

Public Hearing

before

SENATE LAW AND PUBLIC SAFETY COMMITTEE

SENATE RESOLUTION NO. 86

(Memorializes the President and Congress to appoint
a special or independent prosecutor to investigate
the Occhipinti case and conduct an investigation
of Dominican crime operations)

LOCATION: Room 7
Legislative Office Building
Trenton, New Jersey

DATE: July 13, 1993
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Louis F. Kosco, Chairman
Senator John J. Matheussen, Vice-Chairman
Senator John P. Scott
Senator Bradford S. Smith
Senator John A. Girgenti



ALSO PRESENT:

Anne M. Stefane
Office of Legislative Services
Aide, Senate Law and Public
Safety Committee

New Jersey State Library

Hearing Recorded and Transcribed by

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NOTICE OF PUBLIC HEARING

and

C O M M I T T E E N O T I C E

TO: MEMBERS OF THE SENATE LAW AND PUBLIC SAFETY
COMMITTEE

FROM: SENATOR LOUIS F. KOSCO, CHAIRMAN

SUBJECT: **COMMITTEE MEETING - July 13, 1993**

The Senate Law and Public Safety Committee will hold a public hearing and committee meeting on **Tuesday, July 13, 1993 at 10:30 AM in Committee Room 7, Legislative Office Building, Trenton, New Jersey.**

The committee will hold a public hearing on the following bill:

SR-86
Kosco/Scott

Memorializes the President and Congress to appoint a special or independent prosecutor to investigate the Occhipinti case and conduct an investigation of Dominican crime operations.

The public may address comments and questions to Anne M. Stefane, Committee Aide, and persons wishing to testify or make status and scheduling inquiries should contact Kathleen Espieg, secretary, at (609) 984-0231. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

(OVER)

After the public hearing, the committee will meet to consider the following bill:

SR-86
Kosco/Scott

Memorializes the President and Congress to appoint a special or independent prosecutor to investigate the Occhipinti case and conduct an investigation of Dominican crime operations.

The chairman will propose amendments encouraging the President to grant a full pardon to Agent Occhipinti in lieu of appointing a Special Prosecutor.

[FIRST REPRINT]
SENATE RESOLUTION No. 86

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1993

By Senators KOSCO and SCOTT

1 A *SENATE RESOLUTION* memorializing the President and
2 Congress of the United States to appoint a special prosecutor
3 to investigate the Occhipinti case and to investigate Dominican
4 crime operations.

5
6 WHEREAS, Former Immigration and Naturalization Service agent
7 Joseph Occhipinti, of Manalapan, New Jersey served his
8 country for 22 years, daily placing his life in harm's way, and
9 stands today as a most decorated Federal agent, with 78
10 awards and commendations; and

11 WHEREAS, There is voluminous evidence that in 1991 and 1992
12 Mr. Occhipinti may have been the target of a
13 well-orchestrated conspiracy by Dominican drug dealers,
14 leading to his prosecution on civil rights charges under 18
15 U.S.C. §241 and §242; and

16 WHEREAS, Court transcripts may document that Mr. Occhipinti
17 was denied a fair trial and his civil rights violated; and

18 ¹WHEREAS, Several persons who brought charges against Mr.
19 Occhipinti, including one who served as a prosecution witness
20 at his trial, were recently arrested for operating illegal
21 gambling rings and offering bribes to police officers; and¹

22 WHEREAS, Mr. Occhipinti served seven months in federal prison,
23 of his 37 month sentence, before President George Bush
24 granted commutation, but because a full pardon was not
25 granted there remains for Mr. Occhipinti the stigma of being
26 known as a felon; and

27 WHEREAS, Mr. Occhipinti is willing to undergo ¹and has applied
28 for¹ a new trial to clear his name; now, therefore,

29
30 BE IT RESOLVED *by the General Assembly of the State of*
31 *New Jersey:*

32 1. This House memorializes the President and Congress of the
33 United States to appoint a special or independent prosecutor to
34 investigate the case of Mr. Joseph Occhipinti, including an
35 investigation of the alleged drug cartel conspiracy against Mr.
36 Joseph Occhipinti, and further, of the alleged Justice Department
37 coverup in the handling and prosecution of the Occhipinti case.

38 The President is memorialized further to grant, if the
39 investigation warrants, a full pardon so Mr. Occhipinti can clear
40 his name.

41 This House further memorializes the President and Congress of
42 the United States to seek a Congressional investigation examining

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted August 16, 1993

1 the extent of Dominican crime operations in the United States,
2 especially in New Jersey.

3 2. Duly authenticated copies of this resolution, signed by the
4 Speaker of the General Assembly and attested by the Clerk
5 thereof, shall be transmitted to the President of the United
6 States, the President of the United States Senate, the Speaker of
7 the House of Representatives, and every member of Congress
8 elected from this State.

9

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11

12

13 Memorializes the President and Congress to appoint a special or
14 independent prosecutor to investigate the Occhipinti case and
15 conduct an investigation of Dominican crime operations.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE RESOLUTION No. 86

with committee amendments

STATE OF NEW JERSEY

DATED: July 13, 1993

The Senate Law and Public Safety Committee favorably releases Senate Resolution No. 86 with committee amendments.

This resolution memorializes the President and Congress of the United States to appoint a special or independent prosecutor to investigate the case of Mr. Joseph Occhipinti, including an investigation of the alleged drug cartel conspiracy against him and the alleged Justice Department coverup in the handling and prosecution of the his case. The President is memorialized, if the investigation warrants, to grant a full pardon to Mr. Occhipinti.

This resolution also memorializes the President and Congress of the United States to seek a Congressional investigation examining the extent of Dominican crime operations in the United States, with an emphasis on those operations in New Jersey.

Mr. Occhipinti is a former Immigration and Naturalization Service agent who was prosecuted and convicted on civil rights charges under 18 U.S.C. §241 and §242. Mr. Occhipinti served seven months of his 37 month sentence in federal prison before former President George Bush granted commutation, but because a full pardon was not granted the record of a criminal conviction remains.

It is the committee's understanding that court transcripts and additional information recently obtained by the federal government indicate that Mr. Occhipinti was denied a fair trial and his civil rights violated. It is also the committee's understanding that Mr. Occhipinti may have been the target of a conspiracy by Dominican drug dealers.

The committee amended the preamble of the resolution to note that Mr. Occhipinti has applied for a new trial. The committee also amended the preamble to note that several of the persons who made charges of civil rights violations by Mr. Occhipinti, including one who served as a prosecution witness at his trial, recently were arrested for illegal gambling and offering bribes to police officers.

TABLE OF CONTENTS

Page

Joseph A. Occhipinti Former Supervisory Special Agent New York City Antismuggling Unit Immigration and Naturalization Service	3
Greg Kaye Chairman New Jersey Conservative Political Action Committee, and Director Joe Occhipinti Legal Defense Fund, Inc.	32
William Schievella President Italian American Police Society of New Jersey	44
Edward D. Martino Chairman Citizen's Commission on Crime in Pennsylvania	46
Ray Hageman Investigator for Guy V. Molinari President Borough of Staten Island, New York	52
John W. Ryan Retired Detective Major Case Squad New York City Police Department	56
Curtis Sliwa Founder of the Guardian Angels	61
Anna R. Venditti Parent Survivor of the Shield	74
James Harwood Retired Police Officer New York City Police Department	75

TABLE OF CONTENTS (continued)

Page

APPENDIX:

Miscellaneous newspaper articles
submitted by Greg Kaye

1x

Statement submitted by
Dr. Angel Nunez
President
National Hispanic Coalition

17x

mjz: 1-77

* * * * *

SENATOR LOUIS F. KOSCO (Chairman): I would like to call this hearing to order and have a roll call.

MS. STEFANE (Committee Aide): Senator Girgenti?

SENATOR GIRGENTI: Here.

MS. STEFANE: Senator Smith?

SENATOR SMITH: Here.

MS. STEFANE: Senator Scott?

SENATOR SCOTT: Here.

MS. STEFANE: Senator Kosco?

SENATOR KOSCO: Here.

MS. STEFANE: We have a quorum, Mr. Chairman.

SENATOR KOSCO: Thank you.

This is a very important hearing we are having here, not only for the State of New Jersey and the people of New Jersey, but for the people throughout the United States. We have taken the initiative, through this Committee, to have this hearing. Seldom is a public hearing devoted just to one individual. When that is the case, such as today, it involves a very unique individual in a very serious matter. Joe Occhipinti is truly a unique individual, and his story is one that demands the attention of every law-abiding citizen in the country, and must be told. It is of particular interest to the people of New Jersey because Joe lives in New Jersey. The events surrounding this ordeal occurred in New York, New Jersey, and the surrounding areas.

The purpose of this hearing today is to hear testimony which will show that there is clearly a terrible travesty of justice. At the conclusion of this public hearing, a vote will be taken to release Senate Resolution No. 86 from this Committee. SR-86 memorializes the President to grant a full pardon to Joe and to seek a congressional investigation examining the extent of Dominican crime operations in the United States, and especially in New Jersey.

Joe is a former Immigration and Naturalization Service Agent. He has worked for the FBI, the Justice Department, and the Organized Crime Strike Force. He served his country loyally for 22 years, daily placing his life in danger. He is the most decorated Federal agent, having received 78 awards and commendations. In 1991 to 1992, Mr. Occhipinti was prosecuted on Federal civil rights charges. The evidence is overwhelming that the filing of these charges was the result of a well-orchestrated conspiracy by a Dominican organization known as the Federation of Dominican Merchants and Industrialists of New York, a group that Occhipinti defines as a front for Dominican organized crime.

Court transcripts documented that Occhipinti did not receive a fair trial. In fact, his trial has been called a "sham." There is increased evidence to support Occhipinti's claim that he was set up. Recently a witness came forth and provided direct evidence of plans hatched by drug dealers to set up Mr. Occhipinti, and get him off their backs by having fabricated civil rights charges against him.

Also, during a recent raid by police in New York directed at illegal gambling operations, a statement was made to the arresting officers that, "We are going to do you like we did Occhipinti."

Unfortunately, this decorated agent had to serve seven months in Federal prison before President Bush granted -- commuted his sentence. Despite the commutation, Mr. Occhipinti is willing to undergo a new trial and take the risk of being sentenced to prison again, in order to clear his name.

The entire Joe Occhipinti story is told in a detailed and well-documented account titled, "The Joseph Occhipinti Story: Strange Justice." After reading through that story, most people, I'm sure, will be convinced that Joe has gotten a raw deal. Here is a man who has devoted his life to law enforcement, and established such a reputation for going after

the drug lords that he was both feared and hated by those drug lords. Joe Occhipinti has not had justice. He deserves to have his story told and retold until either a new trial is held or he is pardoned by the President and his name and reputation are cleared.

The Joe Occhipinti story has wider ramifications than Joe. Every law enforcement officer and every law-abiding citizen has an interest in seeing that justice is done. If not, we may as well concede that the drug lords will have free rein in this country and in this State to do as they wish without any fear from men such as Joe Occhipinti, who are dedicated to stopping the flood of illegal drugs being smuggled into the United States and into the State of New Jersey, and the consequent pollution, the undermining of our society.

As our first witness today, I would like to call Joe himself.

J O S E P H A . O C C H I P I N T I: Thank you, Senator.

SENATOR KOSCO: Thank you.

MR. OCCHIPINTI: Good morning, Senators.

SENATOR KOSCO: Thank you for being here. We certainly appreciate it.

MR. OCCHIPINTI: Before I start my testimony, I would like to bring out to the Committee some very important people who are in the audience. To me, they are very important. We have Mr. and Mrs. Michael Buczek, and Mr. and Mrs. Tommy Venditti. These are the parents of two dedicated and highly heroic police officers who were murdered by organized crime figures, some of the very same figures I spent over 22 years investigating. They come here today to hear the testimony. In addition, I have my wife, Angela, and my daughter, Lisa. Thank you.

I come before this legislative body in hopes of educating the American public and New Jersey residents about the serious increase of ethnic organized crime that is

victimizing our State and holding our communities hostage. Unfortunately, most Americans when they hear the words, "organized crime," they immediately assume that it relates to the Italian "Mafia." That is far from the truth. Our nation is plagued with ethnic organized crime groups from numerous nations, which represent a minor percentage of our alien population. In general, the majority of our alien communities represent hard-working, law-abiding aliens. A law enforcement evaluation of ethnic organized crime will statistically confirm that these crime syndicates are considered more violent, better organized and equipped than traditional Italian organized crime.

In addition, ethnic organized crime has increased their activity, productivity, and success ratio in avoiding prosecution for a variety of reasons. First, our State governments and Federal judicial districts do not have ethnic organized crime strike forces, as they do for traditional Italian organized crime. Secondly, most elected officials are afraid to publicly criticize ethnic organized crime groups in fear that they may be labeled as racists by the local ethnic community. Thirdly, the Federal government's continued neglect to properly equip the Immigration and Naturalization Service to patrol our borders and enforce our immigration laws relating to criminal and subversive aliens.

I will discuss later in my testimony some of the immigration problems and my recommendations in trying to gain control of our borders in order to prevent illegal immigration and alien criminal activity. I plan to discuss at great length Dominican organized crime operations in the State of New Jersey, which is well-entrenched in major New Jersey cities, like Paterson, Newark, Perth Amboy, Trenton, New Brunswick, and Camden, among others. But first, it is important that I introduce myself to the Committee and demonstrate to each member my knowledge and expertise in ethnic organized crime.

My name is Joseph Occhipinti, and I am a resident of the State of New Jersey, County of Monmouth, where I reside with my wife of 21 years, Angela, and my three daughters, Jennifer, age 18, Lisa Marie, age 15, and Michelle, age 11. In September of 1968, I commenced my career in Federal service while attending night college, where I achieved a Bachelor of Arts degree in Sociology and Puerto Rican Studies. In March 1972, I was appointed to the position of United States Customs Patrol Officer for the United States Department of the Treasury. My principal duties entailed drug interdiction and investigations of ethnic organized crime operations within the Ports of New York and New Jersey. I was credited for having the highest felony arrest and contraband seizure record in the entire customs service. In view of my fluency in Spanish, the Sicilian dialect, and Italian, I participated in several sensitive undercover investigations involving the Colombian drug cartels and Italian organized crime.

In October 1976, I transferred to the Immigration and Naturalization Service as a Criminal Investigator, where I began to specialize in Dominican organized crime. I spearheaded several complex, multidefendant task force investigations which ultimately resulted in the prosecution and conviction of major Dominican organized crime figures. I received my first Attorney General Award in May 1980 for the successful infiltration of a Dominican smuggling and counterfeit document ring which was credited with the smuggling of thousands of Dominican nationals into the United States. In addition, that investigation resulted in the largest seizure of fraudulent documents in United States history.

According to a 1980 government memorandum, which was based upon reliable FBI intelligence, there existed a conspiracy then by certain Dominican organized crime figures to set me up on fabricated civil rights charges. Instead, bribery overtures had been made in hopes that I would cease my

increased enforcement activity which had targeted their illegal operations. During the periods of 1980 and 1984, in response to these bribery overtures, I worked for the FBI and the Justice Department's Organized Crime Strike Force. In essence, I played the role of being a corrupt INS agent, whereby I received literally thousands of dollars in bribes in exchange for unlawful official acts. These bribery corruption investigations resulted in the conviction of more than 25 Dominican and Colombian organized crime figures and one of our nation's largest cocaine seizures. Eventually, I earned the reputation within the Dominican organized crime community as being incorruptible and a viable threat to their existence.

In 1984, I was promoted to the position of Supervisory Special Agent in charge of the New York City Antismuggling Unit. Now being in a managerial position, I authorized and personally supervised numerous proactive multiagency task force investigations which targeted foreign drug cartels, ethnic organized crime syndicates, and terrorist groups. The foregoing task forces were some of the more noteworthy, which ultimately resulted in hundreds of criminal prosecutions, defendant convictions, contraband seizures, and my enhanced expertise in investigating ethnic organized crime and terrorists. Today I am considered to be one of the most decorated Federal agents credited with over 78 official commendations, including three Attorney General Awards.

One of the task forces -- Project Intercept and Project Red-Eye -- is very important to us because it shows the extent of Dominican organized crime in the State of New Jersey. These projects confirm that foreign drug lords are ostensibly using New York and New Jersey transportation centers to facilitate their drug distribution and money-laundering operations in other parts of the United States. We have identified their networks, which extend as far as Alaska. We know that these cartels recruit young impoverished youths, and

train them in the fine art of drug trafficking and smuggling activity. They are later smuggled into the United States via the Mexican and Canadian borders. Once they are physically in the United States, the cartel succeeds in procuring their permanent resident status by fraud, generally through marriages of convenience and amnesty fraud.

These projects were coordinated with the Drug Enforcement Administration and the Port Authority Police of New York and New Jersey with numerous law enforcement accomplishments. The role of INS in these task forces proved to be an important tool in the war against drugs since INS has the unique statutory authority to interview and detain illegal aliens or aliens not in possession of their immigration documents. Unfortunately, in view of my landmark conviction for allegedly conducting an unlawful, good-faith search and seizure, the Port Authority has terminated all drug interdiction programs at transportation centers. In addition, the Drug Enforcement Administration went from 2700 investigations to only 500.

Project Hester: In 1984, I initiated Project Hester in order to investigate the serious increase of Chinese smuggling by the Fukinese syndicate. This syndicate is credited for the smuggling of hundreds of thousands of Chinese nationals into the United States, many of whom reside in the State of New Jersey. The investigation uncovered documentary evidence alleging that certain government officials in the People's Republic of China were sanctioning this smuggling activity, in exchange for their placement of foreign agents into the smuggling groups.

In addition, alleged diplomatic corruption was uncovered in other governments where the smuggling activity was taking place. During Project Hester, evidence was uncovered alleging that top ranking Navy Department officials and former CIA operatives were involved in the smuggling conspiracy. I

reported these allegations to the FBI Subversive Unit, but unfortunately was told that their priority at that time was to investigate only foreign agents from the Soviet Bloc countries.

In the packages I gave the Committee, there is a copy of a task force proposal on Asian organized crime that was recommended by my unit in 1985. Unfortunately, INS vetoed that task force proposal due to budgetary and manpower restraints. Coincidentally, it is this very same smuggling syndicate that was recently implicated in last month's failed smuggling attempt of Chinese nationals on the shores of New York. I'm told that the Project Hester file has now been conveniently lost. Now our Justice Department can conveniently cover up their mistakes, as they have done with the drug cartel conspiracy against me. Please note that this syndicate openly operates their smuggling operations now in the State of New Jersey.

Project Esquire: In 1988, I spearheaded an undercover investigation of the Wells Fargo security forces at Kennedy Airport and other related ports of entry relative to organized alien smuggling activity. The investigation culminated in the criminal prosecution and conviction of over 25 Wells Fargo security officers, including the general manager. In essence, illegal aliens awaiting deportation in the custody of Wells Fargo were being permitted to escape in exchange for bribes. The corrupt guards would conveniently place an imposter in place of the alien to be deported.

In addition, numerous alien abuses being perpetrated were uncovered. These abuses included: sexual harassment, extortion, starvation, theft of property, and homicide, among others. The biggest travesty of justice was the fact that many of the escaped aliens had known criminal records and outstanding criminal arrest warrants. Unfortunately, INS ignored my recommendations that every alien in custody undergo a criminal warrant check. That procedure is still in effect

today. In view of the public outrage, the Federal law was ultimately changed requiring INS to take custody of detained aliens awaiting exclusion and deportation. Unfortunately, the American public never learned that due to manpower shortages, INS now subcontracts that detention responsibility out to private security firms just like Wells Fargo. Today, I'm told, we see the same alien abuses and smuggling schemes taking place in New York and in the State of New Jersey.

Project Resurrect: This project was initiated in order to investigate Dominican travel agencies and immigration consultants involved in widespread smuggling activity, entitlement and related fraud, money-laundering activity, official corruption, exportation of stolen cars, and the sale of fraudulent and unlawfully obtained government documents. The project was credited with the prosecution and conviction of over 25 Dominican travel agencies based out of the Washington Heights area of Manhattan, and they were the principal source of fraudulent documents to New Jersey residents. These documents are used to perpetrate all types of fraud, as well as enable known fugitives to escape apprehension.

To me, the most important project that ultimately resulted in my demise was Project Bodega. A bodega is a Spanish word for grocery store. Police arrest statistics will confirm that many bodegas in the New York metropolitan area -- which really includes New Jersey as well -- are simply fronts for Dominican organized crime activities. I initiated Project Bodega in August 1989 in order to investigate a major drug cartel implicated in the murder of New York City Police Officer Michael Buczek, who was a resident of Wayne, New Jersey. Project Bodega eventually grew into a highly successful, multiagency task force utilizing the services of INS, the New York City Police, the Drug Enforcement Administration, the Internal Revenue Service, the U.S. Customs, and the New York County District Attorney's Office.

. The project was classified as a success, as evidenced by the arrest of 62 illegal aliens, 39 criminal arrests, 25 defendant convictions, and seizures of all types of contraband, including: weapons, fraudulent documents, and drugs. The task force successfully uncovered violations of Federal and state law at each establishment investigated. Unfortunately, on April 4, 1990, a Federation of Dominican Merchants, which is believed to be a front for the Dominican cartel, staged a protest on the steps of City Hall protesting Project Bodega.

At that time, New York City Mayor David Dinkins denounced Project Bodega, calling it a "Republican conspiracy" to intimidate the 1990 census, alleging that illegal aliens were now afraid to go food shopping. He also alleged civil rights violations and called for a Federal civil rights investigation. That very same day, Washington Immigration ordered Project Bodega terminated. Unfortunately, the Federation's fabricated allegations of civil rights charges ultimately led to my demise.

I was subsequently indicted, convicted, and imprisoned on documented perjury by reputed Dominican drug lords and criminals portrayed as "law-abiding." In essence, they falsely testified that they had signed a consent to search form after the search was completed. Today, I am the first law enforcement officer in United States history to be prosecuted for conducting an alleged unlawful search and seizure.

I hope the Committee will note that my alleged crime did not involve police brutality, physical abuse, racial bias, financial gain, or corruption. Investigation by numerous media and investigative sources has compiled literally hundreds of witnesses and documentary evidence proving the drug cartel conspiracy. I have enclosed for your review much of that evidence.

In addition, I believe that when you hear the testimony of the various law enforcement experts and the civil

rights leaders here today, you will be convinced of the conspiracy and this new tool being used by ethnic organized crime to intimidate the police. This new tool has already succeeded in intimidating the police nationwide, as evidenced by the termination of numerous drug interdiction task forces.

In October 1989, former United States Congressman and current Staten Island Borough President, Guy N. Molinari, authorized an undercover investigation into Dominican organized crime and my conspiracy. In essence, the investigation not only proved the conspiracy, but succeeded through the use of confidential informants to actually infiltrate Dominican organized crime operations in New York and New Jersey.

For example, as I speak today, we have uncovered a Dominican smuggling operation which is importing daily 300 kilos of cocaine into the New York metropolitan area -- again, which includes the State of New Jersey. As you can imagine, these drugs end up in our communities. Unfortunately, the Justice Department has blatantly refused to examine the evidence or investigate Dominican organized crime. For example, the FBI declined to make pre-arranged controlled buys of contraband from the very same complainants whose perjurious testimony had me imprisoned. Why? I can only assume that they are concerned that if the complainants are arrested and prosecuted, they may ultimately admit their complicity in the conspiracy. In the past year, we have approached local law enforcement in the States of New York and New Jersey for help. Unfortunately, it appears that they have also been intimidated by Federal authorities not to investigate the evidence.

On June 16, 1993, I met with Attorney General Del Tufo regarding Dominican organized crime operations in the State of New Jersey. Mr. Del Tufo seemed to have been overwhelmed by our evidence. In fact, he has assured me in writing that both the New Jersey State Police and his own Criminal Division will investigate my evidence on Dominican organized crime operations

in this State. Unfortunately, New Jersey has no formal ethnic organized crime strike force. However, please know that I plan to turn over to the New Jersey State Police all the documentary evidence we possess on their operations, as well as our confidential informants and witnesses.

I am confident that the creation of such a strike force in New Jersey will result in increased criminal prosecutions and convictions for some of the following more noteworthy felony violations: drug distribution and money-laundering; loan sharking activity; organized cargo theft; entitlement and related fraud; organized carjacking and the exportation of stolen vehicles; official corruption; theft of surplus food products and food stamp fraud. What we have here, ladies and gentlemen of the Committee, is that food that is destined for the poor people in our communities is being placed in containers at Port Newark and exported to the Dominican Republic, where it is then sold in supermarkets in the Dominican Republic. It's mind-boggling. Also: interstate gambling; wire fraud; assassinations for hire. We know the locations where drug cartels and organized crime go to get people assassinated. The distribution of fraudulent documents -- which, by the way, probably contributes to the serious increase of entitlement fraud which we are experiencing now in the State of New Jersey -- and, of course, income tax evasion. I mean, I would say that we can generate, for the State of New Jersey, literally millions, if not billions, of dollars from these very same groups that are intentionally committing these IRS and New Jersey tax violations.

I have some recommendations which I believe will stem the serious increase of ethnic organized crime:

- 1) At present, there are only 30 Immigration agents in this entire State of New Jersey to combat the million or more illegal aliens who either reside or work in the State of New Jersey. Governor Florio should ask the Justice Department

to cross designate and train certain New Jersey police officers as Immigration officers. Placement of these cross-designated officers in the respective State offices where entitlement fraud is rampant would seriously reduce fraud. It should be noted that the Justice Department frequently cross designates already New Jersey police officers as DEA agents. Why not INS?

2) At present, the only immigration detention facility is 201 Varick Street, which is situated in Manhattan. Unfortunately, that detention facility houses only 250 inmates and is typically full from inmates coming in from the Federal and state jails. Therefore, the Justice Department should direct that INS use several of the New Jersey-based military bases as INS detention facilities. Let me note that recently, because of the publicity with respect to the Chinese alien smuggling, and more important, the recent terrorist acts, the INS and the Justice Department proved that they can utilize the military bases in housing illegal aliens. Surely, if we make these arrangements, we will reduce in this State literally hundreds of thousands of illegal aliens who are draining our Treasury.

3) At present, the INS has computerized records of the identity of millions of fugitive illegal aliens, many of whom have outstanding warrants of deportation, many of which are based on criminal convictions. Unfortunately, the Justice Department has prevented Immigration from inputting their identities into the FBI national fugitive computer, which is used nationwide by law enforcement. I estimate that at least hundreds of illegal alien fugitives can be apprehended weekly by New Jersey law enforcement officers. What I am talking about here is, when police officers in New Jersey frequently run criminal history checks, they search the FBI computer records. At present, the Immigration records of known criminal illegal aliens are not being placed in there. That is a travesty of justice. We can use these sources already in place

to exclude in the Port literally hundreds of thousands of undocumented aliens in the United States.

4) The United States Congress and Senate must immediately introduce legislation preventing the Justice Department from using Title 18, United States Code, Sections 241 and 242 against a law enforcement officer accused of an unlawful search and seizure. The legislative intent of this civil rights law was never intended for use against a law enforcement officer. Unfortunately, as evidenced by my own prosecution, New Jersey law enforcement officials have been intimidated by the misuse of this statute in doing their sworn duty.

5) The United States Congress and Senate must introduce legislation authorizing the INS and Customs to have Federal inspections of all departing citizens and aliens. We are one of the few countries in the world which does not have Federal departure control inspections. In view of the serious increase of drug trafficking and terrorist activity, such departure inspections will help to monitor their illicit activities, as well as help to apprehend known fugitives fleeing the United States.

In closing, I sincerely hope and pray that my injustice and unlawful imprisonment were not in vain. At times, while sitting in solitary confinement, I lost the will to fight back against these drug lords who have physically, emotionally, and financially devastated my life, my family, and my career. I also realized that these foreign drug lords and criminals have learned how to successfully corrupt, intimidate, and manipulate our elected officials, the criminal justice system, and our civil rights laws. However, the recent outpouring of national support from the political, law enforcement, media, and civil rights groups has given me the strength to continue my battle against these forces.

I find it disgraceful that there are certain New York City and Justice Department officials who have fought diligently to prevent exposure of my injustice and Dominican organized crime operations in the United States. I believe that your hearing is sending a clear message to every law-abiding United States citizen and foreign drug lord and criminal that the State of New Jersey will no longer tolerate ethnic organized crime in their State. Please know that in my heart I am still a dedicated law enforcement officer who will not give up the fight until truth and justice prevail.

I truly thank you, and God bless you all.

SENATOR KOSCO: Thank you very much. Do any Senators have any questions? Senator Scott?

SENATOR SCOTT: Well, first, what are you doing right now, Mr. Occhipinti, for a living?

MR. OCCHIPINTI: Well, I'm gainfully unemployed. I am disabled and have been receiving partial disability payments. However, that is screened on a monthly basis.

SENATOR SCOTT: You indicated that you would be perfectly willing to undergo a new trial?

MR. OCCHIPINTI: That is correct. In your, I think it is Exhibit C, you will see that we have filed recently with the U.S. District Court an application for a new trial based on the voluminous evidence and witnesses who have come forward with evidence on the drug cartel conspiracy. Unfortunately -- I must be very honest -- it is going back to the same U.S. District Court judge, and we have evidence alleging that he was part of the conspiracy. Part of the evidence was that the drug cartel used its political influence to get the judge preselected. So I am not optimistic that, in fact, I will get a new trial by this particular District Court judge, which is the reason why your particular legislation is very much important, because the designation of congressional hearings

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can investigate a lot of these allegations of official corruption and prosecutorial and judicial misconduct.

SENATOR SCOTT: Have you received any encouragement or help from the New Jersey Congressmen or your Senators?

MR. OCCHIPINTI: Well, yes. Principally, two United States Congressmen have worked tremendously on my case -- Congressman Dick Zimmer and also Congressman Gallo. Unfortunately, I did not receive much cooperation or assistance from my two U.S. Senators. Pursuant to a lot of pressure and support that I received from the New Jersey law enforcement community, Senator Lautenberg did write a letter to Senator Joseph Biden, the Chairman of the Senate Judiciary Committee, requesting that there be a Senate Judiciary investigation. In addition to that request by Senator Lautenberg, I know that the Senate Judiciary Committee has received several thousands of letters from law-abiding citizens all over the country, asking for this Senate Judiciary investigation. But unfortunately, we have not received any recognition.

The only other efforts we have had, Senator, is that the State of Pennsylvania, as well as the State of New York, have now introduced similar legislation tailored to the New Jersey Assembly resolution. So, hopefully, if we can gain the momentum and get other states to realize and acknowledge the serious extent of ethnic organized crime, maybe we can get the White House and Congress to move forward and expose these operations, which would ultimately prove my innocence, because the first time these Dominican drug lords get prosecuted and arrested, they are going to be looking to make a deal for themselves. They don't want to go to prison, and ultimately they are going to make a deal with the government.

I know that one of the pieces of evidence they will come forward with is actual confirmation that I was set up. We do know that the drug cartel spent \$1.5 million in setting me up.

SENATOR SCOTT: Really, it is a tremendous gamble, especially if you have the wrong judge when you have another trial. I commend you on that. It is hard for someone not in law enforcement, as I am not, to believe that our government would participate in a travesty of justice. That is probably the biggest stumbling block you have. Those of us who are not in law enforcement, we really don't know what is happening in the drug world and the undercover world and so on.

So, that is what struck me in the very beginning when I started reading about how it happened. It is very difficult to believe that all this goes on. I guess I am in a different world. I am just a little surprised, to say the least, that all this is happening. I just wanted to see what help you have gotten on the Federal level, because that seems to be where the biggest problem is -- the Federal authorities.

MR. OCCHIPINTI: That is correct. Unfortunately, I think it is one of image. I think they realized that an injustice occurred, but by the same token, by publicly acknowledging I was set up by a drug cartel, I assume it is only confirming the fact that we lost the war against drugs, and they are trying to bring the message that we are winning the war against drugs, which is not the case.

SENATOR SCOTT: But, can we win it?

MR. OCCHIPINTI: I believe we could win. There are a lot of problems. There is a lot of lack of coordination. Certain key government agencies are not involved in the war against drugs like the Immigration and Naturalization Service, which has a very unique ability, through their statutory authority dealing with aliens, to do work. That was one of the things that I was trying to do with Immigration. See, unfortunately, Immigration has a reputation for going into simple sweat shops and taking out an illegal Mexican who just came to the United States. Unfortunately, I was trying to show how ethnic organized crime and these foreign drug lords really

are not being targeted by the Federal government, and they are getting away with murder -- literally murder. It is a problem that if we do not seriously address, I don't believe we will ever win the war against drugs.

But the thing that has really given law enforcement a major setback in the war against drugs, primarily the New Jersey law enforcement community, is the fact that I was convicted for an allegation of an unlawful search and seizure. I was convicted and sent to prison for a piece of paper. Now, in law enforcement and in drug interdiction, law enforcement officers relied heavily on consent searches. Now, with State troopers, you will see them frequently on the highway doing consent searches. What this means now is, if the court finds a search to be unlawful, the United States Attorney can now go into a grand jury and indict a police officer for a good-faith unlawful search and seizure. This is why the law enforcement community has come up in arms and have supported me.

SENATOR KOSCO: On that note, Joe, let me ask you a specific question on that search and seizure. What was different about what you did, as opposed to what the so-called procedure is supposed to be?

MR. OCCHIPINTI: Well, I did everything in accordance with the procedure. I was, by the way, cleared by my own Internal Affairs Unit. The procedure is, a search can occur of a premise, of a residence, of an individual-- There are two basic ways: One, with a search warrant, or if the person consents to it. In my particular case, I actually, in the Spanish language, had a valid consent to search form which the particular individual signed.

Now, most law enforcement officers, particularly in drug interdiction, use consent searches. That is why I think it is important-- The Port Authority Police, because of my case, have stopped drug interdiction. Right now, at LaGuardia Airport, at Newark Airport, we have no drug interdiction going

on. We are an open market for the drugs coming into the States of New Jersey and New York. It all comes back to my particular case, where a law enforcement officer comes into law enforcement knowing there are certain dangers, the dangers of being shot, killed, possibly sued. But now, to go to prison for an allegation-- I think what is outraging most law enforcement people, and even members of the judiciary, is, we have already set in place the exclusionary rule. What the exclusionary rule says is, if the courts find a search to be unlawful, the worst case scenario is the evidence is excluded from the trial, and the case against the defendant is dismissed. But in my case it went further. I was prosecuted for Federal civil rights. I think if you look at the legislative intent of the law under which I was prosecuted, clearly it was never intended for that purpose.

SENATOR KOSCO: You were the only police officer -- law enforcement officer ever to be prosecuted under this--

MR. OCCHIPINTI: Prosecuted under this statute. There was one other case, but it involved financial gain. My case did not involve any financial gain, corruption, racial bias, fraud, or anything. It was a simple unlawful search and seizure, which we have evidence was, in fact, invalid -- a proper search.

SENATOR KOSCO: A number of times during your answers and talking you said that the Justice Department has terminated investigations into certain programs. Do you have a specific reason that you believe why they go so far and then, when they are on the verge of winning, they stop?

MR. OCCHIPINTI: Well, the reason is-- Mr. Molinari, who came forward and assigned three of his investigators, compiled literally hundreds of pieces of evidence of the Dominican operations, both in New York and in New Jersey. We also have in place already, as I speak now, confidential informants in the drug cartel. When the Justice Department

came down, Mr. Molinari went to these local officials and said, "Look, use our informants. Use the evidence. You can go forward, infiltrate, and prosecute these people." They blatantly refused. It is our belief, and the belief of many experts that they knew that once these people got arrested, they would roll over, turn government evidence, and eventually prove I was set up. Again, I think the Justice Department is looking to avoid that issue, because of the fact it is only going to give the message that we lost the war against drugs, when the most decorated Federal agent can be easily set up by a drug cartel.

SENATOR KOSCO: Do any of the Senators have any questions? Senator Smith?

SENATOR SMITH: The searches that were involved, those people apparently testified falsely that they signed these consent forms after the search. Weren't there other officers involved in these searches besides yourself?

MR. OCCHIPINTI: That is correct. There were over 40 different law enforcement officers from a variety of different Federal and state agencies. If you look at the indictment, I was the only law enforcement officer indicted. Unfortunately, I had an attorney who-- Right after I was indicted, I was sent to trial in a record two-month period, which is unprecedented for a 25-count indictment. My attorney, who was from Fort Lee, came to me two weeks before and admitted that he had psychiatric problems; in fact, he was under the care of several psychiatrists. We went back to the same judge who had been implicated in the conspiracy, and she called him a "fraud."

Unfortunately, I had to go through a six-week trial with an attorney who not only checked himself in and was hospitalized, but New Jersey law enforcement had to respond when he tried to commit suicide. Unfortunately, we had many of these witnesses, these law enforcement officials that we planned to call at trial, but because of the attorney's

condition we did not call them. But there are present now over 40 different law enforcement officers who were present on these searches who are ready, willing, and able to come forward and admit that the searches were valid.

It just doesn't make sense. I mean, common sense shows you, you go into a premise and you find a crime, violations of law and contraband, and then you ask the person to sign a form after you found him dirty-- He is not going to sign it. He is going to say, "I want to see my lawyer." But it goes even further. In my entire career, I must have made 1000 arrests, or more, and I have an unblemished record. Never before have there been allegations of any civil rights violations. Clearly, if I violated anybody's civil rights, it would have been a pattern of abuses.

More important, it took these people close to 18 months later to come forward and make these allegations. That did not occur until the U.S. Attorney's Office went to them. Plus, we have actual tapes. Some of the evidence that we plan to use is actual consensually monitored taped conversations of some of the very same witnesses whose testimony had me convicted. On the tape they admit that they perjured themselves. In many cases, they admit that they were paid by the drug cartel to testify falsely against me.

SENATOR SMITH: I read that in your attorney's brief. It seemed, though, very unusual to me that you didn't have a parade of witnesses to come in in your defense as to how these search consents were signed. You have just explained why. That is an extremely regrettable situation.

MR. OCCHIPINTI: One thing I would also like the Committee to know is, when I learned that the FBI was going to do a preliminary investigation, I requested, through the PBA attorneys, to be interviewed, and I recommended that I be given a polygraph examination. That never occurred. I am still willing, as of this date, to submit to any polygraph

examination. I mean, the evidence is so overwhelming. I mean, one of the things that I am hoping is that once the New Jersey State Police initiate an investigation and take control, that these people will probably be arrested within the next month or so. We're talking about close to 50 major drug people who can be indicted under New Jersey statute, because the majority of the drugs that are originating in Washington Heights are coming into our communities. Under the conspiracy statutes, we have the ability to prosecute them. I think the meeting that took place with myself and Attorney General Del Tufo, if, in fact, it does materialize, could be really important and will ultimately bring a message to all New Jersey residents that we are not tolerating this type of drug abuse that is being tolerated in New York.

SENATOR SMITH: Let me ask you this: Who was the U.S. Attorney who brought this action?

MR. OCCHIPINTI: The U.S. Attorney was Jay Johnson, who is no longer in the office. If you want some of the pieces of evidence that we have uncovered, there is actually documentary evidence that a reliable FBI informant and a New York City police detective went to this very same Assistant U.S. Attorney with evidence that they overheard the drug cartel setting me up. Unfortunately, he never reported it to his superiors.

SENATOR SMITH: Who were his superiors? Who was in charge of the office?

MR. OCCHIPINTI: Mr. Otto Overmyer (phonetic spelling), who then was the United States Attorney. Clearly, the investigation that was conducted by Mr. Molinari has uncovered over 40 different witnesses, many of whom were government officials who admitted that they went to this very same prosecutor, Jay Johnson, and gave exculpatory evidence, evidence that, in fact, I was set up. Unfortunately, that was

never made available to me on the discovery or brought to the attention of the grand jury.

So clearly, I think we are seeing a pattern here that there was tremendous prosecutorial misconduct. We even have some courageous U.S. Attorneys -- Assistant U.S. Attorneys -- who I am told came forward to their own Internal Affairs Unit and admitted the fact that the judge had been preselected and there had been prosecutorial misconduct.

The Office of Professional Responsibility, which is the Internal Affairs Unit of the Justice Department, has that documentary evidence, and I hope it is under investigation. So clearly, it is not just what we uncovered, but independent people within the Justice Department have gone forward reporting this alleged prosecutorial misconduct.

SENATOR SMITH: You indicated earlier that the statute under which you were prosecuted was sort of twisted to make you fall into this category that really wasn't the intent of Congress, I guess, when they passed this particular statute. You also indicated that Congressman Zimmer has been helping you, and I think you mentioned Gallo.

Have they looked into the statutory language and the interpretation of this with a view toward possibly changing it or making it more clear that this kind of thing -- or this kind of prosecution is not the intent?

MR. OCCHIPINTI: I don't believe so, but I do plan to have subsequent meetings with Congressman Zimmer. He has graciously offered to bring me to Washington to discuss further with other representatives of Congress, not only my case, but the question of ethnic organized crime. I am hoping that will, in fact, materialize, but it has not as of this date.

SENATOR SMITH: I can see the chilling effect this would have on law enforcement if you have a signed consent form in your hand and then you are subject to being prosecuted for a criminal violation, even when you have a signed consent form.

It's incredible. I can't believe that is the intent of the statute. That definitely needs to be looked into.

MR. OCCHIPINTI: One of the things, I think, is the fact that my particular case not only has received unprecedented support from law enforcement, but I also have the unprecedented support of major civil rights groups. They are very much concerned that this new tool being used by the foreign drug lords is also hurting them in their cause and the many years that they fought for civil rights legislation. One civil rights leader who was unable to make it today was Dr. Angel Nunez of the National Hispanic Coalition. When I was indicted, I went to him. I professed my innocence, and he said, "Give me the list of every bodega you went to." I did, and he went into each and every bodega. In fact, on some of the ones that testified against me, he has them on tape admitting, "Yes, we gave Joe Occhipinti permission to search, but we told him not to find anything." If you look at the transcript of his tape and the trial testimony, clearly they perjure themselves.

It should be noted that the majority of the government's witnesses all admitted perjury in the grand jury and at trial, and not one has been prosecuted as of yet.

SENATOR SMITH: My last question for you: You talked about these bodegas and these were the subject of searches, but in reading your attorney's brief on the motion, he seems to be talking a lot about travel agencies.

MR. OCCHIPINTI: Yes. Travel agencies are becoming very important to us in the State of New Jersey. In the cities that I mentioned where Dominican organized crime is well-entrenched, let's say Perth Amboy or New Brunswick, there are numerous Dominican travel agencies and currency exchange houses, what they call "casas de combios," which in Spanish means "currency house." These are principal fronts for drug dealers to wire their drug money back to the Dominican

Republic. To me, travel agencies are principal sources for fraudulent documents, locations where drug dealers go to money launder to send the drug money back to their country. It is where you go when you want legitimate New Jersey drivers' licenses. They are getting them through corruption and corrupt DMV employees. My Project Resurrect proved that.

One of the things that I plan to do with the New Jersey State Police is not only turn over my informants, but particular travel agencies that we know in the State of New Jersey are actively involved in this type of criminal activity. But, yes, travel agencies, bodegas, and currency exchange houses are principal sources in New Jersey and New York where Dominican organized crime activity is being perpetrated.

SENATOR SMITH: Did the searches of travel agencies uncover that kind of--

MR. OCCHIPINTI: Yes, not only in Project Resurrect, but also in Project Bodega, searches did take place in travel agencies where literally thousands of fraudulent documents and legitimately obtained official documents were seized by my agents.

SENATOR SMITH: Thank you.

SENATOR KOSCO: Thank you. Senator Girgenti?

SENATOR GIRGENTI: Thank you, Mr. Chairman. Just a couple of questions: Number one, why, based on all of the information you have given us -- and I have to tell you that from reading the information it is truly a travesty of justice, you know, if what you're saying took place-- Do you know why your sentence at the time -- why President Bush just commuted it, and you were not pardoned?

MR. OCCHIPINTI: Yes. My information was that the Justice Department fervently fought against a full pardon simply because they had to deal with the issue of guilt or innocence, where in a commutation of sentence, they looked at

me and my past successes -- me as an individual. So that was the principal reason why the Justice Department was against it.

SENATOR GIRGENTI: But you are still considered a convicted felon?

MR. OCCHIPINTI: I am still a convicted felon. Unfortunately, I cannot even vote in the State of New Jersey in the next election nor have any of the other privileges that are enjoyed by citizens.

SENATOR GIRGENTI: The other thing is, did you ever appeal the original case?

MR. OCCHIPINTI: Yes, I did. That is another travesty that occurred. I was almost convinced that when we went on appeal that we were going to win. I mean, I had, literally, medical and hospitalization records proving that my attorney had psychiatric problems. But more important, we actually had a Supreme Court Justice who had the courage to come forward and admit that one week before trial that same attorney went before his Court and admitted wanting to commit suicide.

Unfortunately, the day of the appeal, the drug cartel did their homework. This was two weeks after the riots in Los Angeles. There were protesters in front of the Federal Courthouse, and they were protesting that if Occhipinti's conviction was overturned that there would be riots in Washington Heights. Not only did they protest in front of the Federal Courthouse, but while my attorney started to do his oral arguments before the Court of Appeals, they actually marched into open Court, clearly intimidating the three Justices.

The reason why I say that is, the appeal we had was in excess of 900 pages. One hour after oral arguments, they called a press conference and they notified the media that my conviction had been upheld. Clearly, it was physically impossible for them to go through 900 pages in the appendix and the appeal brief. Clearly, many people I have spoken to in the

judiciary indicate that the Court of Appeals was intimidated by the riots. Unfortunately, there were eventually riots two or three weeks later in Washington Heights in the shooting involving Police Officer Michael O'Keefe. That is something that is being used now by the drug lords. They have the ability to start a riot in a community very, very simply, as we see now if we pick up the newspapers. Unfortunately, they are using these tools to their advantage to intimidate the police, and clearly, the police are intimidated, as well as several of the elected officials.

SENATOR GIRGENTI: You were accused of embezzlement, too, but then you were cleared of that?

MR. OCCHIPINTI: Yes. During the trial, not only did the United States Attorney's Office acknowledge that a mistake had been made and drop one or two of the counts, but several of the witnesses admitted at trial that they made mistakes. At trial I not only proved the vouchering of the money, but in certain cases more moneys were vouchered than were alleged to have been taken. My sources in the judiciary and in the U.S. Attorney's Office indicate that they only used the embezzlement counts as basically window dressing in order to get the indictment through the Justice Department.

Clearly, I should note that during Project Bodega, three bribery overtures had been made to me, which I immediately reported to the FBI and agreed to work in an undercover capacity to receive these bribes. But unfortunately, the U.S. Attorney's Office realized what would happen, that my innocence would be, you know, proven.

SENATOR GIRGENTI: The other thing you said was that you were willing to take a polygraph.

MR. OCCHIPINTI: That is correct.

SENATOR GIRGENTI: Why did you not have a polygraph taken by a reputable individual and have it submitted?

MR. OCCHIPINTI: Well, the main reason was that at the time I was in prison. When I learned that the FBI was doing the investigation through Mr. Molinari, as well as through the attorneys, they wrote to the FBI, and the FBI said that they were going to do the polygraph. But unfortunately, they never did it. Clearly, the reason being I would pass with flying colors.

SENATOR GIRGENTI: You could do it today if you wanted to, right?

MR. OCCHIPINTI: Yes, sir.

SENATOR GIRGENTI: In closing, I just want to say that I agree that this would have a chilling effect on law enforcement. It is counterproductive in terms of trying to fight organized crime and these drug lords. So I commend you, Lou -- Mr. Chairman -- for bringing it up, and Senator Scott. I think it is important that we address this and come forward on it.

SENATOR KOSCO: Thank you. Any other questions?

SENATOR MATHEUSSEN: Yes, I have some questions. Pardon me for being a little bit late. I am not sure I understand, in following up on what Senator Girgenti said, the status of your case as it is now. You mentioned something about the Appellate Division and the Supreme Court. Are you talking about the Trial Division in New York State, or are you talking about--

MR. OCCHIPINTI: I'm talking about the Second Circuit Court of Appeals.

SENATOR MATHEUSSEN: The United States Second--

MR. OCCHIPINTI: The United States Second Circuit Court of Appeals. What we have now-- The present status is that an application for a new trial has been submitted to the Court.

SENATOR MATHEUSSEN: That Court is that?

MR. OCCHIPINTI: To the Southern District of New York, to the same trial judge.

SENATOR MATHEUSSEN: Federal District Court?

MR. OCCHIPINTI: Federal District Court. It is still pending. It has not been adjudicated. In addition, my attorney, Mr. Anthony Pope, has also filed an application with that Court asking that they recuse themselves for definite conflict of interest and appearances of prosecutorial and judicial misconduct. We have not received a response as of yet to either of those two motions.

SENATOR MATHEUSSEN: You're asking that the trial judge in the District Court--

MR. OCCHIPINTI: Recuse themselves in view of the documentary evidence we have of prosecutorial misconduct and other alleged conflicts of interest.

SENATOR MATHEUSSEN: The application pending is before the same trial judge of 1990?

MR. OCCHIPINTI: That is correct.

SENATOR MATHEUSSEN: You make some pretty bold statements. You are also accusing the U.S. Court of Appeals of some things which to me sound as though you are accusing them of not giving you due process, or not hearing your appeal.

MR. OCCHIPINTI: What I'm saying is, there was rioting two weeks before. There were protesters out on the steps of the Courthouse alleging that they would riot in Washington Heights. They walked in during oral arguments. Many people were there. It was their personal belief that, in fact, the Court of Appeals was intimidated. The reason is, it is very unusual for the Court of Appeals to render a verdict within one hour, and they did in my case, despite the fact that there were over 900 pages in the appeal brief.

Unfortunately, what happened in American history with the Los Angeles riots is a very intimidating thing. Clearly, I believe that New York did not want to experience that. And

unfortunately, I believe I did not get true justice because of the Los Angeles riots. I truly believe, as well as do many others who were there, that, in fact, the evidence was so overwhelming, most judges that I have spoken to indicated that at least the Court of Appeals should have remanded the case back to the District Court for a competency hearing. I mean, I allege that I received ineffective assistance of counsel. I have hospital records, police reports. I have a Supreme Court Justice saying, in essence, that you had to be deaf, dumb, and blind not to see that this particular lawyer had psychiatric problems. Clearly, they didn't do that, and clearly, I believe they were intimidated by the potential for riots in New York.

SENATOR MATHEUSSEN: I am not so sure I agree with that, but I don't know that that is the basis of your argument here today. I don't know that it is necessary for me to believe anything about what your allegations are with regard to the Appellate Division or, for that matter, the District Court's findings. What I need to conclude and to find out is whether or not you deserve another fair trial -- another due process, for whatever reason. Quite frankly, you know, your case picks up tremendous amounts of excess allegations by attacking the Appellate Division, as well as the District Court.

I don't know that the Senate in New Jersey has jurisdiction over that. That is one of my concerns. I am not discrediting anything you say. However, there is a lot that needs to be explored if, in fact, this body is to find that the Appellate Division of the United States Court has, in fact, done wrong.

Now, I am not so sure. I have not seen enough cases, and I am an attorney for 14 years-- I have not seen enough cases before the Appellate Division to tell whether your statement is correct or not with regard to how fast the Appellate Division can render a decision. I just haven't had enough experience with the Appellate Division of the United

States Court to make that determination. But I do know that the judicial process sometimes certainly reviews and previews everything that your attorneys submit even before they give an oral argument. Sometimes oral argument is nothing more than icing on the cake, so to speak. So I don't know that we really need to go into all that, because, quite frankly, if we do, then I don't think this matter can be resolved even close to today, or in the next several months.

SENATOR KOSCO: Thank you.

SENATOR SMITH: I don't think that the point is what occurred in the appeal from the trial, because a lot of this information that is contained in the motion for a new trial is obviously stuff that was discovered long after the appeal took place. From what Mr. Occhipinti says about the conduct of the trial and the lack of his attorney bringing in these witnesses who could have testified in his favor, I am not surprised that the Appeals Court upheld the conviction, because they are basing it on a record that is in front of them. But this information you have given us and is in your motion for a new trial, I think is very, very interesting. I think that looking at it with the staff a few minutes here, it looks like you have a very good case for a new trial.

SENATOR KOSCO: Well, thank you.

I think that the purpose of this hearing is certainly-- Neither of us up here are attorneys. I make that very clear. We have to look at this as legislators and citizens of the State of New Jersey, not as attorneys or Attorneys General, trying to determine how the case took place in the courtroom, but rather looking at why it took place in the first place. What seems to me the biggest question is why Joe Occhipinti was singled out to have this type of thing go against him. The procedures are something that we leave to the judiciary process to determine. Whether somebody can read 600

or 900 pages in a few minutes or not is someone else's decision to make at that time.

I thank you very much. Does anyone have any other questions? (no response) Thank you very much, Joe. We certainly appreciate all your comments.

Greg Kaye?

G R E G K A Y E: Good morning, Senators.

SENATOR KOSCO: Thank you for being here. Greg is the author of this pamphlet you have. If you read it, it is absolutely enlightening.

MR. KAYE: May I say, Senator, we are just finishing now a four-hour documentary on his entire case, the key witnesses' testimony. We will have it in circulation in two weeks.

I would like to thank Senator John Scott, who I spoke to about this back in February, and Senator Kosco for responding to my request for public hearings before this Committee to explore and expose the proliferation of crime in our State perpetrated by third world ethnic crime cartels. I address you today on behalf of the organization which I chair, the New Jersey Conservative Political Action Committee, a growing statewide network that is presently comprised of 15,000 voter households. Also, I direct the Joe Occhipinti Legal Defense Fund, which we just recently incorporated here in the State of New Jersey.

We have heard evidentiary testimony today that our country's lax immigration policies have spawned ethnic organized crime cartels whose activities affect every New Jersey citizen. Rather than recount all the areas that Joe mentioned and that I have seen in his files -- and I have studied his files since he was released from prison -- let me say that it is all pervasive and affects every aspect of our lives here in the State of New Jersey from narcotics

distribution -- and the Dominicans now control 95 percent of New Jersey -- to assassinations and terrorism.

Besides the cost of crime to the New Jersey taxpayer, there is the financial burden of immigration itself. In mid-June, economist Donald Huddle of Rice University announced the results of a study sponsored by the Carrying Capacity Network. I have enclosed that as an exhibit.

For the 4.8 million illegal aliens already settled in the United States, Huddle calculated the 1992 cost at \$12.5 billion. This figure included \$4 billion for primary and secondary education, \$820 million for Aid to Families with Dependent children, another \$858 million to teach illegals English at public expense, and \$7 billion in Unemployment Compensation.

Huddle also studied the 11.8 million legal immigrants, including refugees, asylees, and amnestied illegal aliens. Their cost to the American taxpayer last year was \$45 billion above and beyond any taxes they paid. In addition, the cost of public assistance to Americans pushed out of their jobs by immigrants over the last 20 years is calculated at \$6.5 billion.

Furthermore, economist George Borjas -- Exhibit 2 -- documents that while the number of Supplemental Security Income recipients in the United States grew 38.5 percent in the last decade, the number of immigrants partaking in this particular welfare program increased 370.2 percent during the same period. He estimates that each year, immigrants receive as much as \$3 billion more in welfare benefits than they contribute to our system.

Our "politically correct" open border system has us poised on the verge of national suicide and economic Armageddon. With 4.7 percent of the world population, the United States annually accepts 50 percent of the world's emigrants. They arrive today at a rate of one million legally,

two million illegally, and equal 16 percent of total annual native births.

Besides the crime documented here today, in 1987, 20 percent of the total arrests in our six largest cities were foreign nationals, a third of the first 6000 arrested in the Los Angeles riots were illegals, and I sincerely doubt if any of those involved in the terrorist massacre outside the CIA building, the World Trade Center bombing, or the foiled "July 4th Plot," were Americans de sanguinis or de soli.

In a July 1, 1993 AP report covering hearings by the House Judiciary Subcommittee on Immigration, the Immigration and Naturalization Service admitted its impotence. They have facilities nationwide to hold only 6259 aliens, yet last year they apprehended 1.2 million. Almost all were simply "passed in" and asked to return for a hearing at a later date. They never appear. Joe Occhipinti informed me about this and showed me his files. They admit that for each apprehension, two successfully enter. William Slattery of the New York INS office admitted, "I have 62,000 people under deportation proceedings in this district. I deport 750 a year. At this rate, it would take me 80 years just to clear my system out." And for every one of the 62,000 not being deported because of bureaucratic inefficiency, the American taxpayer is picking up the tab.

New Jersey Conservative PAC asks this body, "Quoque Tandem Est?" How much more? Will our elected officials continue to ignore the problem for fear of being called racist, or possibly losing the few voters immigration advocacy groups can muster? We contend your bread is buttered on the side of the native-born American New Jersey taxpayer, the law-abiding citizens who are under siege.

If you doubt the extent of illegal immigration to New Jersey, I enclose the press clipping of only a year ago when Skip Lee changed our DMV policy -- Exhibit 4. On July 13,

1992, the headline read, "DMV Policy No Longer Allows Checks on Aliens." For two weeks hordes queued up at counters across the State, to the point where no legal resident could conduct business.

SENATOR MATHEUSSEN: This panel is very familiar with that. As a matter of fact, our Chairman put forth a resolution to end that very process. So, we are very familiar with what Skip Lee did and the havoc that was created at DMV.

MR. KAYE: Thank you, Senator, because I was about to say that only two weeks later, because of the public outcry and because of our Legislature--

SENATOR MATHEUSSEN: Because of our Chairman. I mean, he really took the bull by the horns. We had quite a hearing on it, and took the heat from a few groups like--

SENATOR KOSCO: Thank you.

MR. KAYE: Thank you, Senator Kosco.

SENATOR MATHEUSSEN: But it was worth it.

MR. KAYE: I was about to say that only two weeks later the headline read, "State Puts Driver's License Policy in Reverse To Relieve Swamped DMV offices, Residency Proof Once Again Required."

In the 1980 campaign, Ronald Reagan warned that a country that cannot control its borders is no longer a nation-state. Samuel Francis today echoes -- Exhibit 5 -- "Within the lifetimes of Americans now living, the United States as its citizens have known it for the last two centuries will, for all practical purposes, cease to exist."

I ask you, Senators, to act now and begin to reverse the failed policies of Robert and Ted Kennedy, et al, to prevent our birthright from being stolen. As a member of civil rights organizations, I do not fear the "R" word, and I am proud to be politically incorrect. On behalf of our organization, I suggest the following remedies to this body as a first step in altering the present course:

1) Thanks to Joe Occhipinti, we now know that 95 percent of the narcotics distribution in New Jersey is controlled by Dominican drug lords. We've heard testimony regarding the extent of crime related to other organized ethnic third world cartels such as the Colombians, Jamaican Rastafarians, Chinese, etc. Yet, New Jersey has no investigative law enforcement arm targeting ethnic organized crime. Only the Italian Mafia is targeted.

As a native-born American of Italian ancestry, I resent the fact that the media and some in law enforcement have equated organized crime with Italians, when, in reality, for 20 years, ruthless third world cartels have prospered, and their existence is virtually ignored.

I further resent the specious news reports that crime is down in New York City and New Jersey. Ask the citizenry if they think crime is down. On February 8, 1993 -- Exhibit 6 -- The Home News headline read, "Out of Fear, More Women Turn to Firearms For Their Protection." What has decreased are reports of violent crime, because the public has lost faith in the criminal justice system. As Ed Koch constantly points out, last year 500,000 violent crimes were reported in New York City, and one million crimes went unreported. Out of the 500,000 reports, there were 100,000 arrests, 50,000 went to trial, and only 18,000 felons were sentenced.

New Jersey Conservative PAC asks this body to take appropriate action and establish a permanent task force within the Attorney General's Office -- a strike force -- multilevel in nature, to target, investigate, and combat ethnic organized crime. I sincerely hope that Joe's meeting with Attorney General Del Tufo on June 16 will be the first step in that direction.

Furthermore, we request that in choosing someone to spearhead this effort, you consider the foremost expert in ethnic crime, a man with 22 years of law enforcement

experience, and one of the most highly decorated Federal officers in history -- New Jersey resident Joe Occhipinti.

2) We know from Dick Callahan, President of the Federal Agents' PBA, that Federal agents have been adversely affected by the Occhipinti conviction. Their investigations have dropped from 2700 annually to only 500, since the civil rights scam against Occhipinti. We also know that the Port Authority Police have "stood down" since Occhipinti's conviction, no longer conducting consensual searches for narcotics, etc., for fear of civil rights abuse charges. Our New Jersey borders are wide open to drug couriers, illegal aliens, and terrorists.

What is not known is that all over New Jersey police officers are being ordered to "stand down" and not pursue felons, because of the recent Appellate Division case that held officers personally responsible for property damage when engaged in official pursuit. Please recall the case of the mass murderer that just hit the newspapers in New York a week-and-a-half ago. If it were not for a legal pursuit by the NYPD, he would still be on the street. A watch commander, who is a friend of mine, at roll call writes the word "pursuit" on the blackboard, circles it, then draws a slash through it. He has ordered his employees -- his police officers -- to stand down.

The word of official nonfeasance in the above areas is now reaching the street criminal. An unprecedented crime wave will soon ravage this State.

To reverse this problem, we suggest you introduce legislation to create a Law Enforcement Indemnity Fund. This insurance Fund would cover New Jersey personnel at all levels, indemnifying them against civil rights charges -- as long as they did not act under color of law -- as well as property damage suits from pursuit. The Fund would provide lawyers, plus cover any judgments. Such a Fund would send a message to

drug lords that their civil rights ploys will be responded to with the force of a State Fund; hence we expect these orchestrated actions to cease.

We suggest three ways to fill the coffers of this Fund:

- a) Use of recovered RICO funds.
- b) A minor assessment on police departments based on their size.
- c) A surcharge of \$100 on the driver's license and registration, and a \$1000 surcharge on the car insurance policy of anyone convicted of use or possession of narcotics.

We stress the third method. The "War on Drugs" has been lost, simply because the focus for the last 20 years has been on supply and not demand. Since the late 1960s when the sons and daughters of America's aristocracy started being arrested on narcotics charges, the criminal justice system has virtually decriminalized possession and use. As long as there is demand at any price, there will always be supply. By imposing surcharges, you have the opportunity to attack demand, despite the Federal government's nonfeasance.

3) The Occhipinti files document welfare and entitlement fraud by illegals. Allow me to quote a 34-year-old welfare recipient named Barry from a New York Post expose -- Exhibit 7 -- on June 2, 1993: "Welfare's a racket. Say you've got family in another part of the country -- Texas or California. They've got someone about your age and you know his Social Security number and all the information. You can be him. That's Just for people with two or three cases. I know guys with seven or eight cases." This is happening in New York City, and it is happening here in the State of New Jersey.

For taxpayer relief and to minimize fraud, we ask you to adopt legislation requiring a photo I.D. card, with thumbprint, for all welfare recipients. If other surrounding states follow our lead, computer checks will usually print out any duplication.

Before this concept is condemned as 1984 Big Brotherish, may I point out that I was fingerprinted at birth, fingerprinted for a rifle and shotgun permit, fingerprinted for every pistol permit I received, fingerprinted when I purchased a liquor license in this State, and even when I got a teaching certificate. If anyone objects to being fingerprinted, there is no force or coercion involved. They just simply go off the dole.

4) The Occhipinti files document widespread election fraud perpetrated by drug lords in the 1989 New York City elections. It was so pervasive that some speculate that Mayor Dinkins did not really "win."

We request legislation mandating the 21 county boards of election to review their voting rolls, and adopt safeguards against illegal aliens, noncitizens, duplication, and fraud.

Also, we oppose -- which has now been introduced in several states -- any legislation that would allow aliens to vote in New Jersey elections.

5) We learned from Occhipinti that tax evasion accompanied the other criminal activity uncovered in bodegas. We request that this body demand that the New Jersey Division of Taxation begin its own version of "Operation Bodega."

All New Jersey bodegas should be physically inspected by agents, and any criminal activity uncovered should be shared with the IRS and the strike force we suggested in point number 1, or the appropriate law enforcement agency.

6) The war on drugs has been lost -- Exhibits 8 and 9. The final white flag was Clinton's appointment of "out-of-town Brown" as drug czar, while at the same time slashing his staff by 85 percent. Former drug czar Bill Bennett has described the office as virtually "gutted."

Joseph Perkins, in his July 6, 1993 editorial, "Time to Rethink the War on Drugs," has shown the way. The demand side must be hit. In spite of record seizures in the supply

side war, the drug lords have prospered and our streets are flushed with blood. Only diminished demand will injure their empires.

Since the Federal government and Congress have abrogated their responsibility, we look to this Legislature, and other states, to take the lead. We ask you to again criminalize possession and use, and to take the sentencing out of the hands of pusillanimous judges via mandatory sentences: first offense, for example, probation and mandatory rehab; second offense, mandatory six months incarceration; third offense, one year, etc.

I'm sorry, another point for the State of New Jersey: We have learned from Joe Occhipinti's files that upon taking office, David Dinkins issued an executive order forbidding city agencies and employees from cooperating with, or giving information to, the INS. This action was an attempt to pander to certain of his constituencies and placate major donors, such as the Federation of Dominican Merchants. The Federation is described by Occhipinti, as well as police spokesman Raymond O'Donnell on June 17, 1993, as a "Dominican organized crime organization."

This gag order hamstrung Occhipinti's investigations, the INS, and the Antiterrorism Unit. Such an act, considering the proliferation of crime by illegals, is unconscionable. We request that this body pass a statute making it illegal for any government employee, State agency, or municipality to refuse to cooperate with the INS or other law enforcement agencies. Imagine how much information Skip Lee and the DMV accumulated on illegals only one year ago.

7) My final point: Many of the problems that plague us in New Jersey cannot be solved by this body via statute. Some can only be solved by cleaning the political house across the Hudson River. Most must be addressed by the Clinton administration and Congress. Hence, we ask this body to draft

a resolution for the full Senate memorializing the administration and Congress to:

a) Declare a one-year moratorium on all immigration, or until the Federal government, the INS, and the U.S. Customs can retake control of our borders, adopt efficient administration, and, finally, receive adequate funding.

b) Adopt an exit control policy. We're the only industrialized nation lacking one. A recent Wall Street Journal piece speculated about Saddam Hussein's association with the World Trade Center bombing, since two officers in his secret police left the country hours before the blast, and were seen with the conspirators. An exit control policy will deter terrorism.

c) Immediately redefine the amnesty program and restrict admission to true political refugees who can prove impending death without sanctuary. Economic refugees, and Chinese wishing to procreate at will at the taxpayers' expense, must find our borders closed. Chinese smuggling, resulting in amnesty, is a \$3 billion annual business in the United States, with the Red Chinese government a willing participant and financial recipient.

d) Demand amnesty hearings be immediate and on the spot, and those not qualifying should be immediately deported.

e) Demand immediate deportation of the 62,000 aliens now engaged in lengthy deportation proceedings in the New York district, and the hundreds of thousands throughout the rest of the country.

f) Cessation of the "passing in" INS system due to a shortage of detention space. A metropolitan area military base, destined for decommission, should be designated as a short-term detention facility, with the goal being rapid deportation.

g) Double the present fines on common carriers, such as airlines, that bring illegals to our shores; and, unlike in

the past, actually collect them. I was unaware that these fines were not being collected until I reviewed Joe Occhipinti's files.

h) Adopt a one-year mandatory Federal prison sentence for those who aid and abet illegals in violation of our laws. We do not care if their motives are smuggling profits, or those of misguided ideologues who desire the end of our national sovereignty as we know it. For example -- Exhibit 10 -- on April 12, 1993, The New Brunswick Home News canonized, on the front page, one Pedro Pacaja. This former illegal, now naturalized by manipulating our immigration laws, runs a halfwy house for illegals, instructing them how to circumvent the law and gain resident status. His office in Perth Amboy is funded by Catholic Charities. On April 13, when I called The Home News, Catholic Charities, and the Diocese of Trenton asking why they've made a hero of a criminal aiding and abetting other criminals, they all treated my question with disbelief.

i) End the Food Stamp Program as we know it. The stamps are virtual currency being used on the black market and exchanged in bodegas for cash or narcotics. The system is ripe with waste, abuse, and fraud, and I put in Exhibit 11 to document that. Something is wrong when the Department of Agriculture's budget exceeds all national agricultural production by \$5 billion, and 10 percent of our population are recipients.

Instead of the stamps, we suggest a pay-down debit card, complete with photo I.D. and thumbprint, which could only be used in food stores. Properly implemented, this would end the abuse and save the taxpayers billions of dollars.

j) We ask that you support the pending legislation in Congress, cosponsored by Dick Zimmer, that would remove the mandate from the states to provide social services and entitlements for illegals. If this legislation is not passed soon, New Jersey will be bankrupt, as is California.

k) Repeal Robert Kennedy's Immigration Act of 1965, plug the loopholes of Ted Kennedy's Amnesty and Reform Act of 1986, and, finally, provide the funding to INS and U.S. Customs that was promised in that Act, but never forthcoming.

l) Readopt the sane U.S. immigration policy that existed prior to 1965, which mirrored and protected American culture, safeguarded our citizens' health from the infected, and did not burden, but rather, added to our national Treasury. In conjunction, adopt measures for the future safeguard of our borders, and the citizenry's safety from terrorists.

m) Mandate that all future swearing-in ceremonies for our new citizens be conducted in English, our de facto national language.

n) Support legislation now pending in Congress to adopt English as our de jure national language.

In conclusion, we ask that this Committee consider these recommendations and take the appropriate action. Morale in the law enforcement community in the State of New Jersey is at an all-time low, and our citizens have never been exposed to the unprecedented jeopardy we've experienced since the Occhipinti conviction and the Appellate decision on pursuit.

In the past, our police officers were handcuffed. Having recently reviewed a 17-page new guideline on pursuit issued by the AG's Office, today they are shackled in body chains, as surely as Joe Occhipinti was on June 17, 1992.

Our open-border policy has left us impotent to the recent threats of international terrorism by Saddam Hussein, followers of Sheik Abdel Rahman, and all other enemies of our way of life -- Exhibits 12 and 13.

As a postscript, on behalf of my organization, I thank Joe Occhipinti for coming forward and, as a private citizen, continuing his fight against crime. For 22 years, he daily put his life in harm's way as a Federal agent. His reward was

persecution and prosecution on trumped-up charges, a prison cell, hardship for his family, personal bankruptcy, and today he remains a political prisoner until he finally receives a full presidential pardon. Yet, instead of turning his back on his country, he fights to clear his name and bring to public attention the crime he uncovered that plagues our State. Occhipinti is an American hero.

Senators, I did not know that part of this hearing is about SR-86. On behalf of my organization and all the people in law enforcement involved in our Defense Fund, since I originally authored AR-107, which Assemblyman Kamin had agreed to introduce for me, we are all in favor of SR-86 and we hope you pass it unanimously, as our Assembly did on February 18, 1993.

Thank you, Senators.

SENATOR KOSCO: Thank you. Any questions? (no response) Thank you very much, Greg.

MR. KAYE: Thank you.

SENATOR KOSCO: William Schievella, Italian American Police Society of New Jersey.

W I L L I A M S C H I E V E L L A: Senators, I thank you just for a brief moment this morning on behalf of our 1200 members of the Italian American Police Society of New Jersey. We would like to pledge our undying support for this resolution, and we would like to call upon you to pass it unanimously to allow the Senate to do the same.

I am here in a threefold capacity today. In addition to being a police officer-- I believe the morale has been previously stated this morning. It is at an all-time low in New Jersey for police officers. I am also here as an Italian American activist. As you heard earlier in testimony from Mr. Occhipinti, Italian American organized crime represents only 5 percent of the gambit of organized crime, while over 90 percent of the budget is dedicated to law enforcement authorities

training to fight Italian-American organized crime. I feel that if Mr. Occhipinti's case is reviewed and the evidence that he has uncovered is further pursued, you will see that Italian-American organized crime is not a major factor, and that the tide of drugs in New Jersey's playgrounds is coming from other areas.

I am also the founder of an ethnic council representing more than 13 ethnic backgrounds of police officers in New Jersey, which we never had before. Recently I had a meeting on the Joe Occhipinti situation, and I have a resolution being drafted by our organization -- and you will all receive a copy -- from Hispanic-Americans, Irish-Americans, Jewish, police officers from all over New Jersey, and we call upon you to do the same for this resolution. We would like you to push it.

We feel that the police officers in New Jersey are handcuffed, as has been said. Our power balance is in the hands of the defendants and the criminals, because all too often politicians and police administrators are frightened by certain special interest groups and their threats of civil disobedience. We are very, very supportive of yourself, Senator Scott, and the members of this Committee for seeing fit to introduce this resolution, which hopefully will result in the clearing of a law enforcement officer who has dedicated his entire life--

It is very important that Mr. Occhipinti's case be overturned, because this is a message that will be sent to criminal activists and police officers throughout the metropolitan area, but especially in New Jersey. It will send a clear message of support.

We thank you this morning, and we hope that that will pass.

SENATOR KOSCO: Thank you very much.

Ed D. Martino, Citizen's Commission on Crime in Pennsylvania. Thank you for joining us today.

EDWARD D. MARTINO: Thank you, Mr. Chairman.

SENATOR KOSCO: Where is Honey Brook, Pennsylvania?

MR. MARTINO: Honey Brook, Pennsylvania is about an hour west of Philadelphia, Chester County.

SENATOR KOSCO: In Chester County. Thank you.

MR. MARTINO: Mr. Chairman, Senators, members of this Committee: Before I get into my written statement -- a brief written statement -- I want to talk to you this morning about things that are in common with New Jersey and Pennsylvania. I spent 35 years in this State; I was born here. I never thought I would be coming back to address this issue.

I can tell you, about two months ago, Joe Occhipinti and I were riding through the streets of Reading. He said, "Ed, take a look at that guy." He pointed over to my left and he said, "That guy is a Dominican drug lord steering drugs into the town of Reading." It didn't take long, folks. It's here, and it's a big thing. It's big in Pennsylvania and it's big in New Jersey.

I can tell you that our problems are serious when we took our two top level drug enforcement officials, got them convicted of felony distribution of drugs, and neither one of them will serve very much prison time. That was Richard Guida, who is head of our State Drug Task Force and Henry Barr, who was, incidentally, your representative as being the one who would approve every Federal wire tap in Washington under Richard Thornburgh. That is mentioned here in my statement. Henry Barr was just resentenced again last January, and I doubt seriously if he will go to prison.

That is our problem. Our problem lies with our top level government officials who themselves are implicated in this drug trafficking and those of our Federal government who refuse to have the will and take the initiative to clear it up.

Referring to my statement, I came here at the invitation of this Senate body and also Mr. Occhipinti, to talk to you about what is wrong with the way we deal with the drug traffic -- national and international.

We would hardly need more research to show that we do not have a war on drugs. The closest that we have ever come to a war on drugs was the war waged by Joe Occhipinti, who is a member of INS.

Why am I concerned enough to come to New Jersey? Because the same problems that exist in Pennsylvania exist here in New Jersey. The Dominican drug lords supervise the drug traffic into Pennsylvania by way of New York City into Scranton, into Reading, into Allentown, and into Lancaster, where I live. The Dominicans are not alone. The Asians and the Arabs are well-connected in this regard and growing.

I and members of my Commission can state without dissimulation or self-service, that the major importers and traffickers in drugs thrive under the watchful eyes of Federal and, in the case of Pennsylvania, state law enforcement officials. The FBI and CIA could shut down major drug traffickers within one year, if they only had the will to do it.

The Citizen's Commission on Crime was formed about four yeras ago by volunteer lawyers, private detectives who were also law enforcement people, and elected officials. We use our time, our money, and our experience to bring to justice primarily those in government who are guilty of prosecutorial misconduct. We are not a liberal organization, i.e., we have no interest in breaking down law enforcement. Support among honest law enforcement officers and detectives is growing. The Citizen's Commission on Crime enjoys an open pipeline of information from law enforcement personnel who want what is best for Pennsylvania and for America.

If our Commission, with no public funds and with just volunteers can deliver good information on public corruption

and drug trafficking, why can't the FBI and the CIA, with high-tech gear and pork barrel funding deliver to us an America that is free from major foreign drug peddlers?

Let me be more specific: Henry Barr, who was U.S. Attorney Richard Thornburgh's first assistant, was found guilty, after pressure from this Commission -- that is our Citizen's Commission on Crime -- of felony distribution of drugs over a 10-year period. Mr. Barr was cleared by the FBI after entering Washington's Justice Department. Barr avoided the usual preemployment investigation and was later cleared by the FBI, which, in my judgment, had every reason to know that Henry Barr was unfit for the job. Henry Barr, incidentally, has not been put into prison. We thought he was going to go to prison, but as of this writing, we found out yesterday that he has not, to our knowledge, been put into prison yet. His conviction was two years ago.

What does all this mean? It means that the only war that is being waged on drugs is the one on Joe Occhipinti, whose behavior is an embarrassment to some Federal investigators whose time is largely spent justifying their positions and pay.

Let me give you some essence of what I mean by that paragraph before I continue. I don't know what problems you have here in New Jersey. I know some of them. Our drug task force consists of about 25 individuals. Only two of those individuals are on the street; the other 23 are involved with wire taps, either legal or illegal. Our Commission is very committed to investigating those wire taps. We have one attorney who is now an expert on wire taps, and he is addressing that issue, as well as three investigators.

There are few words to describe what happened to Joe Occhipinti when foreign drug lords were allowed to fraudulently use our civil rights laws to imprison an innocent crime fighter for 37 months. Thank God that after serving seven months of

this sentence, President George Bush issued an executive grant of clemency. Let us here resolve that a full and unconditional pardon be forthcoming for Mr. Occhipinti.

I would like to say one other thing to you: For the benefit of those of you who are not into law enforcement and into investigations such as I have been, we had an informant come to us from the FBI and from DEA. Her name was Brenda Snell. Brenda Snell is in prison now in Lexington, Kentucky, having been heretofore abused by the prison system physically and almost left to die. She was our key witness in the prosecution of Richard Guida. Richard Guida, incidentally, who was our state's top drug prosecutor under the state Attorney General's Office, was sentenced to a mere 11 months in prison, for 10 years also of felony distribution of drugs. Mr. Guida popped out after five months in a country club setting. Brenda Snell was sentenced to 27 months in prison -- okay? -- for one count of lying to the grand jury. Therein lies a problem, folks. It's here, and it's all over. Federal grand juries have become perjury traps.

I personally asked Arlen Specter, one of our U.S. Senators, to push for a Federal investigation. We got the approval for that investigation three months ago. It will be an independent investigation. It will also involve Mr. Occhipinti. Others are involved with trafficking here and in New York City and in Pennsylvania. It will be conducted by the Justice Department under the Office that Joe mentioned, the Office of Professional Responsibility. They are going to have to be pushed. They have maybe two investigators moving, when they should have, probably, 200 with the problems we have. That investigation will go forward.

We had to appeal to Mr. Specter just two weeks ago because of the continued abuse of our witness, Brenda Snell. She is going to be necessary to a number of other cases we have. We do not fear the drug traffickers. We feel that if we

had a free hand we could do them in, even with private moneys. The number of lawyers and investigators that are joining our Commission now-- They're flooding us; they're flooding our Advisory Board. We have the funds, we have the will, we have the experience to do it. We fear the Federal government. We fear those who are turning their backs on people like Occhipinti and the Dominican drug lords.

We have no war on drugs. There is a very experienced Pennsylvania state trooper who told me just two weeks ago-- He said, "Ed, I have two \$20,000 drug dogs at my disposal and a group of about 20 investigators. I can tell you that other than us, there is no war on drugs, and there isn't going to be any." That's unfortunate. But the drugs, of course, are leaving the Dominican territory in New York City, and they are coming into your State; they are coming into ours. They are coming in on our buses especially -- tour buses, big time. Joe, I'm sure, could name, as I could the traffickers, the buses that are carrying these drugs. We find them regularly in Pennsylvania. We need the will to do it. We have the expertise. We need the will to do it.

Thank you.

SENATOR KOSCO: Thank you. Any questions from any of the Senators?

SENATOR SCOTT: Just one. By the way, I have known Ed for about nine years -- eight or nine years -- out in Lancaster. He very nicely came up and reminded me. I hadn't seen him in that period of time.

MR. MARTINO: That was a surprise.

SENATOR SCOTT: One thing you said that I underlined here is that you feel the FBI could really shut down the major drug traffic within one year, except that they don't want to. That is an astounding statement. I am one of the people who are really not into that crime. I am not in law enforcement

and the like, or in the court system, so I am not familiar with that.

Do you sincerely believe that statement, that it could actually be done?

MR. MARTINO: I do. We will present that testimony in Washington. I'll give you a couple of reasons why I do. During the three-day Federal trial of Brenda Snell-- It was the United States v. Richard Guida, who was the head of our task force, and Brenda Snell was called upon as a witness. Okay? That trial was Richard Guida's, not Brenda Snell's. Brenda Snell's came subsequent to that. It was during that time that the FBI denied any involvement at all and any knowledge of Mr. Guida's drug activities. They denied any knowledge that Henry Barr had a problem. Incidentally, Henry Barr was let into the Justice Department with no investigation. It's unthinkable. The information we have will prove -- in our files -- that the FBI, not only should have known, but, indeed, did know that Henry Barr was a drug user. They were told that. Richard Guida was well-known. These are Federal investigations. These are people that you pay. They have jurisdiction of your State, as well as ours.

Our files are just a plethora of information regarding the laxity of Federal officials. We are not flakes, folks. We have a lot of experience. We have people-- I have one detective on my committee who spent 30 years working for the National Security Council. He is now a very successful private detective in Erie. I can tell you, we fear illegal wire taps. We fear the FBI. We had to throw two of our agents out of one of our attorney's offices a couple of months ago. We don't trust them. We don't trust some of them. We don't trust the most highly placed FBI officials.

These sound like flagrant statements, but I can tell you that you need to fear the inactivity of the Federal government with regard to drug trafficking. Your State is

being inundated, ours is, and it will continue. It will break down our manufacturing capacity, which it is doing now. It will break down our schools. It will continue to destroy our families. We can do something about it. We just need the will.

SENATOR KOSCO: Thank you very much.

MR. MARTINO: Thank you.

SENATOR KOSCO: Now we will hear testimony from Ray Hageman, who is representing the President of the Borough of Staten Island, Guy Molinari. We were on the phones back and forth. Guy called me twice yesterday, and I called him back twice. We just missed each other for some reason.

R A Y H A G E M A N: Oh, okay. Good afternoon, Mr. Chairman and ladies and gentlemen of the Committee. My name is Ray Hageman. I am an investigator for Staten Island Borough President Guy Molinari. He asked me to deliver his remarks to this Committee today.

I couldn't help but take note of Mr. Martino's remarks about his fear of the Federal government. Before I read Mr. Molinari's statement, it reminds me of a memo that I sent in to Guy Molinari in the middle of this investigation. By the way, myself, Bill Franz, and Chris Johns were the three investigators who conducted the investigation out of Mr. Molinari's office. I sent a memo in to Guy Molinari one day saying that we were dealing with two sets of criminals in this case. One set was in Washington Heights, and the other set was in Washington, D.C. I said to Guy that I fear the criminals in Washington, D.C. more than I do the ones in Washington Heights. So, I am well aware of Mr. Martino's experiences with the FBI, because I threw them out of my office when they came to interview me last summer.

I would like to get into the testimony of the Borough President and enter it into your record:

"I would like to express my thanks to the New Jersey State Legislature, and this Committee in particular, for being

invited here today to testify in support of Bill No. SR-86 sponsored by Senators Louis F. Kosco and John P. Scott. As I understand it, this bill calls for the President of the United States and the Congress, of which I am a former member, to appoint a special prosecutor to investigate the tragic case of former INS agent and New Jersey resident Joseph Occhipinti, who, as we know, was convicted of criminal civil rights violations and other related charges in the Southern District of New York in June of 1991. Before delving into the substance of my testimony, I think it is important for everyone concerned to understand how and why I got involved and that my position in this matter is based solely on the facts and evidence, much of which was uncovered and assembled by members of my staff.

"I first became involved in this case approximately one week before Joseph Occhipinti was due to be sentenced in October of 1991 when his relatives, who live on Staten Island, advised me that he did not get a fair trial and requested that I investigate his prosecution and conviction. Prior to that time, I never knew or met the man and I frankly did not expect my staff to discover any evidence that would cast serious doubt on Mr. Occhipinti's conviction. I did know that he received more than 70 commendations during an outstanding 20+-year career in government service, and it seemed odd to me that a man with that record would have been charged with these crimes. It was during the sentencing proceedings --that I attended -- when I came to the conclusion that there was something very wrong. Conversations I heard in open court among the judge, the U.S. Attorney, and Mr. Occhipinti convinced me that a fair trial might well not have been afforded this man.

"I heard testimony that some 56 original tape recordings that would have aided the defense counsel in cross-examining prosecution witnesses were removed from the trial proceedings by the judge and held by the prosecution team for 10 days while prosecution witnesses testified. Without

duplicates, defense counsel was prevented from effectively cross-examining the prosecution's main witnesses. What made this even more unfair, was the fact that these were the defense's own tapes, generated by the defense before trial.

"Thereafter, I learned that the FBI did not investigate this case as would have been the normal procedure in civil rights cases. It is also a fact that several prosecution witnesses committed perjury in the grand jury and actually admitted using their bodegas as fronts for gambling and other illegal activities. As my familiarity with the case grew, my staff began gathering evidence during undercover operations in Washington Heights. Video, audio, and written affidavits were given to my staff by witnesses and confidential informants until an overwhelming amount of both direct and circumstantial evidence was assembled suggesting how a drug cartel could pervert the intentions of the nation's civil rights laws and use these same laws to deter an investigation into illegal organized crime activities.

"Make no mistake about it. Joe Occhipinti's worst days are behind him, but if his conviction stands, the nation as a whole will have lost. A frightening new weapon will have been made available to the criminal element which will thwart legitimate law enforcement agencies in their ability to conduct criminal investigations. In fact, only recently we saw that weapon misfire in cases against New York City police officers.

"Police Officer Michael O'Keefe stood accused in the homicide of a drug dealer in the same Washington Heights area of New York City involved in Mr. Occhipinti's case. A grand jury refused to indict Officer O'Keefe when an investigation by Manhattan District Attorney Morgenthau showed that several witnesses had lied in an attempt to put an innocent police officer behind bars.

"Similarly, again in the 34th Precinct, Washington Heights, Police Officer Lou Delli Pizzi was charged with

violating the civil rights of a criminal defendant. The wife of the criminal defendant was one of five eyewitnesses who allegedly observed these civil rights violations.

"In a surprising turn of events, Officer Delli Pizzi remembered that the defendant made a call to his wife at the time of the arrest. She was in the hospital having a baby. On the last day of the trial, Officer Delli Pizzi located the records at St. Luke's Hospital, and now the District Attorney is preparing to bring perjury charges against the wife and the others who testified against Officer Delli Pizzi.

"We cannot allow cases like this to continue to happen. Passage of this bill would send a powerful message to Washington that national law enforcement initiatives, particularly in the area of drug enforcement, are in serious jeopardy, because of the Occhipinti case, and other similar cases.

"As some of you may know, I attempted to bring these same concerns and findings to the Justice Department last year at the time Joseph Occhipinti was incarcerated. I thought I had achieved a major breakthrough when the Department of Justice assigned a special FBI unit out of Washington, D.C. to reinvestigate this case, and I was confident that given the quality of evidence my office was able to furnish, a thorough investigation would lead to Mr. Occhipinti's eventual exoneration and release from prison. However, I was disappointed by what followed. The chief focus of some of these agents seemed to be on discrediting Mr. Occhipinti, myself, my staff, and witnesses who risked their lives by coming forward on behalf of Mr. Occhipinti. Most disturbing was the fact that the names of several confidential witnesses, whose anonymity we carefully protected, were revealed by the Bureau. One witness was, in fact, threatened following this revelation.

"Fortunately, Deputy Attorney General George Terwilliger, who was in charge of reviewing the commutation petition prepared by my office, recognized the situation for what it was and had the courage and character to recommend a commutation to then President George Bush, who signed it only a few days before leaving office.

"The Committee should know that through his attorney Mr. Occhipinti has made a motion for a new trial, knowing full well that if his motion is granted he stands the chance of returning to prison. In my mind, only a person who was absolutely innocent would place himself and his family in such jeopardy. This matter can be definitively ended with true justice for Joseph Occhipinti by the actions of a special prosecutor, as requested by the bill before this Committee.

"I thank you, and I commend you."

SENATOR KOSCO: Thank you. Thank you very much.

John Ryan?

J O H N W. R Y A N: Good afternoon, Mr. Chairman, members of the Committee, ladies and gentlemen.

SENATOR KOSCO: We would like to just suggest to you to try not to go through and repeat a whole lot that has already been said, because it is late in the afternoon.

MR. RYAN: I am not going to, sir. I promise you I won't.

Personal comments that I have: I have known Joseph Occhipinti since 1986. I am a retired detective from the New York City Police Department, Major Case Squad. I was investigating the homicide of Police Officer Scott Gudell (phonetic spelling), at the 101st Precinct, when he was assassinated by a member of the Jamaican Rastafarian war group. Mr. Occhipinti provided the necessary photographs of the suspect, enabling us to apprehend him at the time.

I worked with Mr. Occhipinti in 1988 -- October 18, 1988 -- involving the homicides of Police Officer Christopher

Hoban of the Narcotics Division, and Police Officer Michael Buczek of the 34th Precinct, both of whom were assassinated by Dominican drug lords on that day in two separate incidences.

It has been my opinion of Joe's professionalism that his integrity is beyond reproach. His work ethics are beyond reproach. It has been my privilege to have worked with him, and today it is my honor to address this Committee on his behalf.

An associate of ours, former detective John Hickey, of the Homicide Squad, has a statement that he wishes me to read today to the Committee:

"During a 24-year police career, 21 of which were served in the Washington Heights area of New York, I was able to observe patterns and trends in crime from inside the cauldron. Washington Heights is an area in New York referred to as "Little Santo Domingo." It is an area which has ranked at the top in homicide statistics for a decade. In 1982, there were 42 homicides in Washington Heights. In 1992, there were 100 homicides. The years in between were highlighted by soaring increases in robberies, assaults, rapes, burglaries, and, most significantly, drugs. There is clearly a correlation between the increase in crime categories and drug activity which permeates criminal behavior.

"In trying to understand the devastating crime problems, one of the areas I considered was demographics. It became apparent to me that as ethnic changes occurred, and the influx of illegal aliens increased dramatically, the quality of life in Washington Heights plummeted. The past 10 years has seen a sweeping change from an ethnically diverse, thriving community to a community held captive by the drug lords and crime.

"The Dominican community has within its vast numbers a predominance of hard-working family people who are as much victimized as the rest of us. Within the Dominican community

is an element of criminals who are purveyors of drugs and decay. It is about that criminal subculture I wish to address these remarks. I do not wish to suggest that drugs are indigenous to Dominicans, but it is from within that community that emanates the ever-flourishing drug trade. The drug trade is, in a large way, responsible for much of the crime. Drug dealers take over each other's turf in deadly gun battles on a daily basis. Disputes are settled with gunfire. Affronts are settled with gunfire. Drug robberies are committed in hails of bullets. But it is not only the drug dealers and crime lords who suffer. There are scores of innocent victims in the ever-growing murder statistics. These include: civilians, children, shopkeepers, and mothers walking with their babies. Police officers are killed routinely.

"On October 18, 1988, two New York City police officers were killed in the line of duty in separate drug-related shootings. Officer Christopher Hoban, working as an undercover, was shot and killed when a drug buy went bad. Police Officer Michael Buczek was shot and killed when he unwittingly came upon men fleeing a drug rip-off. They were both killed in cold blood.

"I was present in the hospital with the dying Chris Hoban when the call came in to respond to Washington Heights to assist with the investigation into Officer Buczek's killing. Conspicuous in both of these killings was the fact that they both involved drug dealers, and in Officer Buczek's case, an armed drug rip-off gang. In the course of the investigation, it was learned that nearly all those involved were illegal Dominican aliens. These investigations led to the other boroughs of New York City, to several towns in New Jersey, and to Philadelphia. Ultimately, the search for the criminals responsible led to Puerto Rico and the Dominican Republic. What became apparent was the existence of a drug network which crossed city, state, and national boundaries. Those involved

in the Dominican drug trade are not found only in Washington Heights, nor only New York, New Jersey, Pennsylvania, or Massachusetts. Everyplace they exist, so does there exist soaring murder rates, rising crime statistics, and a diminished quality of life. So far-reaching and powerful are the tentacles of the Dominican drug cartels, that they are now attempting to even wield power in political circles.

"Theirs is a treacherous business and they have learned how to manipulate our system of justice. Most notorious among their evil manipulations is the case of former INS agent, Joseph Occhipinti. I know Mr. Occhipinti personally, having met him during the course of investigating the killings of Officers Hoban and Buczek.

"What struck me most and immediately about Joe Occhipinti was his fervor for his job. He was the consummate professional. He did everything "by the book." He was very much involved in his work and cared about what he did. I remember having several discussions with Joe about the Dominican drug cartels. We discussed their entrenchment in Washington Heights and the pipeline from San Francisco de Macoris. San Francisco de Macoris is a small town in the Dominican Republic which became infamous as the training base for Dominican drug cartels. One would have but to look in the cemetery there to be impressed with its notoriety as a center for Dominican drug traders. We discussed Washington Heights in many respects, one of which was how bodegas are used as fronts for drug dealing, as are travel agencies, money exchange outlets, and shipping companies. Dominican drug cartels operate with what is tantamount to impunity within their communities. They flourish through intimidation and murder. They flourish because of silence and tolerance. The full extent of their organization and network has gone unrecognized, for the most part, but not by Joe Occhipinti. He knew of their existence and worked tirelessly to combat them.

"Joe tried to expose them and thwart them at every turn. So accomplished was he that they knew they had to rid themselves of this fierce adversary. So they manipulated the system, our system of justice. One must stop and think about how powerful they must be. They were able to conspire to have him prosecuted. They used all the tools at their command. They used bodega owners and residents of Washington Heights to fabricate allegations of civil rights violations. They manipulated politicians to support their cries of injustice and oppression, and used the criminal justice system as the rope by which they hung Joe Occhipinti.

"Joe was not their last obstacle, however. You may recall the case of Kiko Garcia. Police Officer Michael O'Keefe of the 34th Precinct shot and killed a convicted drug dealer in a struggle for his life. This set off riots in Washington Heights. Once again locals were summoned to contrive observations they allegedly made during the incident. Once again the politicians and the justice system were brought together for a lynching. But Officer O'Keefe survived the attempt. Why? Because this time we were wiser and examined the credibility of the accusers. We examined the evidence. The cartel's attempted termination of Officer O'Keefe failed and he was exonerated. He was a dedicated police officer who was active in the drug war in Washington Heights and, therefore, a liability to the drug cartels.

"New York City Police Officer Louis Della Pizzi is another case in point. He, too, is the victim of a conspiracy built on baseless allegations and fabricated assertions.

"The question must be asked: Who is responsible for these conspiracies to eliminate productive law enforcement personnel from their positions? Have the cartels infiltrated our system to the degree that they command such power? If there are no cartels or crime organizations within the

Dominican community, then by whom have the conspiracies been orchestrated?

"The answers are: Yes, there are drug cartels and crime organizations within the Dominican community and, yes, they have infiltrated our system. They have done so under the guise and facade of legitimate business. These cartels have spread like cancer to all parts of the community surrounding Washington Heights and the states surrounding New York. This I know to be true, as I have pursued killers throughout New York and into New Jersey, and to Washington, D.C., Pennsylvania, and Rhode Island, and even to the Dominican Republic and the tiny town of San Francisco de Macoris.

"The Dominican drug trade is alive and well and flourishing. We must no longer sit by idly in silence and tolerance. We must reexamine the existence of Dominican drug cartels and the power they wield. Joe Occhipinti fell victim in the drug war, but he is not dead. He is, however, fighting for his life. I ask this panel to look more closely at the pervasive decay caused by the Dominican drug cartels, because at their hands we live in the "killing fields."

"I implore this panel to seek the appointment of a special or independent prosecutor who can, without prejudice or duress, look into the "lynching" of Joe Occhipinti. We owe this to Joe and to ourselves, in the name of justice.

"Thank you for the opportunity you have provided me."

SENATOR KOSCO: Thank you very much.

We are now going to have Curtis Sliwa -- Curtis and his men, the Guardian Angels. Thank you for coming. We appreciate it.

CURTIS SLIWA: We want to thank you for providing us with this opportunity, because I think we can give you a unique perspective from the streets as to what is taking place in terms of the growth and development of what we call "the new kids on the block." You had the old mob, and now you have the

new mob, and they have learned their lessons well. Washington Heights, obviously, is the center, their epicenter, and where it began so long ago we actually had a chance to watch it in its actual beginning process when little, if any, attention was being given; when I didn't know the name of Joe Occhipinti; when if you would have said civil rights violations were being charged against an immigration officer, I would have said, "of course." Nobody is fond of an immigration officer in an area where so many newly arrived illegals are attempting to set up shop.

But I had an opportunity back in 1985 to be invited, as head of the Guardian Angels, to try to set up a local group on the corner of 156th Street and Amsterdam Avenue. It was an invitation from a long-time resident, Barbara Burke, who was the President of the 156th Street Block Association. When I said, "Oh, you would like us to come up to Washington Heights?" she said, "No, no, this is not Washington Heights. This is what was Sugar Hill."

I can show you the spot here where Willie Mays used to come off of the Polo Grounds after a nine-inning ball game and shag flies and fungo out "spaldeens" to kids all up and down these streets. This Sugar Hill was literally the center for much of the black artistic talent that came to the forefront years later, but resided in this area. It was a fine way of life. It was black middle class. It was the professional sector of that community. They were born and reared. In fact, on the very corner where we would have set up an operation, the mother of Charles Rangel, who is head of the Narcotics Subcommittee for the U.S. Congress, actually resided. The problem there was crack cocaine.

The problem of crack cocaine was just added to the other numerous problems that plagued that community -- the robberies, the vandalism, the break-ins, the sale of heroin, the distribution of marijuana. But crack cocaine was the

privy, and it was dominated by the new kids on the block -- the Dominican families that were moving in from Amsterdam Avenue. They were different than any of those who had resided in that area before. They were very provincial. They were very insular. People knew very little about them. They tended not to intermarry. They tended not to interrelate, and they stayed amongst themselves, having set up a series of businesses -- bodegas, travel agencies, livery services, supermarkets. They actually, in one sense, because of their industriousness and hard work, added to the benefit of the community. But that same strength of mind, the round-the-clock, 24 hours a day, seven-days-a-week work was also utilized in the negative. Nobody knew what this crack cocaine was.

Barbara Burke described it to me. She said, "You know, I have never seen anything like it. It turns people into something like the zombies in "Dawn of the Dead." They are motivated constantly, around the clock, to come looking for these vials of this harbor white, crystal-like substance, that only the Dominicans seemed to be able to supply. And naturally came cascading over the George Washington Bridge for this new-found drug what were called by the locals there the "blue bozos from New Jersey," the "blue bozos from Connecticut," referring to the license plates, many of them from upper middle class, affluent areas, coming in with late model sedans, spending hundreds of dollars for a drug which at that time could only be purchased in Washington Heights.

Remember, I did not know who Joe Occhipinti was, and I didn't know anything about crack, nor probably did any of you, because there was no attention, no headlines, no "Newsweek" or "Time" articles. The New York Times hadn't discovered it, so the world hadn't discovered it. But what was taking place was slow. These Dominicans, with contacts back to their main island, in little townships surrounding Santo Domingo, were literally sending in phalanxes of young men who were like urban

soldiers. They were the lookouts. They were the couriers. They were those who were actually cooking up the crack late at night and dispensing it to their many troops, who were now sort of like dispensing it within the community. And they were all a violent breed. They would not hesitate to pull out a gun and declare a new corner, a new block, but it all filtered up and down Amsterdam Avenue.

Now, they ran across a warrior who wore a shield for the New York City police department. It wasn't Joe Occhipinti. He was a minority himself. His name was Winfred Maxwell, born and raised in the South Bronx, an Afro-American police officer with 34 citations for bravery, seven shoot-outs with Dominican drug dealers; the only person I know of in New York who is still living and who has had a park named in his honor because of his singular efforts to clean up the crack dealing, Dominican-dominated trafficking on 156th Street, where this problem exploded back in 1985. I might add, on the very day that the future Mayor was being sworn in as Manhattan Borough President, David Dinkins, and he himself completely oblivious to the problem that was taking place.

Winfred Maxwell took upon himself a personal pursuit to clean up that neighborhood, because he had gone to school in the area and he was well-known in the area. He went after the Dominican drug cartels. He went into the bodegas; he went into the legitimate business fronts. He made arrests. He went into the tenements that they began to control. He busted the customers who were coming in across the George Washington Bridge and from the other five boroughs. He busted the dispensers and the enforcers, the Dominicans themselves, and he also busted many of his own Afro-American young men who were employed by the Dominicans as muscle, and obviously to speak the lingo that they were unwilling to speak.

No complaints were filed against Winfred Maxwell by any of those coming in to buy the drug, who obviously had the

resources and the wherewithal to file suit against him, maybe by hiring a private attorney. No charges were filed against him by the predominant number of people in the community -- black Afro-Americans -- who were being arrested in almost a nine to one ratio with the Dominicans. But 172 charges were filed with Internal Affairs by Dominicans, who claimed that Winfred Maxwelld, a minority himself, was violating their civil rights. Naturally, when they were being called upon to provide evidence to Internal Affairs, they would have witness after witness who would cite that Winfred Maxwell was violating their rights; he would abuse them when they spoke their native language; he would forcibly shake them down; he would go through their pockets; he would rip up their money; he would allege that they were dealing cocaine, and virtually twist their arms to try to get them to point out who also may have been dealing cocaine, when they were telling him from the very beginning that that was not so.

The community at large, seeing that their hero, Winfred Maxwell, who had had a city park named in his honor-- They suddenly took to the streets. These were Afro-Americans and brave Dominicans who said, "You can't take our hero police officer from us," and yet the powers that be-- The police chief at that time made a decision to remove the one positive, spirited police officer who identified with that community there, and the rationale was he was violating the newly arrived Dominicans' rights. He is now on three-quarters pension. New York has lost a crime fighter. New York has lost a great police officer, and this was back in 1987.

So, when the situation exploded in the face of hero Immigration and Naturalization Service Agent Joe Occhipinti, should it have come as a surprise? Were they not using the very same tactics that they had used against just a normal police officer in the City of New York; one who had been so cited, one who had been looked upon so highly within the

specter of the 34th Precinct? In talking to Dominicans, as I was prone to do having some Dominican Americans within the Guardian Angels because we do reflect black, white, Hispanic, Asian, and all those other groups in between, it was clear that unlike the Puerto Ricans, unlike the blacks, unlike some of the other new minorities, some of whom were getting involved in criminal activities, the Dominicans were taking pages from the old line Cosa Nostra -- the Mafia. Yes, the very same organized crime element that our own Governor Cuomo denied existed over six years ago. But I can speak about that having grown up in Italian America; having grown up in neighborhoods like East New York and Brownsville, where definitely they held sway.

I can remember a time when they marched upon the FBI headquarters; when they formed the Italian-American Civil Rights League, which was led by Joseph Columbo; when they had individuals -- Congressmen, deputy mayors, city councilpersons -- who sat on the dais, who agreed with them that Italian-Americans were being besmirched and maligned because of the actions of a few, as opposed to the successes of the many. And all of us would agree that most Italians have never been involved in criminal activity. They are hard-working people. They have contributed massively to the success in America. But too often, those negative elements within the Italian American community have taken advantage of that, and have extorted their own people and have threatened them and have intimidated them and have used the old attitude of vendetta and family ties to perpetuate their negative activity.

I'm telling you, the Dominicans have learned their lesson well. They have made contributions to their legitimate businesses, to the political powers that be in both the Democrat and Republican parties. They make contributions to everybody who runs, not just up in Washington Heights, but now in Brooklyn and in Queens, whether you are running for state

office, county office, or city office. They have learned their lesson well.

Secondly, when there are individuals in the police department or the Federal authority who they view as a harassing element, they will stop at nothing to set up meetings, to conduct lobbying efforts, to take out advertising in their local journals and periodicals and in segments on their local T.V. programs to put high, holy pressure on those individuals or persons who are attempting to fulfill their jobs, like Joe Occhipinti.

Remember, we focus on Joe Occhipinti because he clearly has had to take the largest burden. But the Winfred Maxwells of the world, the other fine police officers and Federal agents, who themselves have run into that brick wall, we would probably never hear of. Their names are rarely spoken. Their deeds are rarely addressed. So let us hope that Joe Occhipinti becomes the proverbial messenger, and we do not shoot the messenger because we don't like the sound of the message.

Now, why should people and the residents of New Jersey be concerned about an organized crime element of Dominicans that seems hard, like in encased steel, in a place like Washington Heights? Well, you better pay attention, because they are now operating in the North Ward of Newark. They have replaced the old Puerto Rican criminal lines of communication that used to traffic in cocaine. They dominate there. They have developed contacts with Colombians and Cubans in order to make sure that that evil drug is being jammed up the veins of your children's arms and up their noses, and they can guarantee the supply. They can guarantee the enforcers and they can guarantee the protection, and they are very professional at what they do.

When you look at nearby Jersey City, they have moved into areas of the Heights to once again take over the crack and

the powder cocaine trade in that city, which has been tortured by any number of drug problems over the years. But they have never met as fierce an enemy as the hard, encased Dominican drug cartel. When we go to Long Branch and Red Bank and Asbury Park, we have them literally coming in at times on the Grayhound -- what we call "pounding the hound" -- coming to Lake Avenue in Asbury Park, recruiting young men, young women, sort of like pied pipers, to sort of traffic their particular brand of crack cocaine. They then return two or three days later after spending time in Asbury Park, Long Branch, or Red Bank, to Washington Heights, to come back the following week to reseed those who have already sold their supply.

And why should you care in the southern part of your State, in Camden, when their operations in Pennsylvania are booming over in Allentown and throughout parts of Philadelphia. They have moved into West Philadelphia and into South Philadelphia, and they have had a crippling impact on the drug transactions that are taking place across the river in Camden. Right here in Trenton, they are not obvious for everyone to see. If I were to ask you, "Oh, point out a Dominican drug operation," they would blend into the crowd. They are definitely encroaching on old territories that previously were run by other operations.

What you have to understand is that they are entrepreneurs in the old American sense. They look at setting up in one locale as simply an extension going from Point A to Point B to eventually Point C. They have maps up on their wall, and they have literally empowered their young men and their young women to carry on in this tradition. It's family operated. It comes based from the towns that they first emanated from in the Dominican Republic. They find it easy now to work their way over to Puerto Rico, marry a Puerto Rican woman who obviously is an American citizen, and get guaranteed

rights to be able to go to and from, in and out of America and continue on in their criminal ways.

Now, we can take the attitude of Governor Cuomo six years ago who denied that there was a Cosa Nostra and a Mafia, and "see no evil, hear no evil, speak no evil," deny it, ignore it, and delay, or we can look at a hero like Joe Occhipinti and say, "If it can happen to this man in such a bold, highlighted way, just imagine the trickle-down effect of what is happening at the local precinct levels, throughout the city councils, throughout the public safety departments, where the drug dealers are beginning to run amuck because of their brand of violence and their extreme ability to be able to organize as they seep their way into your secondary cities and your smaller cities where your police departments are already overwhelmed by their existing problems."

So, if you can help Joe Occhipinti recover his honor, his dignity, his pride, if you can help to right the wrong in your own small way, with the support of the residents of New Jersey, inevitably you will be able to help your own citizens stem the tide and the flow of the drugs that the Dominican cartel is now pouring in leaps and bounds into your own Garden State. No matter who has appeared here before, once the Dominicans arrive, as the criminals themselves will speak about in the streets, there is nothing on two legs that is going to stop those blankity blank blanks from eventually taking over your turf. So, you either learn to work with them, to compromise with them, you become their enforcers, because hook or by crook they are going to control the supply of that powder and crack cocaine in and out of your communities.

So, Joe Occhipinti stands as a role model; a person who stood before them and defied them, and the process that they undertook deep-sixed them and besmirched them. So I think it is critical that all we Americans, regardless of what city, what background we come from, regardless of what position we

hold, stand behind this man, because if this man is not able to recapture that honor, is not able to right the wrong, then clearly the messenger would have been shot and we all would have failed in the process because we would not listen to the message.

Thank you.

SENATOR KOSCO: Thank you very much, Curtis. We certainly appreciate it. Do any of the Senators have any questions of Curtis?

SENATOR SCOTT: There is a lot to absorb.

SENATOR KOSCO: He's letting it sink in. That was very educational and informative. We do sit here sometimes and we try to figure out what we are going to do and who do we talk to about trying to get some information. What we have found -- as was pointed out before by one of the speakers -- was how we stemmed the continuation of illegal drivers' licenses in the State of New Jersey. We did that through this Committee because we saw something that wasn't proper, wasn't obeying the laws the way we would expect them to. We took the bull by the horns and went after it, to find out, you know, that we were right. I hope the results of these hearings will come out the same way; that Congress will finally see it the way we see it and agree with what this Committee is doing.

We are going to continue to take action when we see something that is having a negative effect on our State, and hopefully make that correction so that it is not going to filter out and go throughout the United States unseen, or at least not spoken about. We will continue to do that through the Law and Public Safety Committee here in the State Senate.

Thank you for taking your time, and your men for being here. Thank you for all of the things you have been doing throughout the country.

MR. SLIWA: Thank you.

SENATOR KOSCO: We appreciate it.

Incidentally, what we do as a result of this hearing, as a result of a lot of the suggestions that have been made as to what we can do-- Our staff is here taking a lot of notes and listening, as we are. What we will be doing is, we will be putting some of the suggestions in a form of legislation. Then, as a Committee, we will sit down and review these suggested pieces of legislation individually. What I do not like to do is lump things together, so that someone can take one little thing that they don't like and use that as an excuse not to support a good piece of legislation.

As a result of this hearing we will probably come up with a number of individual pieces of legislation that we will sponsor as a Committee, as a team, and as a group, and put forth for suggestions and recommendations to the complete Senate. The legislation we have before us -- Senate Resolution No. 86-- I had originally suggested a resolution amendment to the bill. However, it has been suggested that we leave the bill in its original form; that it is felt, I believe by the general Committee up here, that it will be more beneficial to Joe Occhipinti if we leave it in its original form.

I will ask this Committee, does anyone have any suggestions about this Resolution No. 86 that you would like to add to or subtract from in its original form without the suggested amendments, that may be a result of some of the things that you heard here? Senator?

SENATOR MATHEUSSEN: Yes, I would like to. Going back to the original resolution and taking a look at the amendments that were suggested by you, Mr. Chairman, I think it is important that we add in the preamble that section that you had intended to add in your amendment. I think it is important where it says: "Whereas several persons who brought charges against Mr. Occhipinti, including one who served as a prosecution witness at his trial, were recently arrested for operating illegal gambling rings and offering bribes to police

officers." I think that is important to keep in the preamble. I think we should put that, along with the remaining part of the preamble as contained in the original resolution.

SENATOR KOSCO: Okay.

SENATOR MATHEUSSEN: One thing you did when you amended it, you left out one of the preambles that said: "Whereas court transcripts may document that Mr. Occhipinti was denied a fair trial and his civil rights violated--" I think that should stay in.

SENATOR KOSCO: Yes.

SENATOR MATHEUSSEN: Okay, that will stay in, then. Just add the new underlined language in the amendment.

SENATOR KOSCO: Okay.

SENATOR MATHEUSSEN: I've got a few more, if I may?

SENATOR KOSCO: Go right ahead.

SENATOR MATHEUSSEN: In the very last sentence of the preamble it says: "Whereas Mr. Occhipinti is willing to undergo a new trial--" I think we should add the words: "Whereas Mr. Occhipinti is willing to undergo and has applied for a new trial to clear his name," because according to his testimony he has made application to do so. I think it is important that Congress know that.

SENATOR KOSCO: Okay.

SENATOR MATHEUSSEN: That he is not sitting back and waiting for someone else to act. He is acting on his own and asking for support.

Okay, that is all I had as far as suggestions are concerned, because we are going to leave in that section that was in the original resolution.

I know I spoke to Senator Smith before -- he had to leave -- and he and I were in agreement with these.

SENATOR KOSCO: Okay. Let us then make a motion to move this, as suggested by--

SENATOR MATHEUSSEN: I would second that.

MS. STEFANE: So, we're leaving the original language?

SENATOR KOSCO: Yes, just making those two changes.

MS. STEFANE: We're changing the preamble?

SENATOR KOSCO: Yes.

MS. STEFANE: On the bill as amended -- the resolution as amended -- Senator Girgenti?

SENATOR GIRGENTI: Yes.

SENATOR KOSCO: Incidentally, Senator Smith already agreed that he was in favor of it and signed off on it.

MS. STEFANE: Senator Scott?

SENATOR SCOTT: Yes.

MS. STEFANE: Senator Matheussen?

SENATOR MATHEUSSEN: Yes.

MS. STEFANE: Senator Kosco?

SENATOR KOSCO: Yes.

MS. STEFANE: The bill is released.

SENATOR KOSCO: The bill is released. It will now go to the full Senate at the earliest convenience, as soon as we can get it on the Senate floor for a full vote. Then we will send it to Congress. In the meantime, I'm sure that many of us around this table are going to be speaking to our Congress people, having as much conversation as we can, on your behalf, Mr. Occhipinti. You can be sure of that.

There are two people who failed to fill out the sign-in forms who wanted to make statements. They are James Harwood and Anna Venditti. Are they still here? (no response)

MR. KAYE: (speaking from audience) Senator Kosco, you mentioned sending it to Congress. It does also memorialize the Clinton administration, correct? (no response) I would like to point out that the administration, after it was passed in the Assembly, transferred the New Jersey resolution to the wrong office for four months. It was sent to an Office of Special Counsel that deals with whistle-blowers, rather than

the office in the White House that takes care of presidential privacy.

SENATOR KOSCO: This is the Senate. We don't make mistakes. (laughter)

MR. KAYE: At the White House level it was buried for four months, so when you do address it to the Clinton administration there are problems down there in Washington. Marsha Scott is the right person to get it to.

SENATOR SCOTT: What is her name?

MR. KAYE: Marsha Scott, Deputy Director--

SENATOR SCOTT: Well, she must be a relative.

MR. KAYE: Deputy Director to President Clinton.

SENATOR MATHEUSSEN: It couldn't be a relative, John. (laughter)

SENATOR KOSCO: Obviously, she sits to his right.

SENATOR MATHEUSSEN: Far, far to his right.

SENATOR KOSCO: Okay, thank you. Anna?

A N N A R. V E N D I T T I: I'm sorry, I wasn't prepared for this. After hearing everybody and seeing what you have just done I am delighted, so I am just going to alter what I was going to say a little bit.

I am a Parent Survivor of the Shield. My son was executed by organized crime on January 21, 1986. He was part of the New York City Police Department/FBI Organized Crime Task Force. He was surveilling members of the Genovese crime family. To this day, seven years after his death, our family is looking for answers from both the New York City Police Department and the FBI for an accounting of the events that led to his death.

Answers have not been forthcoming from either. I know firsthand the futility, the frustration, that is felt when the only thing one is really looking for is truth and justice, and both are denied. Everyone has gone into the specifics of the Joe Occhipinti travesty, so mine will be a more emotional plea

on behalf of my husband and myself, the Buczek, and other parent survivors whose numbers grow daily.

I have attended the funerals of Scott Gudell, Michael Buczek, Eddie Byrne, Anthony Dwyer, Billy Gunn, and too many others. The mournful dirge of the drums are forever in my ears. If Joe Occhipinti had met his death, whether by gunshot, a knifing, bludgeoning, or any other method, we, the parents, would have attended the funeral. The dignitaries would have all been there. They would have made their loyalty known, and then the next day they would have forgotten his name. But in the end we, the parents, would have gathered ourselves to his parents and shared their grief and let them know that we understood. We would have attempted to comfort and console, knowing all the time that time does not ease the pain.

We, the Parent Survivors of the Shield, are glad that this was one funeral we did not have to attend. We are here today to speak for ourselves and for the other parent survivors who could not be here, to implore you to vote on, and pass, Senate Resolution No. 86 and get justice for Joe Occhipinti, because if you get justice for him, then you get justice for all of us.

That is all I wanted to say.

SENATOR KOSCO: Thank you very much.

MS. VENTITTI: Thank you very much for what you have done.

SENATOR KOSCO: James Harwood.

J A M E S H A R W O O D: I'll be brief. If anybody knows me, that will be a miracle.

To you, Senators: I am a retired New York City police officer of 20 years. I have been retired for five years, but I have actually gotten paid for helping Joe Occhipinti as of last year, because of Guy Molinari, our former President. If Guy gets involved, he is one of our rare leaders today in politics. He doesn't do it for the splash.

It's funny, when we go outside of the city limits, people do not want to believe what you have heard year-round. It's incredulous. As Joe travels around the countryside and goes to different places, people find it very hard to believe that your counterparts, as far as politicians, might be involved in something that is unheard of. Yet, in New York, when people hear about the Occhipinti case, they will shrug their shoulders because I guess we are so jaded. We know it's true. We know it can happen. It has been close to happening to me a few times, but they didn't have these civil rights laws years ago; otherwise, I might have been an Occhipinti case, even though I would have been right.

So I say to you, gentlemen, don't feel less powerful that the citizenry of New York with the politicians and the mayors and the state Senators because they are all well-known. You are part of history. Be an active part of that history so you can look back to your children and grandchildren and just be thankful that you got involved, when everybody else turned their backs.

Evil men are only going to prosper if righteous people do nothing. Thank you.

SENATOR KOSCO: Thank you very much.

I want to thank everyone for being here. Do any of our Senators have any comments you want to make? (no response) I thank you very much for your participation. Thank you, Joe, and the other people who have come here to testify.

I just want you to know that this doesn't end here. We will continue to do what we feel is absolutely necessary to see that this legislation is carried out and that it gets into the hands of the proper people in Washington. If we have to be the people to bring it down there and hand it to them personally, that will be done. Then, as I say, the ball will be in their court, but that doesn't mean that we won't have a full court press on.

I thank everyone for participating. I thank our Senators for their complete support of this legislation. Thank you again very much.

(HEARING CONCLUDED)

APPENDIX

STATEMENT FOR THE SENATE LAW AND PUBLIC SAFETY COMMITTEE

My name is Angel Nunez and I have prepared this statement to be read by my good friend Robert Calderin due to my being incapacitated by recent surgery. I submit these words in support of a great man Joseph Occhipinti who has been victimized by the perverted use of our civil rights laws.

First I wish to establish that as an Immigration lawyer and a specialist in Civil rights and Equal Employment Opportunity I have had the privilege of not only being the first Dominican to be placed on the ballot for a New York City Council seat in Washington Heights but I have worked as the Assistant Commissioner for Equal Employment Opportunity for the New York Department of Sanitation. Moreover I have also served as a George Washington Fellow for the Department of Education with responsibility for advising the Secretary of Education on Civil Rights and Equal Employment Opportunity matters. I believe that my past experiences and training has allowed me to form an accurate opinion regarding the facts surrounding the frame-up of Joseph Occhipinti by Drug dealers and organized crime.

1. Two years ago I received a call which was to change my life forever. On the other side was Joe Occhipinti, to me known as courageous law enforcement officer with the INS which had been putting away the drug merchants and criminal elements in my neighborhood of Washington Heights for years. Prior to this time I had run into Officer Occhipinti in my regular course of business as the representative of Dominicana Airlines and another time in representation of clients who had run afoul of INS regulations. Both times I was impressed by Joe's professionalism and fairness in carrying out his official duties.
2. The motive for the call by officer Occhipinti was to request my help as a community leader and to determine why he was being vilified by the media for his carrying out of "Project Bodega" which as he explained was geared to uncover the activities of a Dominican drug cartel who was smuggling in aliens to work out of local community businesses like Bodegas to peddle their poison.
3. I told Officer Occhipinti that I could not take a position in this matter without first investigating the affair personally and I requested that he give me the names of the places he had gone to during "Project Bodega" and I would interview the people myself before forming an opinion on the matter. The results of that investigation are found in an affidavit drafted contemporaneous with that investigation and which I include in this statement by reference.
4. My opinion based on two years of never ending surprises at the injustices I have witnessed has shaken my belief in the fairness of our system to the core. Joe Occhipinti and those of us who have felt the moral requirement to stand up and call for the truth to be unveiled have lived in fear of reprisals not only from drug dealers but also from constant pressure by the FBI who has gone so far as to reveal the names of our witnesses to convicted felons without regards as to the consequences.
5. It is my belief that Joe Occhipinti became a thorn on the side of those who have exploited our society and become rich on the death of our children. These individuals who have slowly infiltrated the ranks of our hard working business community have become so brazen that they now organize under the banner of organizations like the "Federation of Dominican Businessmen and Industrialist", to better interface with the political machinery

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STATEMENT FOR THE SENATE LAW AND PUBLIC SAFETY COMMITTEE

who would take up their cause in return for their support. Moreover as demonstrated in the case of officer Joseph Occhipinti the pressure was so well concerted that even the Office of the United States Attorney was influenced to bring indictments for violations of Civil Rights against an agents of law enforcement. Joseph Occhipinti was also a victim of carrying out his law enforcement activities in the wrong political climate since the Mayor Dinkins was under a great deal of pressure from community groups and others like the "Federation" who for their own reasons did not want the continuation of "Project Bodega". The arguments against "Project Bodega" were that Joe's efforts were deterring undocumented aliens from registering for the census resulting in less money for the city's coffers.

6. The dazzling speed which followed the indictment of officer Occhipinti as well as the unforeseen disability of his attorney required that his defense be given time for preparation and substitution which unfortunately the judge ruled were unreasonable. I do not want to dwell on the improper acts which I witnessed during the trial for it would take away from the most important aspects of this testimony which is the use of Civil rights laws by criminals to escape and now punish law enforcement.
7. Since the triumph of the Drug Cartel in the Joseph Occhipinti case we have seen other police officers like Mike Okeefe and others, become the targets of what has now been called "Ochi way". Many police officers have related how in making arrests in Washington Heights the criminal suspects yell s "Well do you like we did Occhipinti" in the hope that the officer comes to his senses and allow them to go before being subjected to the dazzling light speed of a 21 count indictment and trial in which perjury is practiced in it's highest form. This was most recently demonstrated in the recent arrest of several suspects involved in organized gambling and attempted bribery of a police officer. Not surprisingly, one of the suspect even had first hand experience in the "Ochi Way" having been , as the US attorney painted him, one of the poor honest hard working bodega owner who had his civil rights violated by Occhipinti. This suspect testified against Officer Occhipinti and when being taken away his employees where heard yelling the battle hymn (Well do to you what we did to Occhipinti).
8. The situation has become so acute that the special force in charge of making drug arrest in New York (TNT) has made it their policy to avoid raiding bodegas for fear of being charged with violating someone's civil rights. The New York and New Jersey Port Authority has also made it their policy to stop drug arrests in their jurisdictions in response to what happened to Joe Occhipinti.
9. I thank you for giving me the privilege to carry out my civic duties as a citizen of this great country and testify for someone who began as a stranger unjustly accused of violating the people's civil rights and who has now become my brother. I hope that my testimony and that of others will convince you that the injustice perpetrated against Joe Occhipinti and his family must be corrected. Let us not forget that Joe Occhipinti was one of our most decorated and courageous law enforcement officers who placed his life as a living barrier against the barbarians at our gates. What happened to Joe Occhipinti cannot and must not repeat itself if we are to survive as the greatest Nation of the face of the earth.

