

## Transcript

January 28, 2013

Good morning everybody, Massachusetts Attorney General Martha Coakley. I'm delighted to be here today with a coalition of law enforcement, legislators and mayors to advocate for what is really a commonsense update to our electronic surveillance law in order to more effectively tackle gun and gang violence in our communities. Let me quickly identify who's here with me today.

Senator Katherine Clark, the sponsor of the bill in the Senate; Chairman Gene O'Flaherty and Chairman John Keenan, who are our cosponsors in the House; with us today also are Cape and Islands District Attorney Michael O'Keefe, he is currently the president of the Mass. District Attorneys Association; Mayor Gary Christianson of Malden; Police Chief Brian Kyes of Chelsea, he is the vice president of the Major City Chiefs Association; also Police Chief William Brooks, who is from the town of Norwood, police chief and is representing the Mass Chiefs Association today; and Superintendent-in-Chief Daniel Linskey of the Boston Police Department.

This Massachusetts law has not been updated since 1968. Not only has there been a huge change in the reality of criminal activity in our streets, in our communities in fact large and small, but the realities of electronic communication has left our police and prosecutors literally trying to fight these battles with one hand behind our back. It's really like saying, "We're going to ask our local police to still ride on horses after criminals have taken over automobiles."

So let me tell you what this bill does. It does two things primarily. It will update our law to acknowledge this new technology. Communication now is largely electronic and wireless, and the bill brings Massachusetts into the 21<sup>st</sup> century by including definitions that really reflect the reality of modern life and modern communication.

Just to put in perspective, the bill we're seeking to amend, passed in 1968, was well before smartphones, computers, cell phones and frankly even beepers and pager technology. The second thing it does is that the focus, rightfully so in 1968, on organized crime, what we think of as a more traditional Casa Nostra, a mafia, our bill includes only that. In other words, unless there was criminal behavior by the traditional organized crime, we were not permitted to use wiretapping. But the majority of gun violence in today's society, that may be tied to looser organizations, not in that original definition but organizations nonetheless, does not fit the old law and the reason we know that is that in 2011, the supreme judicial court overturned a murder conviction out of Suffolk County, saying that as much as they might like to, the wiretap that was used in that case did not fit under the 1968 statute. And in fact, the SJC at that time urged the legislature to update its law. We think they're right.

If we want to truly be able to investigate and prosecute successfully some of our most dangerous criminals on our streets, we need to update this law. And if we want to take another step forward in keeping our communities safe from those who illegally sell and use guns and who foster an atmosphere of violence on our streets, we need to update this law. I'm proud to be here today with my colleagues to support this critical and long overdue update to this law.

It's my pleasure to introduce Senator Katherine Clark.

**Senator Katherine Clark:** Thank you very much. Thank you Attorney General Coakley, not only for having me here but for your leadership on this critical issue. And I'm very proud to be here with my fellow representatives, with law enforcement, with the district attorneys and also with a mayor from my district in the city of Malden where we have seen in the last year ten shootings. And we are not giving local law enforcement the tools they need to fight back against what we are seeing as organized crime, a statute that only deals with organized crime in a traditional and outdated sense instead of what we see today, which are more loose affiliations.

We cannot ask law enforcement to properly protect our families, our children and our communities by giving them tools that are based on 1968 technology. This update is four decades overdue and I really am very grateful for the work of the attorney general and everyone represented on this podium with me to help us bring this legislation and help us move our law enforcement capabilities up into something that is 2013 and really will allow us to be on equal footing and not have law enforcement and local police hobbled in their ability to address the type of human, drug and gun trafficking that we're seeing in our communities. And that we want to be able to partner with mayors like Gary Christianson in Malden to be able to really make a difference to our neighbors and to our families and to our schools.

I am very proud to be working with Representatives John Keenan and Gene O'Flaherty on this, and I introduce you to Chairman Gene O'Flaherty.

**Representative Eugene O'Flaherty:** Thank you Senator, and I also want to thank the Attorney General and all of the individuals that you see and the organizations that they represent behind me today in at least establishing and filing a framework for what we hope will be a discussion with our legislative colleagues this session to begin the very difficult task of balancing the need for privacy and the concerns surrounding our Constitution with what law enforcement needs today in the 21<sup>st</sup> century to capture elusive, sophisticated criminals who have used technology to further their criminal enterprises. This is going to be an arduous task, it will be a difficult task, but it is one today that we begin, my colleagues and I, to convince, as I mentioned, our legislative colleagues that this change is necessary. Now the last time it was done was 1968. I was born in 1968, so it's not too old, but in all seriousness when you think about seven or eight years ago we didn't have Facebook, we didn't have Twitter, and they are such important parts of many people's lives today. Think about that advancement in technology.

At the same time think about how sophisticated the criminals have become. How they've utilized this technology to literally wreak carnage in neighborhoods not only that I represent, but that are represented throughout the Commonwealth of Massachusetts. So I look forward to working with the attorney general and Representative Keenan on this important piece of legislation. Thank you.

**Representative John Keenan:** Thank you Mr. Chairman. It's a pleasure to be here with all of you today, those in public safety and certainly General Coakley and Senator Clark. I want to thank the general and her staff for their work on this particular piece of legislation and my staff as well who does the arduous task of actually writing legislation.

I will say this: Public safety is priority number one of any elected official. Although we're not reappointed as chairs yet, I do hope to continue in the chair of Telecommunication, Utilities and Energies, the Telecom Committee. I would tell you that most of the young people in my office don't even have a landline in their homes and they work off of cell phones. Communication today is largely done by texts and emails and everything else, so if we were able to capture that and give a particular tool to the folks that are here with us today, this legislation is well worth the while.

I also want to say this, it's my pleasure to be here with Chairman O'Flaherty, I had the honor and privilege of serving under his committee my first two years at the state house when he was chair of Judiciary. I'm thrilled that he's coming back in that capacity. There is perhaps no more principled, deliberate and disciplined chairman at the state house to deal with legislation like this when you talk about constitutional rights and those things that affect people as they go into court. And I look forward to partnering with you. And obviously when you have a bill going before the Judiciary, it's good to have the chairman as a cosponsor as well. So I look forward to that.

Senator Clark was in the house before she went over to the senate, and I had the good fortune of sitting next to her in the third division, and I think we couldn't have picked a better partner in the Senate. So I look forward to working with all of you as we move forward. As the General said, technology moves very quickly, the iPhones and everything that comes before my committee in fact, it's amazing the speed with which technology is advancing. And we ought to at least have the tools to enable those in public safety to keep pace with those who would do our constituents and our citizens harm here in the commonwealth. So I look forward to moving the ball down the field this session with all of you in the room, and certainly General Coakley I appreciate your leadership in this most critical issue. Thank you. And I believe now, the District Attorney's Association, District Attorney O'Keefe.

**District Attorney Michael O'Keefe:** Good morning. I am here today as president of the Massachusetts District Attorneys Association. The Commonwealth's eleven district attorneys are unanimous in their support of the modernization of the state's wiretap statute. We thank the attorney general for her leadership and we are grateful that Chairman O'Flaherty is sponsoring

this bill as well as Senator Clark. We are appreciative of the senate's efforts last year in passing in the chamber a bill addressing this important issue. In 2011, Justice Gants of the Supreme Judicial Court, joined by Justice Cowin in the case of *Commonwealth v. Tavares*, urged the updating of this law so that it could be used as a tool against gun violence and killings in our communities. It is that change that we seek.

Though there are technical issues regarding language which we will continue to work with the attorney general on, this proposed legislation accomplishes that change. We look forward to working with and listening to our partners both in and out of the legislature as this bill works its way through the legislative process. Thank you.

**Mayor Gary Christianson:** Good morning. Gary Christianson, mayor of Malden. And I just finished my first year in office, although it feels like my tenth. And I wasn't sure quite what to expect becoming mayor, whether the issue would be taxes, whether it would be more local aid, but by far the most dominant issue in my first year has been crime. And we need help.

And that's why I'm here to thank the attorney general, Senator Clark, Representative O'Flaherty and Representative Keenan because they get it. And they know what we're up against, so after getting the calls and reading the reports over the past twelve months, I'm really just here to say thank you to them for providing us with the tools to help local law enforcement in their battle. And that's what I call it, a battle, because again I see the reports and I take those calls, and there's nothing more gut-wrenching than having victims who have been affected by crime. And so with that being said, I just want to turn it over to the Chelsea Police Chief Kyes.

**Chelsea Police Chief Kyes:** Morning, everybody. Here this morning in my capacity as the vice president of Major City Police Chiefs Association. I just want to be brief and I want to thank everyone on the stage, especially my rep Eugene O'Flaherty and the attorney general, certainly everyone else that's here as well, with my counterparts, for all their hard work.

As has been said already, this is a very extremely important bill to us. It's definitely going to give us the tools we need to investigate crimes more efficiently and effectively, and I look forward to being involved as it goes through the process and getting this done. It makes a lot of sense as I said, as was mentioned, it hasn't been updated in several years, and the number of crimes that are going to be looked at has been expanded. And it just makes perfect sense to give us the tools we need to do a better job in serving our community. Thank you.

**Norwood Police Chief William Brooks:** Hello, Chief Bill Brooks of the Norwood Police Department, representing the Massachusetts Chiefs of Police Association. The Commonwealth police chiefs support Attorney General Coakley in her proposal to update the state's wiretap law. As you've heard by now, this statute dates back to 1968. Crime and technology have evolved since then. It seems ironic that a defendant's own words can be used against him if he's a loan shark or a bookmaker, but not if he's a killer. So it is due time to update the wiretap law. We

know from the supreme judicial court that these changes are necessary to move forward, and we support the attorney general in her proposal. Thank you.

**Superintendent-in-Chief Daniel Linskey:** My name is Superintendent Chief Dan Linskey, I'm here on behalf of Mayor Menino and Commissioner Edward Davis. I want to thank the attorney general for her leadership on this issue along with Senator Clark, Chairman O'Flaherty and Representative Keenan.

I am unsure of the last time we had a report where La Cosa Nostra fired a round in the city of Boston, but we had a significant takedown of violent youth gangs last week, and I can tell you within thirty days of that intercept there was a federal intercept. We gathered information on six shootings in our neighborhoods of the city of Boston. We were talking about those individuals and knew they were engaged in violence on the streets of Boston long before we were able to get up on their phones. That shouldn't have to be the case.