gun
9 and pointed it in a playful way and
10 pulled the trigger not realizing it was
11 loaded, and he died an hour later. The
12 lawsuit was filed on behalf of the estate
13 of Nafis Jefferson, and in that case the
14 gun dealer was sued that sold this gun.
15 The gun dealer was from up in
16 Williamsport. That gun was traced to a
17 dealer by the name of -- a trafficker by
18 the name of Perry Bruce, who was since
19 convicted. What we learned from this
20 case, which is important today, is that
21 was one of 30 guns purchased by
22 Mr. Bruce, who testified in this civil
23 case, and Mr. Bruce testified that he was
24 in there, he was high at the time he
25 bought these guns, he was unemployed, the

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2 dealer had to know what he was doing, and
3 as a matter of fact was often told to
4 wait until other customers left the store
5 before the purchase could be completed.
6 These guns were cheap, inexpensive
7 handguns classically called Saturday
8 night specials. They have no collector's
9 value and nobody needs 30 guns for
10 protection.

11 I will tell you the only way we
12 can deal with this problem in terms of a
13 civil justice system to hold dealers
14 accountable, which I was able to do in
15 this case, but I will tell you if this
16 dealer was in Philadelphia and this one
17 gun a month provision was in place, Nafis
18 Jefferson would be alive today. This is
19 not going to be the answer. I think all
20 of us in this room acknowledge it's a
21 problem. We want to prevent the
22 senseless death of the youth of our city
23 and it's not going to solve the problem.
24 We all know that. However, it's almost
25 like a speed bump for illegal gun

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2 trafficking. It's going to slow it down.
3 Yeah, it's not the total answer, but
4 perhaps if we do something to make it
5 harder for these traffickers like Perry
6 Bruce to go and walk into a store -- and,
7 by the way, he had the license to carry
8 so there was no check being done, and he
9 was able to walk out many times with two
10 or three of the exact same gun under
11 circumstances that obviously raised red
12 flags.

13 So I think I applaud the
14 efforts of Council. One gun a month is
15 not going to be the answer. It's a
16 start. And I think that we need to do
17 something. Fifty percent of all the ATF
18 investigations in Philadelphia are
19 illegal straw purchases. And if the gun
20 dealers won't regulate themselves -- and
21 most of them are good statistically, but
22 those that aren't account for a high
23 percentage of these guns. If they won't
24 do the job themselves and be responsible,
25 then we have to basically limit the

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2 amount of guns that we can sell to people
3 that are going to engage straw purchases.
4 Thank you.

5 COUNCILMAN COHEN: Thank you.

6 Any questions, Councilman Clarke, or
7 comments?

8 COUNCILMAN CLARKE: No. I just
9 want to thank the gentlemen for coming.
10 I understand the uphill nature of this
11 battle. What we need is as broad-based
12 coalition as possible from all angles and
13 we welcome the support of your firm
14 coming to support us on this issue. I
15 want to thank you for coming to testify.

16 COUNCILMAN COHEN: Is there any
17 way of getting the Bar Association to act
18 since maybe through them we can develop a
19 strong immediate force?

20 MR. SIEGEL: If I may, the Bar
21 Association on one occasion or possibly
22 twice has passed a resolution by the
23 Board of Governors supporting the assault
24 weapon ban. I believe they also
25 supported -- I'm racking my memory, but I

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2 believe it was about eight years ago they
3 did support one gun a month legislation
4 through the Board of Governors.

5 COUNCILMAN COHEN: Maybe
6 instead of seeing a pass of the
7 resolution, they may set up committees
8 and visit communities and speak on this.
9 I think the effect of the Bar Association
10 speaking out would be very helpful.

11 MR. SIEGEL: I will work on it.

12 COUNCILMAN COHEN: Thank you.

13 Any other business?

14 (No response.)

15 COUNCILMAN COHEN: Seeing none,
16 the hearing on the matter before this
17 committee will stand in recess and the
18 public meeting of the Law and Government
19 Committee will now be in order.

20 I will ask Darrell Clarke for a
21 motion to adopt.

22 COUNCILMAN CLARKE: Bill No.
23 050107: An ordinance providing for the
24 submission to the qualified electors of
25 the City of Philadelphia of an amendment

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2 to the Philadelphia Home Rule Charter
3 creating a new Chapter 5 entitled
4 "Referenda Approved by the Voters" in
5 Article VIII, Provisions of General
6 Application, and creating a new Section
7 8-500 entitled "Home Rule Power to
8 Prevent and Reduce Gun Violence" calling
9 on the Pennsylvania General Assembly and
10 the Governor to pass legislation that
11 will permit Philadelphia to enact
12 constitutionally lawful legislation to
13 prevent and reduce gun violence.

14 COUNCILMAN COHEN: Is there a
15 motion?

16 Mr. Clarke, President Verna
17 asked you be added to this committee.
18 I'm going to announce you are officially
19 a member of the committee.

20 COUNCILMAN NUTTER: Mr.
21 Chairman, I move that Bill 050107 be
22 reported out of this committee with a
23 favorable recommendation and further
24 recommendation that the Rules of Council
25 be suspended so as to permit first

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 2 reading at our next session.
 3 COUNCILMAN MARIANO: Second.
 4 COUNCILMAN COHEN: Motion
 5 seconded. Any discussion?
 6 (No response.)
 7 COUNCILMAN COHEN: All in
 8 favor, please say aye.
 9 (All say aye.)
 10 COUNCILMAN COHEN: Any opposed?
 11 (No response.)
 12 COUNCILMAN COHEN: The ayes
 13 have it. The motion's carried.
 14 The next matter is the
 15 resolution.
 16 COUNCILMAN NUTTER: Mr.
 17 Chairman, I move that Resolution No.
 18 050120 be reported out of this committee
 19 with a favorable recommendation.
 20 COUNCILMAN GOODE: Second.
 21 COUNCILMAN COHEN: Any
 22 discussion?
 23 (No response.)
 24 COUNCILMAN COHEN: None. All
 25 in favor of the resolution, please say

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2 aye.

3 (All say aye.)

4 COUNCILMAN COHEN: Opposed?

5 (No response.)

6 COUNCILMAN COHEN: The ayes

7 have it. The resolution is adopted.

8 There will be no further

9 business.

10 (Whereupon the hearing

11 concluded at 3:15 p.m.)

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taken on March 7, 2005, and that this is

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Kimberly A. Otherwise
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