

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CORRECTIONS

In re: House Bill No. 749

Verbatim report of hearing held
in State Office Building, 18th
Floor, Philadelphia, Pennsylvania,
on Thursday,

October 4, 1973
10:00 a.m.

Hon. Anthony J. Scirica, Chairman

Members of Committee

Hon. I. Harry Checchio
Hon. Charles P. Hammock
Hon. William J. Lederer
Hon. Joseph Rhodes, Jr.
Hon. David P. Richardson
Hon. Hardy Williams

ALSO PRESENT:

Karl Purnell, Staff Director

Prepared under the direction
of the Chief Clerk's Office,
Robert M. Scheipe, Chief Clerk

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CHAIRMAN SCIRICA: I think we are ready to start now. We do not have a public address system but I hope everybody will be able to hear.

My name is Tony Scirica. I am a member of the House Judiciary Committee and Chairman of the Subcommittee on Corrections.

On behalf of the House of Representatives, I welcome you to Philadelphia today to this meeting on military and county jails, generally.

In January of this year, it was apparent that the time had come for the General Assembly to conduct a systematic review of the Pennsylvania Corrections System. There is considerable controversy today surrounding both the personnel and the operation of our prisons. The only common goal is the reduction of crime, especially violent crime, and the consequent lessening of fear that will allow everyone to live serenely.

The corollary aims are the reclamation of those persons, either by design or by circumstances, outside of society's precepts. At a time when the term "prison reform" is thrown out as a panacea for the sickness of a violent society, we must be wary of being misled. We are only deluding ourselves when we expect prisons and correctional practices

to do the job that society itself, with infinitely more resources at hand, has already failed to do.

We are beginning to understand the limits of public policy in the correctional field. From all available evidence, it appears that rehabilitation within the walls of confining institutions is amiss. The institution can serve other purposes - punishment, deterrents that are headaches from society's criminal justice system, but it can only marginally affect the inmates in other ways. Obviously, educational and vocational programs are necessary and can be effective.

For these reasons we have seen movement towards work release, community treatment centers, furloughs and additional support for probation after parole services. It is these programs and services which offer the vehicle for rehabilitation and reintegration into society.

But we must not forget that over 99 per cent of all those incarcerated eventually return to the street.

This year we have examined the prerelease and furlough programs, sentencing policies, including the indeterminate sentences, the efficacy of individualized treatment programs and the possibilities of rehabilitation. The indeterminate sentences which last year was approved by the House of Representatives is now, I hope, a discredited concept.

Recent events at Holmesburg have indicated that the State has gone into the county jail program. The Philadelphia courts have already sent 200 prisoners to State correctional institutions to alleviate the overcrowding at Holmesburg. Thus, the State system now handles additional people which has proved to be a burden on their own system.

Under the Act of December 27, 1965, the Department of Justice is empowered to establish standards for county jails, including standards for physical facilities, standards for correctional programs, treatment, for education and the rehabilitation of inmates.

On February 2, 1973, the Department of Justice issued regulations for county jails. The Act, however, fails to authorize sanctions that may be imposed by the Department of Justice in order to enforce these regulations.

In the area of county jails, we have two basic issues of inquiry. The first concerns compliance by each county with the regulations promulgated by the Department of Justice. The second is more complex and, possibly more difficult to resolve. What role can the Commonwealth play in the resolving of the problems imposed by an overcrowded, understaffed, antiquated and inadequate facility like Holmesburg? It involves such issues as bail, speedy trials, disposition of sentence to

inmates, and perhaps funds for new or renovated facilities.

I would like to introduce the members of the Committee. There will be some additional people coming in later in the day. The basic corps of the Committee are members of the House Judiciary Committee but throughout the year there have been other people, because of their interest, who have become involved and who participated in the areas that we have discussed.

To my right is Representative Bill Lederer of Philadelphia, also candidate for judge this fall. To his right is Representative Dave Richardson of Philadelphia, and Representative Hardy Williams of Philadelphia. To my left is Charley Hammock of Philadelphia, and Representative Harry Checcio of Philadelphia.

The first witness is District Attorney, Mr. Arlen Specter. We are very pleased to have you with us today, Mr. Specter.

DISTRICT ATTORNEY ARLEN SPECTER, called
as a witness, testified as follows:

MR. SPECTER: Mr. Chairman, it's nice to be here. I appreciate the opportunity to testify before this Committee this morning on the subject of Holmesburg Prison.

As a preliminary, I believe that the county prison system should be taken over by the State in terms of operation and financing. And I say that because the enforcement of the criminal law is the Commonwealth of Pennsylvania versus an individual defendant. And I think that it is a State responsibility overall. It ties in with the administration of State correctional institutions. There is a very close connection between the disposition after sentencing and before sentencing and I think it makes best sense to have the State undertake this responsibility.

I think that is especially so at a time when cities like Philadelphia are so hard pressed financially, when there is revenue sharing in a context when this obligation really revolves, basically, as a State responsibility.

With respect to conditions in Holmesburg Prison themselves they are deplorable. I would like to submit to the Committee voluminous reports that have been filed by my office, the Philadelphia District Attorney's Office in September of 1968 on sexual assaults in the Philadelphia prison system, which was compiled by Chief Assistant District Attorney, Alan J. Davis. It is a voluminous report, exposing horrendous conditions, brutal sexual assaults, one prisoner against another.

A second report was compiled by my office,

another voluminous report, in the fall of 1970, following the July 4th, 1970 riot at Holmesburg Prison, by Deputy District Attorney James D. Crawford. It again cites the very serious conditions which are in existence at Holmesburg.

While some improvements have been made, these basic problems persist and, because of these problems, my office filed suit against the city administration in the Court of Common Pleas, February Term, 1971, No. 1069, in mandamus, to compel the city officials to have a decent correctional facility and a decent detention facility.

The basic reason for these suits turns on two very fundamental propositions, and those are that rehabilitation is necessary in the interest of the defendant himself, and it is also necessary in the interest of the law-abiding citizen.

We have to face the very basic fact that the way the system works, virtually everybody who goes to jail gets out of jail. That person as an individual, as a human being, should be rehabilitated, and fundamentally the law-abiding citizens have to have him rehabilitated if they are to be protected, because our pattern has been that men go into prisons and come out more hardened than when they went in. And there is a revolving door justice, and there is a real threat to the safety of people on the streets so long as the correctional

system does not perform a real correctional purpose.

I think that once the people of our society understand that prison reform is directly related to safety on the streets as well as to rehabilitation, the human beings who are in jail, then, and then only, will there be the kind of outcry which will result in having a real correctional system in the Commonwealth.

One suggestion I would make in concrete terms as to what should be done is to utilize the facility at 21st and Fairmount which had been the old Eastern Penitentiary, constructed in 1829. The interior of that institution cannot be used decently. Holmesburg is not quite as bad as Eastern State Penitentiary, but Holmesburg is very bad.

Eastern State Penitentiary, however, has a location which is close to City Hall, which would speed up the time of transportation of inmates from 21st and Fairmount ten or fifteen minutes to City Hall.

There is a large wall around the old Eastern State Penitentiary and it would be very practicable to renovate a couple of buildings across the street for a municipal courtroom to have preliminary hearings, to have bail hearings, to expedite the processing of bail and release where appropriate.

And on that subject, let me say that for very

advanced programs, nominal bail, release on one's recognizance, ten per cent cash bail, which are in effect, but it would be expedited to have a judge very close, say at the 21st and Fairmount area which is obviously much closer to City Hall than is the detention center at Holmesburg, now located way up on the State Road.

There is one other subject that I would like to call to the attention of this Committee. That is the fact that the General Assembly of Pennsylvania in December of 1965 -- it was '59 or as recent as '69 -- it's December of 1965, the General Assembly authorized the construction of a diagnostic and classification center for eastern Pennsylvania, and took the steps necessary for the funding of \$19 million for that facility.

Since that time not one spadeful of earth has been turned. And I think that is a disgraceful situation. I appreciate the fact that there has been a change in philosophy, in terms of the size of the institution. The modern thinking is to have an institution in the range of 250 inmates as opposed to the larger institutions. This is not a partisan matter because Republicans as well as Democrats have sat on their hands while these deplorable conditions have continued to exist.

As a result of that situation, my office filed suit against the State administration in December of 1972 in the Commonwealth Court of Pennsylvania, No. 1251, in mandamus, seeking relief to compel the State administration to construct that institution which had been mandated by State law. And there is really no excuse for the State not moving to put up that facility which could be of substantial assistance to Philadelphia in terms of some of the problems which exist in Holmesburg.

Perhaps, more fundamentally in terms of diagnostic classification and rehabilitative service, because Philadelphia has a wealth of talent of psychiatrists and psychologists who are available if an institution were set up in the city. And we have gone round and round on this point, and they have talked about building the institution in Chester County. The ground was purchased but that was abandoned because of objections from the local citizens there.

There was a plan to build it in Mt. Gretna, which was an absurdity in terms of availability of professional, psychiatric and psychological counseling for eastern Pennsylvania.

So that the State does have a firm obligation which it has recognized and where your House has acted in conjunction

with the Senate, and the Governor has signed legislation, so there is ample reason to move ahead with immediacy on that particular line.

Those are the overall outlines, Mr. Chairman, of my views on this subject at this time.

I would be very pleased to supplement it and respond to questions, if I can. This is a vast subject. It touches on a great many issues. It touches on the bail system generally, the operation of the Philadelphia court system, the operation of the State correctional system, and I would be pleased to respond to any point of interest where the Committee thinks I might be of some help.

CHAIRMAN SCIRICA: Thank you, Mr. Specter.

BY CHAIRMAN SCIRICA:

Q My understanding in regard to the facility that you just mentioned, the regional facilities for southeastern Pennsylvania, is that the administration has proposed legislation in this year's capital budget which would divide that \$19 million among three separate facilities. Approximately \$7 million would be allocated to the Philadelphia area and it involved the buying and renovation of Children's Hospital.

Are you aware of that, and do you have any comments on that particular proposal?

A I think that the State should move ahead now under existing legislation. I do not think we should await enactment of a future bill which is tied in with a great many other issues such as a single department of corrections. There are inevitable delays in that operation and I think the State should move now, and has ample authority to start construction of an institution for the Philadelphia area of a smaller size.

I think if they feel compelled to come back for specific authorization for a smaller institution, which I don't think they really need, but if they do, that ought to be presented in a very narrow way to the General Assembly, unencumbered by any considerations that can be acted upon. It should have been done years ago, but at this point, it ought to be done today.

Q One of the other problems, of course, is the overcrowding in the Philadelphia prisons. Do you have any suggestions concerning ways in which this might be alleviated, either through bail procedures or in court procedures?

A Yes, I think that you have to approach that problem on at least three levels. One level is to make use of State facilities which are in the area -- and we are doing that as best we can, but when they are in Graterford, that is too far away.

If we had the institution that I referred to, at 21st and Fairmount, it would be a help with overcrowded conditions at Holmesburg.

With respect to the bail issue, we are making advances in that line on a consistent basis to release as many people as can be, consistent with the standards for bail.

With respect to the operation of the court system, there is a great deal which must be done to improve the overall administration in the intermeshing of the court system. In order to bring a case to trial in City Hall, we have to have available at the same time a judge, a courtroom, the assistant D.A., all the prosecution witnesses, the defense lawyers, a defendant, and defense witnesses. Those are the eight ingredients. If any one is absent, the case cannot go forward.

We are having difficulties with sheriffs' transportation facilities which has caused some delays. We have difficulties in terms of getting Commonwealth witnesses in with the great shortage of process servers, which we are trying to correct now, and there is litigation on that subject.

I think that the fundamental reform which is necessary for the court structure is the individual judge calendar, which would place the responsibility within one judge for a case from the time it comes into the system until it leaves

Too often cases are continued for the same reason given for a continuance by either side. And if the same judge hears the case all the way through, he is not likely to take the same excuse a second, a third or a fourth time. It also is a matter of basic human nature that if a judge knows a case is continued today, he is going to see it in three weeks; it's continued then three weeks later. It is not likely that the case will be continued as if it will never come back to him, but will go to some other judge.

So that there are vast improvements which ought to be made. I think improvements have been made in the criminal trial process with the current administration. We are now laboring under new rules, such as the nine-month limitation imposed by the Supreme Court on a rule adopted by a Committee of Twelve, Statewide, where I serve. It is a very good rule. It will be tightened up further starting July 1st of next year to six months.

We have another tough rule of no more than one continuance in Common Pleas and municipal court, which is an ideal rule, but very hard to live with, frankly, because of the limited facilities for serving witnesses which we have.

So I think we are moving forward along those lines but I say equally candidly that a great deal of progress is

to be undertaken.

BY REPRESENTATIVE LEDERER:

Q Mr. Specter, you stated originally that it is your opinion that the Commonwealth should take over the operation of Holmesburg Prison.

A Representative Lederer, I would state that more broadly, that I think the Commonwealth should undertake the responsibility for all county prisons. I would not like to see them take over Holmesburg; I would like to see them replace Holmesburg.

Q Presently, if I recall correctly, a prisoner comes under the jurisdiction of the State if his sentence is two years or over.

A Yes, but there are ways to have him go to State prisons even for lesser terms than that, and for detention as well, even before sentencing.

Q Obviously, we have a dual county-state prison in this field presently. This system developed perhaps because of geographical problems in the normal course of history. Do you think we should look into the entire concept of county jurisdiction and State jurisdiction, not only in Philadelphia, but Statewide, and change the area where the State will take over the jurisdiction concerning the lengthy sentence? Do

you think we should just take over the entire system?

A Representative Lederer, I think the State should take over the entire system. I think that efficiency and uniformity and the fact that crime is a Statewide problem really lends itself to having the State administer the entire system.

We have evolved, of course, slowly in our national life and it used to be that the county level was an effective unit of local government, but that is not so anymore. Today it makes much more sense to consolidate on a regional level perhaps, and only the State is really equipped to do that.

Q I find that one of the great tragedies is a case where you have a first offender, who, in all likelihood is guilty of the offense, and his sentence may be under one year, but due to the large number of prisoners that person will wait for trial and receive no training. I want to work with him presently, with the system in the county, I just can't help that man. He just sits there week after week, month after month, until he goes to trial and gets a sentence which releases him that day.

There has been an entire wasteland and he gets acclimated to other hardened prisoners, and the chances of rehabilitating him are greatly hindered. Have you found that

in your experience?

A Yes. I think that is a statement of a significant problem in our system where there is no attention paid to the individual, where he is exposed to the more hardened criminals, where he is in jeopardy of his own personal safety, or he is in jeopardy of being a victim of forcible rape, then he is finally tried and is given a sentence.

I think we have made improvement in that kind of case and that is, that most of that kind of cases are now on bail. We have modified the traditional standards, trying to work more toward release on recognizance, on nominal bail or ten per cent cash bail. So I think if you compare the system today with what it was many years ago, you will find that we have a more realistic attitude on release prior to trial, but the basic problem does persist as you have outlined it.

Q The large number released under the new bail rules should, at least, make the facilities available, if the citizen volunteers, he will immediately receive his psychiatric review and his vocational guidance, so that when he comes to trial you can present a man who has a benefit of the system at that point. And if he should be found guilty, the judge would know more about the individual then and there, and therefore make more appropriate sentence of the case?

A Yes. I tell you, we have gone beyond that where we feel that we can -- and this is an expanding field -- we are prepared to drop charges on a variety of cases where they are first offenders on nonviolent crimes. We move them into the program of advanced rehabilitative disposition which was a pilot project in Philadelphia in 1971, and is now in existence across the Commonwealth. The rule was adopted in the State Supreme Court.

We have a program called "TASK," Treatment Alternative to Street Crime, which involves rehabilitation of drug addicts. Where we have somebody who is an addict and has, perhaps a property crime but not a crime of violence or major felony, we are prepared to put them immediately into a rehabilitation program so that by the time they come to trial, we are prepared to have that matter submitted to the judge and have it taken into consideration, with perhaps no sentence at all.

I might point out to you that we have had great problems with that program in terms of securing cooperation from the addicts who are offered that opportunity for rehabilitation.

For a long time we said, and it's true, that there were insufficient facilities for drug rehabilitation in this city, and there are still insufficient facilities. But through

a one million dollar grant in a program administered in Philadelphia, we have had some facilities available in the past year, and we have had a hard time filling those facilities. I am not discouraged by it, however.

There was an article in yesterday's Bulletin which had characterized TASK in less than complimentary terms and let me emphatically say that I believe it will be a success in the long run. Our city and Wilmington, Delaware, are the first two cities to put this program in operation and, recently, in McLean, Virginia, there is a conference where the Philadelphia and the Wilmington experience were described to representatives of fifteen other cities, and they were very much encouraged by our experience, even though it is not how we would like to have it.

I bring that to your attention to illustrate the fact that it's a long, tough road to really get people that are willing to submit to rehabilitation facilities, even if available, but they certainly should have that opportunity and I think it makes sense for the state to see to it that those facilities are available.

Q St. Louis has a renowned Halfway House system, by reputation. Do you think that Philadelphia must be headed in that area also?

A Yes, I think the Halfway Houses are very important. I think they have to be very carefully administered, and I think the whole pre-release program -- we have talked on prior occasions about it -- is a sound concept of a sound principle, providing it is very carefully administered. I think the Halfway Houses fit right into that overall program.

REPRESENTATIVE LEDERER: Thank you.

CHAIRMAN SCIRICA: Representative Checchio?

BY REPRESENTATIVE CHECCHIO:

Q First of all, may I say that I appreciate your coming here today and speaking as openly and as frankly as you have.

You know Holmesburg Prison is very close to me because it is in my legislative district and I have done quite an in-depth study on this matter.

Initially, let me say this, I have spoken to Superintendent Louis Aytch and Deputy Superintendent Edward Lyons and the warden of the prison. They agree with you that this should be taken over by the state and the entire system should be operated by the state.

I understand that heretofore, and we are on a decreasing basis, that the state, for example, if a person were committed to the county prison, that the state would pay about

50 per cent of the cost, and it is now about 25 per cent. And I understand it is going to run out the end of this year.

Now, you talked about rehabilitation. The Holmesburg Prison, as I understand it now, is under construction to build a new building so that people can, inmates can, obtain a mechanical training in various fields of mechanics, automobile or machinery and the like.

You also commented on the fact that we should have speed-up transportation.

Now, I can speak personally to you as an attorney, and having handled many homicide cases -- I know of one case where we had a continuance eighteen times; this case was continued eighteen times. There were multiple lawyers involved; we could not get the lawyers together.

I favor the system of attaching the lawyers where we have a number of lawyers. I think that's the only way we are going to dispose of that type of case.

Now, I would like to know from you is this merely in the talking stage, or whether it is practical to have a facility at Twenty-First and Fairmount use Tenth and Read, I don't know whether that property is still city owned or not -- so that we can facilitate transportation of the prisoners, say, from a detention center to City Hall for trial?

A Representative Checcio, in my opinion, it is very practical to do it. The difficulty is that there is not a sufficiently sustained effort on any of these subjects. We have come close to having Twenty-First and Fairmount used in the past. If you take a look at the record, you will find that in 1969 we had a lot of conferences.

Mayor Tate was the Mayor at that time and we had the Attorney General in the picture, and we had state correctional people and we had many meetings and drawings and blue prints, and there was a lease that was given from the state to the city for one dollar a year, and we were all set to go on it. Then it was determined that it would cost too much money at that particular time and interest phased out on it.

But I think there has not been a sufficient staying power with those people who are in the leadership roles. That is the reason. Frankly, I have gone to court on these subjects because we are regrettably becoming a society which is being directed more and more by the courts and less and less by the executive or legislative branches. That is the way our system of government is supposed to function, but when the executive does not function and legislative bodies do not put the heat on to carry out mandates as enacted in 1965, in the

final analysis, only the courts are issuing orders, and then citations, and then contempt citations to get action undertaken.

Q Well, as I understand it, originally, the Holmesburg Prison was erected for the purpose of handling inmates that were sentenced?

A Yes, sir.

Q And now, as recently as yesterday when I checked with the statistics, we have 2,100 people at Holmesburg Prison. I think, with the exception of 400, the rest are all waiting -- these are all pre-trial cases.

A You don't have 2,100.

Q Yes.

A You can't.

Q Yes, we have a total of 2,100.

A 2,100 detention, but there are not 2,100 at Holmesburg.

Q Well, that includes --

A The detention center, Mr. Checcio, and the House of Correction.

Q Okay, all right. I think maybe there are 1,700 at Holmesburg.

A I don't know.

Q Whatever the figures may be. Be it as it may --

A If there were, there would be three or four in a cell instead of two in a cell.

Q Well, we do have three or four in a cell, and I've seen some of them where we do have three or four in the cell. That's the problem, that this prison rather than its initial intent has now become a detention center.

A Yes, sir, that's true, it is used for detention.

Q Would you say that five per cent of it is used for a detention center?

A Not quite that high.

Q What?

A Not quite that high, but it is high.

Q Well, I figure about 85 per cent; perhaps my estimate is high.

A I think you are correct as to the three facilities, if you say how many detention --

Q As an overall figure? And, of course, we are handling people who are under a sentence of two years, twenty-four months, because if they are over twenty-four months, as Representative Lederer pointed out, they would go to a state prison; is that correct, they would go to a state institution?

A Yes, having a sentence of two years maximum or more.

Q All right. Now, I can see the utility or purpose of sending these people up to City Hall -- now, I've had experience where I've been in court and I've waited for trial and inadvertently or by some omission, the prisoner or inmate was not brought to prison. The case was continued to the afternoon session by the judge.

What happens in the afternoon session? The judge is involved in another case. The case is not called, is not reached, and this person is sent back.

Therefore, I say that it behooves us to try to get a centrally located institution so that the prisoners would be close to the court, within five or ten minutes at the most, so they could be called and we could have them ready and available.

Now, there was some discussion at one time, and I would like to know from you what has happened to it -- we were going to establish a court in the Northeast that would be more or less centrally located, near this prison. We were going to use it as a detention center.

A There was some talk a long time ago about a municipal court structure in that section of town, but I don't believe that was ever pursued at all, Mr. Checcio.

Q Right. Now, let's take this bail issue which you raised. On the bail issue, here we have these people who are

in Holmesburg Prison, all right. They are not on bail. When we go into a hearing, many of them are either released on a nominal bail or on their own recognizance. Don't you think we have a wastage of personnel and expenses with the Commonwealth and the county?

A When they go to Holmesburg and are later released on bail?

Q Right.

A Well, I think that it would be desirable to make those determinations as early as possible, but it is very hard to do, and also you have non-trained judges, raw trained judges, who sit at the arraignment court. I think once we get rid of all the lay judges in the municipal court system, we will have an opportunity with law-trained judges in the municipal court who will have bail determinations made earlier.

Q Well, that's an interesting question. How many lay judges do we have? I thought this was very diminutive.

A I think we still have about eight or ten, and most of the judges sitting in the arraignment court with bail to set are non-lawyer judges.

REPRESENTATIVE CHECCHIO: I have no further questions. Thank you.

CHAIRMAN SCIRICA: Representative Richardson?

BY REPRESENTATIVE RICHARDSON:

Q Before I go into any questions, I just want to say one thing, in reference to rumors that indicated to us that they did not want us here, the city administration indicated that they will not want to appear if I appeared. I would just like to let the record show the sick, racist administration that exists in this city needs some psychiatric help. I am just indicating for the record so that there will be no misunderstanding where it's coming from. If anybody's making that statement, I wish they would make it to me.

I can't understand that the city, like the City of Philadelphia, who needs the kind of help it does, especially in the present system as we have here in the city, that they could make a statement like that without coming forward and saying it to me is certainly sick. But I just wanted to say it before I go ahead and ask some questions of Mr. Specter.

I would like to bring out one point, knowing you are a man who certainly despises lenient judges and lenient sentences, I ask you a question, what would you recommend for criminals who commit crimes in the streets?

A Well, I think that when you deal with crimes of violence on repeaters, you have to send the people to jail. I think there is an obligation on the part of the Commonwealth

to have jails which are geared realistically to rehabilitate those individuals. I think it is a tough choice when a judge has the option to sending an individual to a bad jail or sending him onto the street and, in that situation I believe that you must send him to a bad jail. But you have to move to correct the correctional system at the same time.

I think that there really has to be accountability in our society and, I believe, that where you have probation which is handed out to drug pushers, for example, in substantial quantities, that it is just an anathema to our system, and I think those men have to go to jail. They spawn tremendous quantities of other crimes, they poison the young people in our society, they ruin our communities. That's just one illustration.

Or if you have a repeat robbery at gun point on neighborhood business establishments, I think that man has to go to jail.

Q I ask this next question because I recognize you believe firmly in rehabilitation. In fact, you stated so many times this morning -- and I raise the question, why do you feel that you and your office seemingly recommend the high cost of incarceration of individuals if you believe that the rehabilitation network in this society is not working at the

level at which it should be? What would you recommend in its place? It's a twofold question.

A Yes. Representative Richardson, that really deals with the difficulty or dilemma of sending somebody to a bad jail or sending him back on the streets. I say that option being present, you have to send them to a bad jail, but we ought to move to improve the jails.

I think what we have to do is to improve our state correctional system. I have seen this problem for a long time. I have been District Attorney now for eight years. The first year I was District Attorney, we had a big ruckus at Dallas. Remember, when Judge Minelli was releasing all the defective delinquents, and they were coming back - they had been there for a terribly long time; they were unfairly detained, but they were coming back and having repeat crimes. They weren't ready to re-enter.

I visited the Dallas Prison in June of 1966 and I developed an interest in going around. I have been to Dallas, to Rockview, to Huntingdon, to Muncy, to Camp Hill and to Western, and all of the state prisons. And they are a joke. They are warehouses. If you go to Western, it's five stories high, and they are little cubicles, and there are 800 men detained there and they have facilities to train a very limited

number of people in very limited vocational training, much of which is outdated. Nothing has happened in our state correctional system since 1966, because I have followed it very closely.

Q Since you recognize this, Mr. Specter, I would ask you this: We understand the percentage might be -- and correct me if I am wrong -- between 90 to 95 per cent in our jails are total black people. And if that is a correct premise in which we operate from the City of Philadelphia, then I would like to know from you, what do you feel is the correct modus operandi where you would need to try to correct that overall situation, realizing that the majority of black -- they have not moved to do anything to correct the institutions as they are?

What would you -- and I know you talk about the state taking over -- what would you recommend and how would you construct a new facility, and what would that be built on?

A As to statistics, I do not have the precise figures. I think you may be correct in the Philadelphia proportion. You are not correct on a statewide basis. It is not that way at all. If you go to Western, it's pretty much 50-50, for example. If you were to go to Rockview, it is less than 50-50.

Q It's more so in Philadelphia?

A Yes, Philadelphia has a very, very high proportion.

I think that you have to have an intake procedure where you have diagnosis and classification of the people who are coming in. You have to make a determination as to the nature of their situation - what is their educational background, how many crimes they have committed, what is their family background, what is their psychological and psychiatric background, what do their tests show and where should you put them. Okay, classification.

The second thing you have to do is have a basic educational system so that they do not come out as functional illiterates. which they do at the present time. A man or woman who comes out of a correctional institution has to know how to read and write. The first thing you have to do is have vocational training. They must be taught a skill. There are plenty of opportunities in our society for people who are trained, and we do know how to train people in one form or another.

Q Who is "we?"

A Our society, our civilization. We do know how to train people.

Then, when you come to the point of release -- there should be some pre-release. I'm not talking about

releasing on murder charges after eight months in jail, but if you have a man who has a five-to-ten-year sentence, when you come to the fourth year, then you ought to start working with pre-release and furlough. And you ought to start working with the Halfway House on gradual reintegration into the community where there are probation parole officers who are not so badly overburdened, so that they have an opportunity to give some supervision to the individual.

If you do all of that, I think you have a chance with most of the people who are in the system. And I think if you have realistic rehabilitation and a man or woman gets that opportunity, then they come back and commit repeat offenses, I believe in the fourth offender law in terms of life sentences. If you have a system which is realistically geared to giving a man or woman a chance, and they don't measure up, then there comes a point where you have to protect the rest of society. But I think you really have to make that first strenuous effort as I have outlined it.

Q What type of building structure would you build to receive folks like that to get that type of training?

A Well, Representative Richardson, I'm not sure. I'm not an expert. I would go along with the experts who say a facility of 250, which is smaller -- I know that --

REPRESENTATIVE CHECCHIO: You said what?

MR. SPECTER: A facility of 250.

REPRESENTATIVE CHECCHIO: That seems to be the modern thinking and that seems reasonable and realistic to me. I know that you have to have classrooms; I know that you have to have teachers in terms of the basic skills. I'm not talking about advanced courses; I'm talking about reading and writing as a minimum.

BY REPRESENTATIVE RICHARDSON:

Q Simple --

A Yes. I know you have to have shops; I know there is a great demand for plumbers, a great demand for electricians, a great demand for automotive repairs -- our society needs them very badly. And those are skills which can be taught, can be learned. You have to have those kinds of shops.

Q One last question, and that is, are you aware of the fact that individuals go to courts in the City of Philadelphia; one is a black man, one is a white man; both have committed the same type of crime. One is put on probation, the white man is put on probation; the black man is found guilty and sent to prison.

Do you believe that in the city there is a dual society for individuals who go to court, and if you believe so,

why?

A Well, Representative Richardson, I do not believe so. I would not deny that there are individual instances of discriminatory practices, but I think overall our system works with justice and fairness without respect to differences of race. It is a hodgepodge of sentencing in our City Hall today. There is no uniformity, but I can show you cases of great disparity between two men, both of whom are the same color. I think we ought to change that.

And that's why you gentlemen have before you now legislation which my office has proposed on sentencing panels.

Q Sentencing panels?

A Sentencing panels. I think sentencing ought to be done on a statewide basis, to have uniformity, guidelines and standards, and have inputs from people from all walks of life and not just from judges.

When you have a position of power as a judge does, and you have the limited exposure as a judge does, as any one man has, I don't think you're in the best position to impose sentences. I think sentencing by judges has been a failure. That's the suggestion of your question, although in a different line. You are suggesting, and I am suggesting, that it is irrational and nonsensical, which they may overlap, and I

think our practice of sentencing ought to change. I think we ought to go to a sentencing panel. I think there ought to be people from all walks of life, not just judges; there ought to be people from all representations, and there ought to be housewives, laymen and carpenters, and sociologists, the whole gamut of our society.

Q In front, formalizing this, what if you believe that is correct, then why is it that individuals, say, for instance, judges, lawyers, doctors, carpenters do not actually get out and become involved with all this crime that is being committed? In other words, they ride through it but never actually see it or experience it.

I am saying, it would seem to me that people who actually experience the kind of thing that goes on in society, the one that we live in, where there is bad housing, where there are situations where the structure of the community is deteriorating, then they can actually understand what and why crime is being sworn off. I mean, do you feel that way -- I am trying to get a reaction.

A I agree with you that most people are disinterested. It takes a very rare breed of cat to want to be in public life and to want to fight these problems, to want to run for Mayor like Hardy Williams did and run for General Assembly like you

and Mr. Lederer, Mr. Scirica, Mr. Hammock and Mr. Checchio did.

Q All rare breeds?

A Well, it is. It's a rare breed. I keep coming to these sessions where we talk about these problems. I think it's a matter of attrition. I think it's a matter of dropping water on stones. But believe me, when I say the things I have said to you, I have said these same things to every one of you before. There is nothing new here -- it's a matter of staying power.

But when you talk about the average man on the street, you and I are frustrated. He is even more frustrated. He feels totally beyond his powers. You have a lot of power; I have a lot of power, in a sense, and I feel it's beyond me to get the prison system changed in this city, but I am going to keep trying for it.

CHAIRMAN SCIRICA: Representative Lederer?

REPRESENTATIVE LEDERER: Mr. Specter --

MR. SPECTER: Representative Williams is not the only one who sought to run for Mayor, either.

REPRESENTATIVE WILLIAMS: Correct. You lose some and you win some.

BY REPRESENTATIVE WILLIAMS:

A Just one question: The men were talking about our

hard-core violators.

MR. SPECTER: Excuse me just a minute.

Mr. Richardson, if you are leaving, I just want to say I was not one who said I would not come if you were here. I don't think you intended to include me in the city administration.

REPRESENTATIVE RICHARDSON: No.

MR. SPECTER: Okay.

REPRESENTATIVE RICHARDSON: If you fit into that category --

MR. SPECTER: The shoe didn't fit, but I thought somebody might be looking at my foot.

REPRESENTATIVE LEDERER: If you look at the total records of the men we are talking about, and a few women, we see that almost all these cases begin in juvenile court. Do you propose that the state prison system in the counties, for the obvious reasons that we have the economic power, would you include the state, looking hard at the juvenile aspect of our prison system and the state providing the underwriting of all the juvenile processes?

Obviously, these men and women are results of the failure of the juvenile system. You see a young boy at the age of fifteen with eight arrests and you can almost tell, if

you have been around the criminal system, that in a matter of months or a few years, he will get a long sentence and he will be a repeater.

It seems to me that the whole concept of society has to be related to crime prevention of the young man who comes from the socio-economic position, probably, in many cases you know it's going to be treated by the proper authorities as a psychosis and, unless we get to him and provide the remedy for his problems, you will continually, with the burden of population in this urban society, end up with a large number of people in the prison system.

The real horror of it is that innocent people on the streets will have their lives wrecked by these individuals' conduct. It seems to me it's the juvenile areas where we have to put all our weight, otherwise, we are just going to maintain the system, or what I see is that this society may fold, because the person you talk about, the innocent citizen on the street, black, white, or any other color or background, is the victim and if we get enough people frustrated, this society can't work in the next decade or so.

Do you feel that we should start with the juvenile process and the put the state money there?

MR. SPECTER: I agree.

REPRESENTATIVE LEDERER: I thank you.

MR. SPECTER: With one addition - perhaps not all the state money because there are other facets which need it, but I think very heavy emphasis ought to be placed in the juvenile area for the reasons which you have developed.

REPRESENTATIVE LEDERER: What happened in Flint, Michigan? A young boy gets into trouble. You have to put him in confinement. Their educational system, school system, follows that boy right to prison, and we have resolved one of his problems - instead of having him sit in a cell, smoking cigarettes and putting in an hour's worth of exercise a day, and being returned to his cell.

Thank you.

CHAIRMAN SCIRICA: Representative Williams?

BY REPRESENTATIVE WILLIAMS:

Q Mr. Specter, there are a lot of questions that I have on my mind to ask, but I will try to limit it to some basic concerns that I have.

A person gets arrested, gets arraigned and then he may go to one of the county jails. The first contact of that person with the system, my experience has been, is that you can get arrested for a minor crime and spend eight hours there. For no reason, you may end up not guilty of a small

offense. It looks like a dungeon, it's run like a palace guard, it's sensitive to the accommodations for lawyers to talk to their clients, it is a great big window through which you have to yell, literally yell.

REPRESENTATIVE CHECCHIO: That's right.

REPRESENTATIVE WILLIAMS: To me, it's rather inhuman, the whole start of that process, and at a point where a lot of people may be involved in minor crimes or may have committed no crime at all. In addition to that experience, many times we find, for the purposes of bail, eight or ten charges where, basically, maybe two or three might be the thrust of whatever happened. That was a change in the copy system, so to speak, which solved the problem of corruption, but I have viewed that which amounts to really a traumatic experience for a lot of people.

My question really is, if you are aware -- your office is aware-- of that, and if so, as part of the justice process, if there is any move afoot to correct that very serious inconvenience?

MR. SPECTER: Representative Williams, there are many efforts on that problem, and I am aware of it and I, personally, visit the roundhouse from time to time. I was there most recently about five weeks ago, and there are delays

there which are too long and the processing has to be speeded up. When you say "eight hours," I think the average is less, but sometimes it may be in excess of eight hours.

There again it is a long battle. It is an improvement over the old copy of the charge system where you were kept in confinement until the next morning. If you were arrested at two o'clock in the afternoon, you didn't get a hearing before the magistrate until the next morning at nine o'clock, unless you found somebody to get you out on a copy, a politician or a lawyer. And many people spent that time under worse conditions, which is no answer.

The law requires an immediate arraignment prompt arraignment. And those procedures have to be changed materially to speed up the processing there. There are many problems. You haven't begun to touch on all --

BY REPRESENTATIVE WILLIAMS:

Q It has been very serious for a long time and I, as a lawyer and a State Representative, would like to see some public official begin to correct that because the people in there are forgotten people.

It is not only inconvenience, physically, but the way it's run is very insensitive. If you have people whose first contact with the justice system is that way, who may be

guilty of no crime at all, I suppose a lot of them are -- what you are doing is turning them off and making them bitter, a hardening process you were referring to earlier.

You mentioned the executive and legislative in action with regard to how society is led or not led today, and it is usually by judges making some order, giving us direction. I agree with that, by and large. People end up not getting the service or direction that they need and they have to force that through a court.

I wonder whether you are saying in the whole area of prison conditions, prison reform, rehabilitation - the whole thing, whether it's your opinion that legislative and executive inaction is now provided in the direction in order for this society to begin to do two things, which is our responsibility.

One is to formulate some appropriate rehabilitation, and the other part, to begin to reduce some crime. That is my question. Is it your opinion that legislative and executive government is not providing that kind of direction in this major area?

A I think it is definitely true that the legislative and executive are not providing that direction and I do not think that there is going to be any correction until there are court orders in this field.

Now, the Commonwealth Court is to the State as the Supreme Court to the City.

Q I agree with your opinion. One aspect of that, do you think the judicial branch itself, other than by way of cases coming into court and coming into some degree or judgment, has a responsibility administratively since they are the ones who send the people to those jails?

A Representative Williams, I do not think we do. I don't think they can take all that responsibility because they do not have the authority, except where there is a case at issue framed by lawyers and their specific orders and decrees which they hand down.

Q I understand that if a judge is clearly bound to send somebody to jail or not, he would not have jurisdiction to find out what conditions that person lives under that he sends to jail.

A I don't believe he could order a man to go to a decent jail and direct the Governor to provide a decent jail.

Q I guess the thrust of my question is not that so much as to whether or not in an administrative matter, the whole judiciary has a responsibility, as you do or I do, to lay out some rules, regulations, timetables, or whatever it may be, philosophy that begin to straighten out prisons?

A Representative Williams, I think they have the duty in the context of speaking up and being advocates, as I am here, for example, but I think the final decision that they can process --

Q But you said "plans," that's what I'm talking about.

A Yes.

Q Other than speaking up, that's one thing; but to say this is what exists, this is what I like, and then -- do you think they have that kind of responsibility?

A Yes, I think they do. I think they have that kind of responsibility as public officials in the leadership roles which they have, in addition to their function to sentencing them. But in terms of entering compelling orders, I don't have the power to control the Roundhouse. You referred to that. I do not have the authority. I have a file that I could show you that would choke a horse as to our relationships with the Police Department, which has control over it. The judge cannot get involved in these matters any more than I can in a compulsory way until there is a case in controversy before him and he enters a specific order against a specific individual.

Q But you have from time to time made recommendations

that have gone into operation.

A Yes.

Q Some are very good.

A By persuasion, I have made a lot of changes.

Q Some of them are very good. I am just suggesting by way of that condition that maybe we can do the same thing with some success.

A I think you can.

Q Can I move to another point?

A Yes.

Q You indicated that sentencing is a failure, right?

I agree with that. I happen to be of the opinion that the Inquirer on an important investigation of unequal justice with rights of blacks in Philadelphia, I happen to believe that's so, not only from our investigation but from my own experience in terms of the judicial system. I think we have to face that. Having faced that, then you move on to a solution.

You have expressed that you think that it's an imbalance in the mechanism. I think that's true, but I also think there's a good and substantial amount of racism, subliminal and sometimes subconscious, et cetera, at all junctures from the point of arrest. I think it affects attorneys. One way it is reflected is that the Assistant

District Attorney is always knocking off black people on my jury. And the way I view that strategywise, it begins to leave out of the jury of your peers concept persons who may have some experiences and, therefore, can evaluate the testimony better even in terms of language, in being black and being in the Philadelphia community. I know some words and expressions that mean certain things which to others mean nothing.

I guess I am suggesting that maybe that needs to be re-evaluated by the District Attorney and others, so that we can say we are moving towards a more equal dispensation of justice

A How would you do that, Mr. Williams?

Q I ran unsuccessfully for Mayor. I make a suggestion on that. You spoke of sentencing matters which I think move toward that. Take the local community where I have recommended that the judges, a Board of Judges, that there be involved a board of interested community people that may meet with the board regularly, monthly. That community board could serve this function. It could serve to be the input that you say the judges lack, and if you are going to sentence somebody, it's only fair that you have that experience.

Secondly, the follow-up, say somebody goes on

probation or gets out of prison, if you have a grouping, a working administrator with you, you have contacted a connection in the community to reduce negative behavior, first of all, to motivate people who are potentially incapable of coping with rehabilitation. That administrative connection with people and judiciary, I think, would fill a gap.

It would also apply itself to the question that I'm raising of unequal treatment. Let's say, for instance, John Doe, age twenty-one, gets in trouble and commits a crime. The judge knows nothing about him and may look at him in a certain way. Those dynamics, or whatever it is, never get across to the judge. He goes to jail: he's lost for good. He becomes a criminal and society is more endangered. You have a mechanism between them. Whatever that young man may be, potentially, you have a source of that information, you have a source of help so that inequality may be reduced.

Secondly, I think also, within the Bar Association as a grouping that they should have the ability and the opportunity to test things, really to sit down with folks who may have that persuasion so that they can hear specifically how those things happen. I think the Bar has a responsibility to the whole justice system not to allow it to exist, if it exists. Those are the ways I suggest things should be.

The overcrowding situation, I suppose comes about to a degree because some people get into the prisons, really, who don't belong there. I suppose you agree with that?

A Yes.

Q My question is, other than the pilot program you spoke about, are there any screening devices which the court may have that are supposed to reduce the incarceration of people that, in fact, should not be incarcerated?

A Yes, we have a very extensive one, a 24-hour police counseling where there are assistant D.A.s - there are seven police districts around the clock screening out cases where the evidence is insufficient, unconstitutionally obtained. We need to expand that program. I think we should have an assistant D.A. in every police district, twenty-four hours a day to screen much better than we can with our current facilities.

Q I am glad you mentioned that. I think that program is a good idea. I do think it's too small. I think it's a good direction which might help in a practical way in sifting cases that don't need the law.

Do you have any resistance to that kind of idea? I suppose some people with a law and order syndrome may sort of think, well, that criminal on the street is ridiculous.

My question is, do you find a kind of resistance with that kind of program?

A Yes.

Q Then I would think that kind of a program would need support in terms of expansion because it's needed. It's needed in a practical way.

A There is resistance, but there's a lot more push than resistance. We are pushing that very hard. Where there are disagreements in the police district, I have no control over the police districts. They have an assistant there. When he disagrees with the lieutenant, the lieutenant has the final word. And if the case goes to the Roundhouse, when it gets to the preliminary arraignment in court, then it's my decision, and I have a discharge there.

Q Well, I guess that's a point that's sort of ridiculous, that motion should have to be spent when the time --

A We're narrowing the gap, and I think it's really a matter -- you don't start with a new approach until the Assistant D. A. in the police station has all of his judgments accepted, and the program has been in effect for only a couple of years. I think it will be expanded and will become a part of the operation and that will diminish it and it will cease to exist.

Q I guess what I am talking about is the lag; in other words, I do think that starting a program should have some immediate response. I think that the local police district should respect the fact and get the law to function.

A But they have. We have sifted out 3,500 cases a year so far.

Q How long has that been, three years?

A Not quite two years.

Q And if it has been successful, then it dictates expansion because a serious problem is overcrowding.

A Yes.

Q Aside from the fact that they are funny cases, it's an inconvenience to people, too. I'm suggesting that it should be expanded with some aggressive approach. I know you do implement what we take -- I basically agree with your position that the state should take over the system. I do want to indicate one caveat - I think there has to be some kind of definite input and responsibility. I don't know how to formulate that but I think that crime, imprisonment is the responsibility, basically -- I do think that those things can be done. They definitely should have local responsibility and input.

One or two final questions.

The Holmesburg Prison has been judicially determined to be "cruel and inhuman punishment." That being so, and caught in the dilemma, as you say, let the guy out or let the guy in to something that's cruel and inhuman -- is there anything that you are aware of in the justice system that would permit, administratively or otherwise, anything afoot, that would correct that condition?

Since you and I both concede that when you do that, what you do for society is to create further danger --

A I think that some improvements are being made in Holmesburg. I think there is an effort being made to the extent that you send them in and out of Holmesburg to other places, but the hard line, the core of the problem of eliminating Holmesburg is not being undertaken yet.

Q Do you think it should be eliminated?

A Totally, totally so.

Q And that's not under foot?

A No, not at all.

Q Could I get your idea on the Eastern State thing more definite? Do you think that should be utilized as a county facility but state administered?

A I think it should be the site of part of the state program, a diagnostic classification. And it could also be used

in part for detention. There is a larger area down there, the walls are excellent. The inside could be taken out and you could put up buildings inside to be used for the purposes I have described.

Q Just one final question. Would you be willing to file a suit regarding the tension situation at Eighth and Race and Second and Engle Streets, willing to entertain the idea I was talking about, the community administrative body of judges to help sift --

A I would like to sit down and talk to you more about that. That is a good idea, and I would like to see that done. I think I need to know more about it, but I think it's a good idea.

I think we are making too much progress to sue the police at Eighth and Race; we only sue when everything is gone. We are getting changes made there, and I think we are making improvements. But it might be necessary some time in the future, it might be necessary.

REPRESENTATIVE WILLIAMS: Thank you.

CHAIRMAN SCIRICA: Representative Hammock?

REPRESENTATIVE HAMMOCK: I have a few questions.

BY REPRESENTATIVE HAMMOCK:

A I think you have labored with us this morning a

little bit. I appreciate that. Your office has done extensive investigations and background work. You have indicated this morning the kind of work you have done.

I have here in front of me the opinion that was rendered by the three-judge court dealing with the Holmesburg situation, and our county prison situation in general.

I am concerned as to why there is this vast amount of inaction on the part of the public officials to really get something done. I think you have indicated that there is often this hue and cry, we start off moving in certain directions after some incidents take place or because certain people come to the realization that something must be done about Holmesburg, for example, and then it dies down.

It seems to me that, perhaps, it's a political involvement -- I don't know -- but it seems to me that the inactivity on the part of public officials certainly gives credence to the fact that we are powerless, collectively, and certainly defendants are powerless, citizens and taxpayers are powerless, and I think if we can begin to probe why we have this inaction with you and with the city administration and with others, hopefully, we are going to make some recommendations and move in that direction.

A Your probe with me will not be an action with me.

Q We will probe with you while we have the inaction.

A All right. I think that the basic reason is the fiscal plight of the city. I think the city administration would be delighted to scuttle Holmesburg if it had the money. So I think if you move to undertake financial responsibility, I think that would be a big part of the answer.

There is a second fact of lethargy which I cannot describe to you any better than we can speculate about it in our own minds, and that is, why hasn't the state done something about it since 1965 when they had the appropriation, the need, and all they had to do was put a shovel into the earth? That is the question that I can't understand at all.

Q Do you think it's a matter of partisan politics?

A No, it's a matter of nonpartisan indifference.

Q If it's a matter of indifference, we have had all of these incidents arise. We have this Committee today as part of the attrition, one more drop in the bucket.

A Correct.

Q If it's a matter of indifference, then are we going to have the same kind of indifference five or ten years from now.

A Mr. Hammock, you are going to have a high time persuading your fellow legislators in Harrisburg to take over

by the state the county prison of Philadelphia, but as soon as you get that accomplished you will have taken a big step forward. I don't think this city administration will sit on it for eight years like the state administration sat on the correlative problem for eight years.

Q Are you saying that the reason people are sitting on it is because we don't have the money or are we reluctant to appropriate the money?

A No, I think we have the money. I think the money is available for appropriation. I think that others will assess different priorities and will say, "never mind the problems of Philadelphia, let them continue to exist."

I think that's the response you are likely to have when you take this problem back to Harrisburg with your recommendations.

Q It's certainly been the case on other issues, relating to Philadelphia.

A But I think if the state will take over and finance it, I think you will find the city government moving with speed on it. They will spend the money as fast as you turn it over.

REPRESENTATIVE CHECCHIO: As fast as we can give it to them.

MR. SPECTER: Yes.

BY REPRESENTATIVE HAMMOCK:

Q Do you feel that perhaps there might be some vested interest on the part of city government, not in the matter of what political party but on the part of the city government, not to move in this direction?

A No, absolutely not.

Q You haven't found that here?

A No, no. I think there is a sincere interest in the city administration to improve the Holmesburg situation. I have been there with the Mayor, I have been there with the Managing Director, I have been there with the Superintendent of Prisons. They are concerned and they want to improve the situation.

Q Just recently, in the Supreme Court, Justice Jones appeared before the General Assembly and he recommended that perhaps there ought to be a liaison committee between the General Assembly and the Appellate Judges in the state. A liaison committee was formed. It seems to me one of the things the liaison committee ought to undertake is a recommendation that the state move towards the things that you have suggested in taking over the prison systems.

Is there anything that can be done to move the liaison committee in that direction, more than we are already

doing - have hearings and what have you?

A I think a statement of the problem and a proposal for its solution is the only way to persuade them to act in that matter.

Q Okay. I have only one final question: I have had the opportunity to work with you in the past and I regard your sincerity in these matters. Is there anything that we have not talked about today that, if you were on this side of the table, you would have talked about?

Let me just preface that by saying, all too often I find the legislative hearings very, very shallow, very surfacy, and I just wonder in your experience as an attorney, as an administrator, as one competent in dealing with these matters, is there anything you would have raised that we have not raised?

A Representative Hammock, the only thing that hasn't been raised this morning that I see is an issue where I have an eleven o'clock appointment where there is a man from Westinghouse who wants to interview me on the assassination of the President. They are doing a ten-year wrap-up. Aside from that issue, I don't think this Committee has failed to inquire on any subject pertinent to the purpose.

REPRESENTATIVE HAMMOCK: Thank you.

MR. SPECTER: May I leave you these documents?

CHAIRMAN SCIRICA: Yes, you may.

Preliminary Report on the January 4,
1970 Riot at Holmesburg Prison -
produced and marked for identifica-
tion and received in evidence as
Exhibit A.

Report on Sexual Assaults in the
Philadelphia Prison System - produced,
marked for identification and received
in evidence as Exhibit B.

CHAIRMAN SCIRICA: Our next witness will be
David Rudovsky. Mr. Rudovsky is a lawyer in Philadelphia and
was the lawyer on the Holmesburg Prison case.

Thank you for coming here today, Mr. Rudovsky.

DAVID RUDOVSKY, called as a witness,
testified as follows:

REPRESENTATIVE CHECCHIG: How do you spell your
name?

MR. RUDOVSKY: R-u-d-o-v-s-k-y.

I would like to talk for a few minutes about my
experience with the county prison situation in Philadelphia
which has come about mainly as a result of the litigation that
I have participated in, against the system.

Then, perhaps, I will mention a few things in the way of a proposal and comment on a few of the matters that came up early this morning when Mr. Specter was testifying.

I first became involved in the prison situation of Philadelphia in 1970 after an incident which Mr. Specter spoke about, of July of 1970, at which time I was working with the Defender Association of Philadelphia. We filed a suit at that time on behalf of two inmates at Holmesburg Prison.

A three-judge panel at that time, for the first time in Philadelphia -- it certainly was not the last -- ruled that the conditions at Holmesburg Prison amount to cruel and unusual punishment, and took the rather extraordinary step of ordering the release of two inmates who had initiated that suit because the conditions did amount to cruel and unusual punishment.

Mr. Specter indicated, for the most part, he has also opposed prison suits and prison litigation. It is interesting for me to note that at that time, he fought us on that case, and appealed that case to the Supreme Court of Pennsylvania which was unanimously affirmed on the three-judge court ruling below.

Despite that fact and despite the very strong language and very clear indications both in the trial court's

opinion and Judge Spaeth, which is not the opinion that has been referred to before, but an earlier opinion, which just as clearly outlined the deficiencies in the prison system in Philadelphia. Despite that language and the language of the Supreme Court of Pennsylvania, nothing was done to change the conditions of the Philadelphia prison system. Nothing was done by the District Attorney, nothing was done by the city officials and nothing was done by the prison officials.

In fact, over the next year or eighteen months, the conditions deteriorated even more. You once again had a situation, as Mr. Hammock described, where because of a trouble at the prison, there was an initial public concern. There was a lawsuit, there was language that was regrettable, and everybody forgot about it.

Because there was no follow-up, we initiated another suit, a class action in behalf of not only everybody at Holmesburg Prison but at the detention center and house of correction as well. That suit was initiated in 1971 and, unfortunately, it is still progressing very slowly and tortuously through the appeal process.

You have the opinion before you of the three-judge court, Judge Spaeth's opinion, a 260-page opinion which was handed down in April of 1972. Nothing could be clearer in condemnation

of the county prison system and the criminal justice system as a whole in Philadelphia, in that very thorough opinion.

It followed a trial of approximately five weeks of testimony where inmates, prison officials, doctors, and experts all testified, and the testimony was basically the same on both sides, that the conditions were cruel, that they were unusual and inhumane.

The city, despite that opinion, appealed the case to the Commonwealth Court of Pennsylvania which just last month, two months ago in August, 1973, unanimously affirmed the opinion of the trial court, except with respect to the Master of the trial court believing that the trial court did not have the right to appoint a Master.

I suggest it is not the most important issue in the case, depending on how you construe the Pennsylvania rules of civil procedure. But on the guts of the case, on the essence of the case, they unanimously affirmed the decision of the trial court.

The city, just two days ago, has filed another appeal to the Supreme Court of Pennsylvania, asking that court to review both decisions of the Commonwealth Court and the court below.

So I find it extremely interesting when

Mr. Specter says that the city officials are deeply interested in this problem, in trying to solve it. They have opinions now dating back over the past three years. Every single judge who has heard evidence of the Holmesburg Prison and the other county prisons have declared them to be cruel and unusual punishment. What they have deliberately done is to use the appeal process to delay any change in that system.

As long as appeals continue to run at this stage, they will continue to run for probably another year, and nothing can be done in terms of correcting those conditions.

And I suggest to you that you have deliberate delays in procedure on the part of the city officials. So you have a situation where, for many years, at least since 1970, the courts have declared conditions to be cruel and unusual punishment and nobody, nobody, the state, the city, the District Attorney has taken the responsibility to change those conditions.

It is frustrating not only for people involved in the system, but I suggest a lot more frustrating to the people in prison, because I suggest it shows a kind of hypocrisy on the part of the system. On the one hand we demand very strict law and order and, as Mr. Specter said, "accountability" to persons who commit crimes, and if they commit crimes, Mr. Specter

says that they should go to jail, and maybe that's so.

On the other hand, where the court has unanimously said for the past three years that the city officials are liable for running an unconstitutional prison, nobody wants to hold them accountable. The situation is completely reversed.

Then I think that does not escape the attention of the inmates at Holmesburg Prison and the detention center and the house of correction and it doesn't escape the attention of other people in Philadelphia and in the state. You really have a dual and double standard of justice where those who commit street crimes go to jail but where city officials, I suggest blatantly ignore very clear court orders. Nothing happens and the conditions remain the same.

Now, given that state of affairs, the question comes up, what do you do? We have only one track to follow, that is myself and other attorneys working on this case, we can only push this litigation as far as it can go. We are confident that the Supreme Court, if it does hear the case, will affirm the trial court and eventually send the case back to the trial court.

That, again, will be three or four years after the fact. It might necessitate another new round of hearings as to has changed or hasn't changed since the hearing in 1970 --

REPRESENTATIVE LEDERER: Are you talking about the U. S. Supreme Court?

MR. RUDOVSKY: Well, they are now before the Pennsylvania Supreme Court. I assume if they lost there, they would then ask the U. S. Supreme Court to hear the case.

We are confident enough that at the end of that road, the decision of the trial court will still be firm, but what we are talking about is three or four years later, and it might necessitate at that time a completely new round of hearings and a new trial to determine exactly what has changed. I am sure the city will come in and say, "Well, during that time we have made improvements. You ought to hear new evidence

So, we are getting a little frustrated at the litigation process, at the legal process and, perhaps, somebody else has to step in to force those changes and perhaps it's the state and that's why this Committee at this time is looking into those conditions, although I would say that even with respect to the state, I am not very optimistic now that anybody in the government at this time really does care about the conditions in the county prisons or the state prisons, for that matter.

There has been enough opportunity, I think, over the past few years, to express that concern and we have reports

and we have investigations where everybody expresses concern but nobody does anything about it. I am not sure that the mere fact or suggestion that the state should take over financing of the prisons will cure those conditions. Nor am I convinced that construction of new prisons is feasible or is the proper way to attack the problem.

I don't think the problems in prisons are necessarily revolving around how old they are, how decrepit they are, but how overcrowded they are that's a problem. There is no question about it. The more overcrowded they are, the worse they are. But you don't change prisons and you don't change the atmosphere in prison and the way people feel about each other in prison, of the guards and the inmates by building a new institution.

The detention center is a fairly new institution in Philadelphia. It was constructed about fifteen or twenty years ago. I suggest that is not a much better prison than Holmesburg Prison, which was built a hundred years ago. There is a little less overcrowding, but the same kind of problems in terms of lack of medical services, in terms of denial of due process to prisoners at disciplinary hearings, in terms of just the basic attitudes of guards in prison, remain there. But you don't cure those problems by building new prisons.

The suggestion that we use the facility at Twenty-First and Fairmount I don't think is an acceptable resolution of the problem. First of all, it would cost something like a million dollars to renovate that facility. It was used for about six months or a year in 1970, or 1969, with not very good results as a detention facility.

I think the idea of just building new and better facilities is not the answer. You've got to change the attitudes of people in those prisons, the wardens, the guards, all the way down, and the attitudes of the city officials who, I think, as long as nothing erupts there, as long as it doesn't hit the front page, they are happy enough to let it lie as it is.

There is one other factor that I would like to address; two other factors: One is the question of bail. Mr. Specter said, and I think perhaps that is the crux of the problem at least with respect to detention -- Mr. Specter indicated that great advances have been made in the bail situation with the O. R. Program, cognizant with nominal bail, and so on, ten per cent bail. In my experience, not much has changed with respect to bail. The changes that have been made with respect to bail have mainly allowed people to post nominal bail or, release on their own recognizance.

These are people who normally would have gotten out of jail anyway by posting ten per cent with the bondsman. Now, it's true they say the ten per cent they now get it back when they appear at the trial, but that doesn't begin to put a dent into the problem of those people being held in jail. And at present in Philadelphia, there are 2,000 detentioners who, because they are too poor, cannot post the bail. It doesn't do that person very much good to say, "you can post ten per cent of \$3,000 or \$5,000 or \$10,000," when they don't have that ten per cent.

So what you have is a completely irrational system where the person with same kind of background, charged with the same crime, has the same prior record and the same bail may be set, say, \$5,000. One person has the \$500 and he gets out and he is free, awaiting trial; the other person doesn't have the \$500, and he must stay in custody pending trial.

So you have a completely irrational system because it is based on money and it is based on wealth.

The other point is the question of rehabilitation. Virtually everybody who commented this morning talked about the need for rehabilitation, the need for programs, the need for retraining and the need for education. I find that somewhat curious - one, because we never had it in prisons and,

despite all the talk about it, I'm not sure that we ever will.

The second is, rehabilitate to what? We have a society here where, generally, with respect to detentioners in Philadelphia, anyway, you are sending them back into a society where we have accepted as basic governmental policy an unemployment rate of six per cent nationally and what that breaks down to in Philadelphia for young black people, is something like 20 or 30 per cent. What are you rehabilitating them for, when you are sending them back to a society which is not going to give them jobs, which is not going to give them an education?

I think we use too loosely and too easily the term "rehabilitation," and we never look behind that term. It's a very nice word. Everybody believes in it and everybody can support it. But when you look behind it, and when you question what's going to happen to that person who is rehabilitated, you find he is put back into the same kind of society from which he came. I think it demands a little more examination.

And with those initial remarks, I will accept questions from the Committee.

CHAIRMAN SCIRICA: Representative Lederer?

BY REPRESENTATIVE LEDERER:

Q Let me ask you a question. When a man leaves this system of rehabilitation, is he most likely not to go back and commit a violent crime -- that's the reason he was there -- or is he likely, due to the treatment, to go back and get into trouble again?

A The statistics certainly show that many people who go through the system will come back and commit some more crimes, or worse crimes; some do and some don't. The recidivism rate is certainly high. What I am suggesting is that the prison system has very little effect on whether somebody is going to be a recidivist or not. It probably has no effect.

We know very little in terms of statistics of what the prison system does to people, in fact, whether it deters at all. You have to examine the premises on which our prison system works. One of them is deterrence. We know nothing about deterrence. We know nothing about what a five-to-ten-year sentence does to that individual, or does to the individual in the street who sees someone else get a five-to-ten-year sentence.

We are working on concepts like rehabilitation, deterrence, and so on. We really know very little about it. We use those words but I suggest that we don't know what we

are saying when we use them.

BY CHAIRMAN SCIRICA:

Q Mr. Rudovsky, what will happen in Holmesburg if the Supreme Court were to come out tomorrow and affirm the lower court's decision with no new trials to delay it further? What actual changes would take place?

A Well, it would be up to the trial court, that three-judge panel, to order certain changes. At this point they have not made specific orders. They have addressed the general problem and said the conditions amount to cruel and unusual punishment. They have not come out with specific orders.

For example, more doctors should be hired, more social workers should be hired, the prison population should be reduced, the leaking should be stopped, the rats should be eradicated, the food should be upgraded.

They addressed all those problems and said they were all inadequate and they all amounted to cruel and unusual punishment, taken as a whole. But as yet, they have not addressed themselves specifically as to remedies.

Now, we would suggest when the case gets back to the court that they do that, that they order the prison to make those specific changes. The city has come back and said,

"Look, we don't have the money to make those changes." That deserves two responses. For some of those changes, you don't need any money. You don't need any money to give a person due process, for example, or a disciplinary hearing at Holmesburg Prison. You may need more money to hire more doctors and to reduce the population, but there are certain elements of that opinion that require no funds at all.

And for the city to say they can't comply with that opinion because they don't have the money is just an evasion of the basic problem. I think that society will just have to pay the money if it wants to run a prison system. I feel very strongly about that. I feel the ultimate weapon the court has which, obviously, they are very reluctant to use, is to say to the city, "If you don't spend that money, if you don't change those conditions, if you don't upgrade the prison and make it constitutional, then we are not going to let you send anybody to that prison." That is the ultimate threat, the ultimate power that a court has.

Obviously, they are very reluctant to use that power, but at the end of the road, that's what they will have to do. When this case comes back to the trial court and the trial court orders changes, and the city says, we are not going to do it, it seems to me the ultimate power -- and they

have exercised it in other cases -- they would say to the city, "If you don't make those changes, we will order that prison shut down. We will order that nobody else can go to that prison."

You will, obviously, have a crisis then. There will be some kind of compromise, but I am hoping this court will do that, at the point where the city continues to refuse to make those changes.

Q The Commonwealth Court did change regarding the Master, the appointment of a Master. What opinion do you have on that?

A If that opinion is upheld on appeal, then the Master is not allowed to assume a position in this case. I don't think it makes the most dramatic difference in the world. It will make things more difficult in implementing a remedy. If there is no master, it will be up to the court to be its own master. It will be up to the court to make specific orders, to do the investigations and to overlook the prison, so that those decisions and those changes are carried out.

It is so immense a problem that the court thought that an expert in corrections would be very useful to both sides, to help change those conditions, to talk to both sides, to talk to city officials, and I think the master was a very

good idea in that sense. Without a master it just puts a greater burden on the court itself to make those changes.

BY REPRESENTATIVE LEDERER:

Q Doesn't the prison charter call for a board of trustees to supervise and overlook the prison?

A Yes, it does.

Q Do you find that the present board of trustees, in their functions, whatever staff they may have, is archaic?

A It is archaic. I am not sure where that decision making actually takes place within the prison system. Ultimately, the Mayor, I think, is responsible for the operation of the prison. Obviously, on a day-to-day basis, the superintendent and the warden are the ones who will make decisions. The board of trustees sits in the middle some place. But I don't think it's so much the board of trustees - I don't think it matters what you call it; you could eliminate it altogether and change the name and making them a board of supervisors.

I think it's basically the attitudes of the people who are on the board of trustees, who are appointed by the Mayor; it's the attitude of the correctional officials and the wardens at these institutions that counts.

Q You stated pretty clearly that the District

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Attorney, Mr. Specter's suggestion that the Commonwealth take over the county prison system will not of itself resolve anything?

A It will not resolve anything, no. Certainly, if the Commonwealth took it over and more money was available, certain things would be improved; for example, you might have more doctors in the prison, which are certainly needed, and you might have more social workers, you might have better food. But on account of the underlying problem, including overcrowding and the attitude of prison officials towards inmates, and vice versa, this is not going to be solved, that underlying tension and the arbitrariness on the part of prison officials, this will not change no matter who runs that prison.

Q Are you aware of Warden Johnson that they got out of prison?

A Yes, I am.

Q Does he represent the type of personality that is needed to supervise these institutions?

A I think he does. I think, in my experiences, over at Graterford during the past five or six years, there is a dramatic change, not so much in the physical apparatus. Physically, Graterford is the same institution, but there has been a marked change in the attitude. It's a long process,

because you have a lot of guards there who have been there for twenty-five or thirty years, and who resist that change. But you have at least some indication of change, some indication that prison officials are going to relate to prisoners on a more humane basis, not merely as inmates. There's a change there, but it doesn't make a complete improvement, but there is certainly a change. And I don't find that attitude in the city prisons at all.

Q So, you are really saying that the personnel is the keystone, provided it has the other assets, as to whether or not the assistant can help someone.

A It's very important, but, as I suggested before, even with the best intentioned people, and even with all the money in the world, there are problems outside the prison system which deeply affect it. And the best rehabilitation programs in the world are not going to solve the problems of society outside when these people go back.

CHAIRMAN SCIRICA: I'd like to note the presence of Representative Joe Rhodes, from Pittsburgh. He missed the train coming in.

Would you like to ask some questions?

BY REPRESENTATIVE RHODES:

Q Have you visited any other county jails in

Pennsylvania besides Holmesburg?

A I have not. I have been in other county jails to interview clients, and so on, but I haven't had the opportunity to review them in depth or observe them.

Q And the level of your first impressions of the other jails in the state, would you consider them on the whole less or more inhumane, cruel or unusual, in their treatment and conditions than those you found in Holmesburg?

A It's very hard for me to judge in terms of surface appearances. Many of them are less crowded, and in that way they are an improvement over what exists in Philadelphia. But beyond that I can't comment. A lot of what goes to make the ingredients of making a judgment on a jail requires really an in-depth view of what the correctional officials are like, what the services are, what the day-to-day attitudes are. I have no way of judging that.

Q Did you ever visit Allegheny County Jail?

A No, I have not.

Q All right. I am a little confused about your discussion concerning rehabilitation. In the interest of candor, because our Committee is quite determined that legislative action be taken, much testimony has been presented before this Committee by informed expert witnesses, and it has

led in the direction that the whole concept of prisons existing for the benefit of inmates, residents, of what-not, is a total myth, and that the state maintains prisons for its own interest.

Now, however, you feel about that, I would say it certainly has an interest in maintaining prison systems. You seem to propose a kind of a utopian proposition before this Committee. What can the state do to protect the citizens other than what it is doing now, and is it not just a total myth to talk in terms of rehabilitation for prisoners? Aren't you just talking about pipe dreams when you are talking about how we might do a better job in the prisons?

A I am not sure I understand the thrust of your question, one aspect of it.

Q Is it possible to do a better job in the prisons? We have had people come before these hearings in Harrisburg who told us it was impossible to make it humane, or not to have inhumane conditions in a prison, and that the best prisons in the United States are terrible, and that the prisons with the most money, with adequate staffs, with the right attitudes, as you say, have the same recidivism, the same effect from the state's point of view, from the people's point of view, as do the worst prisons. That is what I am concerned about, because

we must make some legislative recommendations. Is it not putting good money down a hole, in trying to improve the prison at Holmesburg? Maybe we should eliminate prisons.

A Well, I didn't mean to suggest that no money should be spent on prisons; that programs shouldn't be developed and improved where they exist. For example, I mean training programs and education, and similar ones. When you raise the question of what can the state do to protect its citizens, I suggest that the experience of the past fifty, one hundred or one hundred and fifty years in the Commonwealth of Pennsylvania, and, of course, in the United States, shows that nobody is being protected in our system of penology: if anything, they are being exposed to greater evils over a period of time.

Q You are not offering us any alternative.

A Well, I don't offer you an alternative, except for several things. I do have alternatives.

Q What are the alternatives?

A The alternatives are, when you have people in detention, for example, in Philadelphia, many of whom are not going to be convicted of any crime, many of whom, for example, will be acquitted -- if they spend time in Holmesburg Prison, you increase, number one, their chances of getting out on bail,

you eliminate an arbitrary and irrational system of bail, which is based on money and money alone. Wealthy people get out; poor people stay in. There is a --

Q Would you suggest --

A -- there's a concrete proposal where you can eliminate the overcrowding at Holmesburg Prison, the Detention Center, by eliminating that factor in the bail system. There are other ways of handling appearance in trial. I suggest to you the fact that if somebody has money it doesn't assure his appearance at trial; that's the only reason for bail.

Q Are you saying you would support legislation establishing non monetary bail or relief systems -- total non-monetary bail systems? The idea has been kicked around.

A I think that monetary bail in some situations can be an effective tool for insuring somebody's appearance at trial. For the most part, it cannot. I suggest the alternative to money bail; for example, daily reporting of a probation officer, and so on, that will insure appearance at the trial, and insure safety for the public as well. That's one specific proposal that will reduce the problem in Philadelphia, certainly, at Holmesburg Prison and the Detention Center in terms of overcrowding.

The second proposal -- and it's accomplished, I

think, by the suggestion we made, that while you do have prison facilities like this, I'd like to see them eliminated and smaller prisons established that would hold 200 or 250 people instead of Holmesburg, which has 1,000 or 1,200 or 1,300, depending upon the day. They treat people more humanely while they are there. I'm not against prison reform. I say, you spend more money, you have adequate medical facilities, you have adequate food, you have adequate visiting facilities. All of that helps. What I am saying is that is no panacea; that is not going to cure the underlying problem. But while you have those prisons, you make them humane.

I am not suggesting that any prison is going to be a nice place. But by its definition it's going to --

Q Let's speak in all honesty now. Isn't the underlying attitude, really, the people who run the prisons, the people who elect, the people who act thus -- is it that prisons do not really exist to be humane; they exist to be tolerable, to be punishment, and aren't you running against the various strain of the popular pain of running --

A Sure, we are; sure, we are.

Q Most people expect a prison to teach a lesson, to be hurt so you won't go back again.

A Sure, people think that. But I think it is

interesting that not only do people think that, but public officials carry out that philosophy. And let's take just one example where a person is in detention. He hasn't committed any crime; he's only in prison because he hasn't been able to raise the money to get out on bail, and they use that same philosophy. They punish that person.

Q Not convicted?

A That's right. They punish 2,000 people a day in Philadelphia who have never been convicted of a crime, who are sitting there because they can't get bail.

Q Is that likely to make them more liable to commit crimes, make them more likely to have a harder attitude towards society?

A I think your question answers itself. It, obviously, does.

Q The Black Caucus visited Holmesburg Prison after a great difficulty of gaining entrance. Our conversations with the inmates, residents, or whatever you call the people who lock up the prisoners these days, indicated to us that a number of the inmates, residents at the prison, viewed the Holmesburg tragedy that Mayor Rizzo and his cronies who run the prison system were trying to provoke an incident that would allow him to have his own retribution or his own punishment on

beings, you see, and therefore we can treat them in ways that are nonhumane. When you view someone as something less than human -- and that's what the Mayor said, he said, most of those people should be under Holmesburg rather than in Holmesburg.

Q What you are saying is that the Mayor's actions were not special to the incident; just general?

A Not at all. I think they reflect the attitude of the city administration --

Q Do you think the action was taken as an attempt to provoke the prison to act violently?

A It's hard for me to judge that; I can't go that far. All I can say is that it certainly reflects an attitude that has prevailed not only in Philadelphia, but, of course, in the country, with respect to prisoners and prisons. You are dealing with the situation where as long as you can categorize somebody as less than human and continue to do that, then you can be justified in treating them as less than human beings. And until that attitude changes, not only are the conditions going to remain the same, but the problems are going to be exacerbated on the outside, because every one of those men, eventually, is going to come back into the streets of Philadelphia.

Q Thank you very much.

REPRESENTATIVE HAMMOCK: I'd like to ask a question concerning the matters raised.

BY REPRESENTATIVE HAMMOCK:

Q First of all, I don't know whether you are familiar with the Attica situation in a comparative analysis with the Holmesburg situation. It seems that people agree on this, that Attica, as the result of the situation there, there has been a lessening of tension; there has been more constructive programming; there has been a change of shift in attitude, with respect to officials at the prison with respect to inmates of the prison; and that as a result of the tragedy at Attica, there is a better prison system there.

Now, that was done without changing the physical facility itself. It was done by changing the attitude of officials, and, hopefully, the inmates in the facility.

Have you seen the same kind of change in attitude, or the lack of change in attitude, as a result of the 1970 Holmesburg riot, and as a result of the recent tragedy of the death of the wardens at Holmesburg? Have you seen any change or have you seen a retrenchment of attitude, or the hardening of attitude?

A There certainly hasn't been any change in a

progressive way. All you have is the result of the 1970 incident, and the recent incident, a kind of public statements, initially, of public statements of how we have to change the conditions in the prisons, and to prove them, and, therefore, avoid this kind of incidents. But on a long-standing basis, there has been no change of policy; in fact, you might say that they have retrenched even further as a result of the recent killings there, where they have eliminated a whole range of programs which made life in prisons a little bit more humane than they were. I think the conditions at Holmesburg Prison today are much worse than they were six months ago, before the killings; there is much more tension there, much less to do for inmates. There wasn't much to do before, but whatever was there, a lot of that has been removed. There is much less contact with outside social groups.

Q Okay. That was our experience, too, when the Black Caucus visited the Holmesburg Prison recently; that there was a hardening of attitudes, especially as a result of the removal of some of the social programs, and some of the people who were conducting those programs.

What we are concerned about is why that attitude prevails in the Philadelphia County Prisons and does not prevail in the New York situation, and does not prevail in the

other situations that have occurred around the country. What is there about Philadelphia County Prisons that calls for a retrenchment, rather than moving towards constructive programming to alleviate the problems?

In your experience as an attorney, as one involved in the case, what is there in Philadelphia that causes this kind of action?

A My experience has been fairly narrow with these cases, and I have had contact with the city, with the defendants in this case. And all I can say is that, from the beginning, from 1970, when Mr. Specter was defending a case, the Brian case, and then in 1972, when the city was a defendant, there was absolutely no attitude of compromise, there was no attitude that anything was wrong; the complete attitude was that, we'll fight it out in court, and we'll appeal as far as we can go, and we're not going to change those conditions until the final end.

Now, where that attitude comes from, in the sense of the people who run the city, I cannot begin to comment. All I know is that it's there, and that they won't willingly change those conditions, because, I think, they probably think it's not a condition that hurts them politically. It's very nice for them to have a law and order attitude and say,

"Prisons do not matter; we're not going to lose any votes if Holmesburg stays as bad as it is." And it feeds on that public response, as someone commented about, that nobody really does care about prisons. So you have kind of a perpetuating system.

Q Mr. Rudovsky, I don't want to put you in an embarrassing situation. I think you've hit the kernel of the problem that Mr. Specter avoided when he was here, and I wish that he were here now, because I think the kernel of this problem is that the political wings in this town dictate a hard method in this issue, rather than a move towards solving the problem. And I think when we get beyond the political wings, be they Republican or Democrat, because I think the problem has existed in both state administrations, both Republican and Democratic. I think it has existed for some time. But I think, especially as we go through these periods where there is this whole hard line attitude, it's the political wings that keep the problem perpetuating rather than delineating it. And I just wanted to make that comment, because I think you have raised a very important issue. Hopefully, our panel can make those kinds of constructive suggestions and follow by the General Assembly.

Let me move to just one quick question: Why do

you think that the city especially, because we are dealing with the County Prison when we are talking about Holmesburg Prison, is trying to delay through the appeal process a quick resolution of the Holmesburg decision, the three-judge decision?

A I just think they'd rather not face the consequences of that decision. They don't want to admit that the prisons that they are running are being run illegally and unconstitutionally. And I think they feel that after three or four years of appeal, when the case again comes back to the trial court, they can delay it again through another round of hearings. It puts off, of course, getting any more money for the prisons, and it puts forth dealing in an honest way with the conditions underlying that opinion.

Q I'd like just to say --

A Let me just say they have a right to appeal. There's nothing wrong with their taking appeals, but I think you have to look behind that situation and the history of prisons in Philadelphia to understand that. It's been four years now since the courts initially declared that conditions were "cruel and unusual," and nothing has happened.

Q One other question: We know, and I am sure most attorneys who represent clients and inmates in Philadelphia

County prisons especially in Holmesburg, know that the inmates are versed in the law. Some of them, I might add, are well-versed in the law. They know about the recent decisions; they know what is happening about the appeal process.

Do you believe, as a result of your involvement in these situations, that the inmates know a decision has been made which deems Holmesburg to be unconstitutional? Do you believe that the inmates themselves feel neglected, that there is a miscarriage of justice in so far as they are concerned, and that their approach has to be, if society is going to abandon them, if they have no redress under the law and the law is going to abandon them, then their only course is some kind of physical retaliation, in order to demonstrate and highlight the plight of the prisoner?

A I think that's a part of it, in the attitude of some people in the county prison system, and it is certainly understandable in light of the fact that they are held to one standard of conduct; they are in prison, and a lot of them haven't been convicted, or anything. Yet the public officials have been told by the court that they are running an unconstitutional system, and they were held to an entirely other standard of conduct. And that hypocrisy can't fail to make its mark on the prisoners in that institution.

CHAIRMAN SCIRICA: Dave?

BY REPRESENTATIVE RICHARDSON:

Q Mr. Rudovsky, do you feel that the overall prison system, as things are set up, do you feel it is on purpose; that is, hard-line attitudes, or do you feel it is by accident? In other words, do you feel that it's a question that's perpetuated, or do you feel that it's a kinetic problem that's going on?

The reason I raise that question is because I honestly feel what you have been talking about this morning relates to those two questions, because if you recognize the attitudes at the prison are bad, then I will raise that question, so that we can keep some clarity, because if this system says that the court rules that the prison system was cruel -- cruel and harsh -- treatment, punishable treatment, why is it they haven't moved on it in four years? There is a clear -- you are saying that the city administration is saying, if that's true, then why don't they change it?

A I don't think it's by accident that it has not been changed.

Q It's not by accident?

A It's not by accident. The facts have been known too long; the people charged with the responsibilities of the

prisons have known the conditions for too long. I can't believe it's an accident that we have conditions like we have at Holmesburg Prison. And I think the reasons they don't change them are, as I have enumerated before; they range, you know, from political to kind of personal feelings about prison inmates and about prisoners as a whole. And I think until you change that attitude and maybe take control of the county prisons out of the control of the city administration -- this might help change that to some degree. But until that fundamental kind of attitude is changed, you are not going to change conditions at Holmesburg.

Q The overall attitude, you know, behavioral changed attitudes -- and we recognize that as being a fact -- we are talking about a whole change of behavior pattern, attitudes that go on in the prison; I mean, we can continue to say that the whole idea of the prisons needs to be changed, and especially the attitudes -- who is going to change the attitudes who is going to change them, do you know?

A I don't know.

Q You can't answer that question?

A No.

Q All right. We were at Holmesburg, as Representative Hammock said. We visited there. We talked

to several inmates, and Joe went into the whole bit, but their whole attitude was that it was directly caused by the Rizzo Administration to force and to precipitate a riot there was to their own interest, and I am going to ask you, do you feel that this is so, and if you feel that is so, why?

A It's very hard for me to judge. Let me say that I wouldn't be surprised if that was his policy, if that was his attitude. He certainly used incidents at Holmesburg to make further regressive policies with respect to the prisons. And whether he wants a deliberate confrontation in violence, I am not able to say. Maybe the prisoners have a better idea of what is going on, and I would leave that judgment to them, people who know Mr. Rizzo better. All I can say is that what's happened objectively, what he's done over the past couple of years, very clearly indicates his policy on prisons, and that policy is very clearly one of neglecting them altogether and getting by with as little money as possible.

Q Okay. You recognize that even if the hands change, does that mean then that the overall attitude and problems will change, or will the state's behavior be better than the city's behavior?

I am not suggesting, but I am saying that somebody should answer that question. If the state takes over, does

that mean they are better than the city administration here, or will they do the same thing; replacing people, and, you know, not really rehabilitate them? That's what I am really asking. What do you feel is the redefinition of what rehabilitation is? You heard that term very loosely used all morning.

A The first question, transferring responsibility to the state, I think is going to make some improvement. It might just be more marginal, and it's by degree, I can't begin to say or qualify that and say how much improvement there will be. There will be some, and with respect to that improvement, that are better. I mean, to respect the people, to treat them more humanely in that institution. That is an improvement that should be undertaken, there is no question about it.

First of all, people use the word rehabilitation without ever thinking of the definition, so I don't know how they are using it. It seems to me, though, that by experience the way they are using that word is by saying that someone is rehabilitated, or they'll accept rehabilitation when that person is willing to go back into society in some circumstances and accept the kind of social injustices that prevail. I talked about that unemployment figure.

Now, it seems to me that when you say to somebody -- you are saying it to many people coming out of Holmsburg

every day that what you are going back to is a situation where we are going to accept as a national policy 20 to 30 per cent unemployment rates for black teenagers and young black men. And we figure you are rehabilitated when you can begin to accept that and take the kind of jobs that we offer you, from dishwasher to bellboy, and so on. That's rehabilitation in terms of the way many persons use it. It doesn't mean equal opportunity; it doesn't mean equal education. And I think that's the fallacy of the whole rehabilitation myth; that we use it in terms of saying, in essence, to the kind of injustice that pervades society and not reacting against them. And it deals very little with rehabilitation as the term should be used, by providing somebody with equal opportunity when he gets out.

Q I would say this, as a final question -- I feel that we should charge the prison system in this society the number one genocide against black poor people. To be incarcerated in this institution, like this institution here in the city, and recognizing the fact that the food, rats, the roaches, and things, which were not only in the kitchen but were visible to some of us there, it would certainly be an indication that if this is so inhumane that the city and all others, even state people, recognize it, maybe we should go to

a higher level to try to deal with this problem here in this particular city, and try to resolve all of the problems that exist -- not just one. Where do you think we can go from here to try to really get on key in trying to resolve this particular problem?

A I don't know. I think that the State Legislature has some power with respect to this, with respect to the bail situation, and with respect to monitoring the conditions there

Q We want the legislative attitude --

A Beyond that -- you are right, you can't legislate so as to force a change tomorrow, but I think attitudes change at a higher level. Certainly, if attitudes are different on behalf of the warden, mayor, and so on, you may find some seeping down of those attitudes through the entire population. I am not entirely optimistic that this is going to happen. It's a long struggle. I am willing to participate in that struggle, but things are not going to change dramatically tomorrow, even if that court decision were implemented. But I think you must begin and try to stem the regression that seems to be going on in this city with respect to that.

REPRESENTATIVE LEDERER: We can change the laws so that those people who are in prison after trial for non-violent conduct are given some other recourse, instead of just

putting them behind walls. Couldn't we do that?

MR. RUDOVSKY: Certainly we could; certainly, we could do that.

CHAIRMAN SCIRICA: Mr. Checcio?

BY REPRESENTATIVE CHECCIO:

Q Mr. Rudovsky, I was indeed very much surprised -- I, too, am a lawyer -- to hear the sweeping and general statements of the law and the charges you have made here today. I've heard platitudes, but I think this one takes the cake, so to speak.

Now you talked about due process of law. Is it Hornbrook Law that a person, in order to have due process, be given notice, must be given a hearing, and he has a right to an appellate review.

Are you stating to us today that the inmates of Holmesburg Prison are not given due process of law?

A I never said --

Q They are not given notice of their infractions, and they are not afforded an opportunity of a hearing, and they are not given an appellate review?

A Are you talking with respect to criminal charges against them, or charges --

Q I am talking about charges and infractions while

they are inmates of the institution.

A Yes, sir, I am telling you that, and I rely on the findings of a three-judge panel, which found that there were constant violations of the due process rights. That's not my opinion; that was a finding by the court that was just recently affirmed by the Commonwealth Court of Pennsylvania.

Q A finding of the Commonwealth Court of Pennsylvania?

If I were to tell you that an inmate has agreed that he has a right to put that in writing and that would be forwarded to the warden of the prison, and that he would be given a hearing within thirty-six hours, would you say that is so or not so, or that you don't know?

A I don't know what happens when an inmate writes to a warden. All I know is that inmates write to me constantly about abuses in prisons.

Q We will develop that when the superintendent appears later today.

Now, the other matter which I want to develop with you, and which I don't like by innuendo, is this: You are an attorney and so am I, okay?

Now, we have certain judicial procedures to follow. We have certain rights which are protected by judicial procedures. So, if our rights dictate or mandate that we

have rights to appeal, okay. And it may take four hours or four years for this to become finally determined. That is certainly not a criticism against Holmesburg Prison. By innuendo, at least as I interpreted it, this is a criticism of Holmesburg Prison. This is not a problem of Holmesburg Prison. If it is a problem, it is a problem of our judiciary system, wouldn't you agree?

A When I said that the city had an absolute right to appeal, of course, I meant that they had a right to appeal to the Supreme Court of Pennsylvania, the Supreme Court of the United States. All I pointed out is that you must look beyond that, and look to the history of what's happened to the City of Philadelphia. It has now been four years since the court initially said it was cruel and unusual punishment, and as long as you are going to hide behind the appeal process and not change conditions -- all I am pointing out is that --

Q That's what I am objecting to.

A If you were a prisoner, what would you think?

Q We all know -- again it's Hornbrook Law, that until we have a final determination, you understand, there are allegations here which have to be proved and have to be finalized. And if our system of jurisprudence requires four years, that is certainly not a criticism of Holmesburg Prison.

A Mr. Checcio, may I just say one thing with respect to that?

You have had two cases on Holmesburg Prison; the first case was the Brian case, which was started in 1970, and in which the Supreme Court of Pennsylvania affirmed in 1971. That case is over. In that case the Supreme Court of Pennsylvania said the conditions at Holmesburg Prison amounted to "cruel and unusual punishment." No appeal was taken from that opinion, and nothing was done to implement the order of the court in that case.

Q All right.

A As a result, we filed an nexus suit. Again, you have a decision that's on appeal.

Q Now, that takes me to my second question. That is, you said the conditions at Holmesburg have deteriorated; is that so?

A I said, over the last six months, since the killing of the guards.

Q Supposing I were to tell you that in Holmesburg Prison now we have 400, more or less, inmates than we had before, do you agree to that, or don't you know?

A The latest statistics I saw about a week or ten days ago, there were between 1,000 or 1,100 inmates at

Holmesburg Prison, which is a reduction of 200 or 250 from the time we tried that case, which still constitutes overcrowding by --

Q There is no question --

A By 400 or 500.

Q There is no question that there is overcrowding; we admit that. There is no question about that. But there have been a reduction in numbers, has there not?

A I don't think a reduction of 200 prisoners at Holmesburg Prison constitutes improvement.

Q I didn't ask you -- you aren't answering my question.

A There has been a reduction.

Q There was a reduction?

A There has been a reduction, certainly.

Q Okay. Furthermore, are you aware of the fact that the City of Philadelphia, in the capital improvement budget, has allocated close to \$13 million for Holmesburg?

A No, I'm not. I know what they requested, as far as the budget is concerned.

Q I'll tell you for the record that it has been. It has been approved. Are you aware of the fact that as of now, while we are talking at this hearing, there are improvement:

being made at Holmesburg Prison?

A I'm sure improvements are being made at Holmesburg Prison. I was told that in 1970, when we first brought the suit; I was told that again in 1972, when we tried the next suit; I was told that in 1973, on appeal. And yet every time the case goes back to court, I find the same deficiencies that existed before.

Q You are not being responsive.

A I think I am being responsive.

Q My question is, as of now there are being improvements made. Mr. Rudovsky, we both know that the common denominator here is money. You need money to improve facilities. Now, just a moment. Do you know, for example, you mentioned that there was a deterioration in the roof condition, and the roof is now going to be remodeled and repaired?

A It's about time.

Q That's right. But they can't do it without money, isn't that so?

A I agree.

Q Are you also aware of the fact that at Holmesburg Prison they have an educational system?

A The latest that I know about that educational system was when we tried this case. And that educational

system provides a very, very small percentage of inmates with any opportunity for education while they are in Holmesburg Prison, or the Detention Center, or the House of Correction.

Q And the inmates had a right to go to the Community College if they so desire.

A Some do. I suggest you don't have quite 2,800, but about 2,600 inmates in the prison system now, and I would --

Q I am talking about Holmesburg.

A Well, Holmesburg Prison is not separate from the county prisons.

Q Where we have 1,000, more or less --

A And you have another 1,500 in the other two institutions.

Q I am talking about Holmesburg; this hearing is confined to Holmesburg.

A I thought it included all the county prisons?

REPRESENTATIVE HAMMOCK: Mr. Chairman --

REPRESENTATIVE CHECCHIO: I have my files here.

REPRESENTATIVE HAMMOCK: I hate to interrupt my colleague while he is interrogating, but I think he is --

REPRESENTATIVE CHECCHIO: That they do go to the community college.

REPRESENTATIVE HAMMOCK: How many go there?

REPRESENTATIVE CHECCHIO: I think 82 are presently going to the community college.

MR. RUDOVSKY: That's 82 out of a total of 2,500?

REPRESENTATIVE CHECCHIO: No, out of a total of 1,000, I respectfully submit; 1,071 as of yesterday.

All right? And many of them get their high school diplomas there, are you aware of that?

MR. RUDOVSKY: I wouldn't say many; I would say, very few.

BY REPRESENTATIVE CHECCHIO:

Q But there are 71, would you admit to that?

A I would take your word that there are 71 going there.

Q All right.

Are you also aware that at the present time the Holmesburg Prison is undergoing the erection and construction of a building adjacent to the prison to afford the inmates an opportunity to acquire knowledge and skill with respect to mechanics; automotive mechanics, electronic mechanics, and that is unique throughout the country?

A The only information I have with respect to that is that Mr. Davis, I think, was testifying, and he talked to me about that this morning; that this program would be limited,

number one, to sentenced inmates, so you can ignore the problems of detentioners; and, number two, that the number of inmates that would be able to participate in that program would be extremely marginal. That's all I know about that.

Q Mr. Rudovsky, in sentencing inmates, it would not be a practical situation to send people who are not going to be detained there, isn't that so; I mean, you are an experienced lawyer --

REPRESENTATIVE HAMMOCK: Mr. Chairman, I am going to object to my colleague's badgering the witness. He has answered, and I don't think these accusations and innuendos are necessary.

REPRESENTATIVE CHECCHIO: Mr. Chairman, this man represents himself as an expert, and I am entitled to interrogate him in this area.

REPRESENTATIVE HAMMOCK: Certainly, you are entitled to interrogate him as to his opinion, but you don't have to insult the man on his professional opinions.

REPRESENTATIVE WILLIAMS: I would like to say, we should have equipped ourselves for this auspicious audience and I am friendly towards our committee member, and we should pursue this matter to the fullest possible extent. Sometimes that is difficult, but I prevail upon the Chairman to let

Mr. Checchio have the greatest possible scope.

CHAIRMAN SCIRICA: Thank you. We have a lot of witnesses today. We have two witnesses we'd like to hear before lunch, and we've got witnesses this afternoon. It seems obvious that we are going to have to put a time limit on questioning from now on, or we are not going to hear everybody. There is only one purpose for this hearing, and that's for the education of the members of the Committee, and to provide information for us. We hope that everybody will ask the questions with that in mind; that there will be no personalities nor personal matters brought in, because if there are any more indications of this from anybody, I'm going to stop the line of questioning from now on.

I think Mr. Checchio can go ahead.

REPRESENTATIVE CHECCHIO: Mr. Chairman, I'm an experienced enough lawyer to know what I am doing. The purpose of my asking these questions is in answer to this witness' statement that nothing was done despite the opinion of Judge Spaeth, and I think there is definite relevancy here, because all I want to point out is what was done, sir.

CHAIRMAN SCIRICA: I think it's a legitimate question.

BY REPRESENTATIVE CHECCHIO:

Q Now, you said also that the city officials were running an unconstitutional prison. On what do you base that, sir?

A I based it on the decision of the Supreme Court of Pennsylvania in Bryant v. Hendricks, No. 443 Pa. (1971); that they said, on the opinion of the three-judge panel of 1972, which you have before you, and I based it upon the opinion that came down as recently as one month ago by the Commonwealth Court; that they found the conditions in the Pennsylvania Prisons to be "cruel and unusual punishment," in violation of the Eighth Amendment to the Constitution.

Q In what respects did they find the conditions to be "cruel and unusual?"

A Virtually with respect to every condition in the prison, ranging from the lack of medical facilities to overcrowding, to the lack of due process and disciplinary hearings, to a shortage of adequate trained correctional facilities, officers, social workers, to rats and rodents, to an inadequate diet, and I can continue.

Q Did they say, in every respect --

A They said that with respect to every area that I've mentioned, that the conditions were inadequate, and that, taken as a whole, the conditions amounted to "cruel and

unusual punishment."

Q Now, you also know, Mr. Rudovsky, that at the present time --

A It's Rudovsky.

Q Thank you. How do you spell it, R-u-d-o-v-s-k-y?

A That's right.

Q I have a "v." Thank you.

Do you also know that at the present time there are renovations being made to correct the circulation of air in the cell rooms? As I understand it, when I was there yesterday, they had an air light in each cell room. These cell lights are going to be removed, and there is going to be a plastic covering to those rooms and a pane in each room, are you aware of that?

A Are you talking about the cells at Holmesburg Prison?

Q Yes.

A Well, I knew there was a renovation of the roof, but I didn't know the details as to how the renovation was going to take place.

Q Well, I submit that they are being done. So you see, Mr. Rudovsky, that it is not so that nothing was done, despite the opinion; that as soon as Holmesburg Prison has

received the necessary capital, then improvements are to be made.

One last question, and that is: I don't know whether you made the statement or one of my colleagues did; that is, of the removal of social programs. Yes, there were curtailments of social programs right after the incident of May 31st, but as of yesterday when I spoke to the Warden, these programs have all been reinstated; are you aware of that?

A No, I am not; in fact, I know of some programs that have not been reinstated at Holmesburg Prison.

Q Could you give us some specifics?

A I believe that the RELATE Program --

Q What program?

A RELATE Program. As of my last connection with the people involved in that, it has not been reinstated. It was reinstated for a short period of time, maybe so, but as far as three weeks or a month ago, it had not been reinstated. There may be others.

Q When was the last time you made an evaluation of this prison, so that we can determine how contemporary your testimony is?

A My personal evaluation -- I don't have access to the prison. I can go up and speak to clients, and I am kept in

a small area. Obviously, that limits my observation in view of the prison. My last observation in terms of a total review was certainly during the trial of this case.

Q And how long ago was that?

A That trial was at the end of 1971, the early part of 1972. However, despite the fact that I haven't had personal observation, I have had the opportunity to speak to numerous inmates of Holmesburg Prison then and now. Also, other people have been at Holmesburg Prison. It is my opinion that things have not changed very much from the time the hearings were first held.

Q But, as far as your personal observations are concerned, you have not made a personal evaluation since the end of 1971?

A The prison would not let me come in for a personal evaluation.

Q I didn't ask you whether the prison allowed you to do so; I just asked you, if, as far as you personally are concerned, you made an evaluation.

A The answer is "yes."

Q Thank you. That's all.

CHAIRMAN SCIRICA: Mr. Williams.

REPRESENTATIVE WILLIAMS: Since my fellow legislators

have taken up most of the time, I'll try to be brief, just to respond to Hornbrook, of Representative Checcio's dilemma, on the question of whether there are due process problems at the prison. When we did go there, I believe Representative Checcio was at the prison, and we received complaints that due process works something like this: If the guard says you are doing something, he is the one who decides that you are the one who did it at the hearing. Indeed, while we were there, we came upon a gentleman in a maximum security cell, whom we talked to, and whom we were told was arbitrarily put there. He came out of there. I mean, he was put there arbitrarily, without any due process whatsoever. As a matter of fact, we saw that.

We received many complaints about procedures. I think what you're saying is not only supported by the court, but by on the spot investigation. I think Representative Checcio didn't observe this, an observation proven on the spot.

Did I hear you say what is normal rehabilitation? I would assume to prepare a person mentally, educationally and motivationally to pursue constructive behavior in terms of doing something constructive when he gets out -- I assume that is the general, normal concept of rehabilitation. Do I hear that is done sufficiently well; it's not working; or are you saying, that's not being done, either?

MR. RUDOVSKY: I don't think that is being done, either, despite the problems that exist on the outside, assuming you have rehabilitation. There is certainly no evidence of an overall rehabilitation program in the county prisons of Philadelphia.

BY REPRESENTATIVE WILLIAMS:

Q So, it's your opinion that we do not have adequate rehabilitation programs in the first place?

A Most people sit in Holmesburg Prison 24 --

Q Is that correct?

A Yes, it is.

Q I assume your coming one step further when you say, even if we did have a good sound rehabilitation system, it still has no influence on the protection or reduction of danger to society, on the positive growth of that individual; is that what you are saying?

A No influence. What I am suggesting is that it doesn't have the influence that people think it has.

Q All right. I hear you say that social ills and problems and inequities exist. The person still has to fight even though he has adequate rehabilitation. Would you agree that if you had adequate programming, the normal motivation that rehabilitation would give you, he could acquit himself

better, even in that unfair society, then he would if he didn't have supportive experience?

A Sure.

Q And that supportive experience -- rehabilitation is not there; is that right? I just want to get that clear because I don't know whether you are saying that we cannot solve or influence the solving of the problem. You indicated that attitude in terms of running institutions is negative. That's an essential thing in terms of the operation of places we call prisons; is that correct?

A Yes.

Q And I assume you are saying that's a major factor?

A Yes, it is.

Q I get from what you say that if the administration, the policy, and therefore the attitude and behavior of those who run the prison system is constructive there would be some substantial results in our objectives, which are to rehabilitate people, to lessen the dangers to society when folks get out, and I suppose also those humane societies, those objectives and that change of attitude will influence that kind of result?

A Yes.

Q Is there anything that points to that influence

or attitude to be what it is, or to change; is there anything--

A I don't quite understand.

Q Okay. What makes the attitude what it is, assuming it is negative, and therefore nonproductive in the total society, what makes the attitude pursue a negative course?

A I think that attitude, as far as the public officials in charge of the responsibility of running the prison are concerned, those attitudes are shaped by who those people are and what their social and political attitudes are at a current time. As indicated, I find with respect to the people who are in charge of running the prisons in Philadelphia, I consider those attitudes negative in a general sense. And I could only say that where those attitudes were different, as has been pointed out, some prisons are demonstrably better; Bucks County's, for instance.

Q Don't you think that if those attitudes create negative results, society would say, "What results," and therefore change their attitudes; wouldn't that be normal?

A I would hope so.

Q But that doesn't appear to happen. Society does not appear to perceive the negative policies and negative attitudes, that they pursue the same danger that society does

not want. You agree that society generally doesn't perceive that?

A Yes.

Q And why do you think society doesn't appear to perceive the way we do it now, further endangering society?

A It's hard for me to answer that question. I think, to some extent, the facts are somewhat camouflaged. There's a credible amount of rhetoric from both sides in terms of prisons, in terms of law and order, in terms of the protection of society. And it's very easy to accept what I would call the hard-line and say that you don't give them any rights, and you keep them in prison as long as possible, because that insures and enhances the safety of the people in the community.

Q Going on fear and retribution is an immediate factor to the general public. Is there any way to break through that, so the public can understand that those who run things are very directly responsible to solving the problem?

A I think there are ways. I'm limited in suggesting them. We tried one course in the suit, hoping that the results would not only be legal, but educational in the sense of showing people on a long-term basis exactly what those conditions lead to. It's not the most effective tool of education or for changing attitudes, and I don't think I am

qualified to say how those attitudes can be changed.

Q Since you are here and have some general overall perspective and are not connected with official governmental responsibility, I want to take advantage of your respective viewpoint, because it seems to me that what you say is true, but how do we get that information to the public, that economically, in terms of crime and protection, the way we do it costs a lot of money, and we are guaranteed to fail.

Now, you said you didn't know what suggestions you would make in informing that public?

A . Except to show that our experience in the last fifty years in corrections, everyone agrees it has been a complete failure, and that system of corrections has been based on the philosophy that if you use imprisonment and have long terms of imprisonment, somehow, people are going to be deterred from committing crimes, and they will be rehabilitated. That has been a failure, and people have to realize it.

Q The way we are getting the information to the public, would you think that a public information or consumer advocate, an arm which is built into the government, but free enough to say to the public, "This is the result that we have found," and that kind of level of information going out to the media and everyone else so that the public is not put under the

restraints of politicians where there would be law and order serving liberalism, or what-not; just the straight hard dope on how we are going to solve this problem of crime in this system. Do you think something on that order might be a start so that at least the public can make a judgment on this institution that it fears so much?

A That would certainly be helpful.

Q Okay. You mentioned that deterrence, punishment and prison, and so forth, theoretically there has been a deterrence in the rehabilitation and all those formulas. Do you have information that would substantiate the effectiveness of prisons, the way it has deterrence, or if it has any influence one way or another?

A I think that's the problem. There is no information on that. There might be a deterrent effect. People might be deterred from committing crimes because of the possibility of going to prison, but we have nothing certainly to substantiate that theory in proportion to the extent that we rely on that theory. We just assume that deterrence works, and yet if you look at the prisons and the crime rate, that's not the answer.

Q Inside the prisons, do you have an opinion as to what the relationship is with how we operate the prisons and the acting out of a further crime, or the non-acting out of a

crime; in other words, is there any way to determine the way we do it now, which actually influences more crime? Do you have an opinion on that?

A I have an opinion, but I don't know exactly what it is based on. It's really observation; not hard facts. I think it is logical to assume that, to the extent that you treat people inhumanely in institutions like Holmesburg Prison, it's very hard to believe that when they get out there is not going to be some kind of reaction to that kind of treatment by society. Society is treating them that way, they know that, they know the conditions there. I am not using that as an excuse for crimes they commit, but I think it's logical to assume that coming out of an institution like that, a certain percentage is not going to commit further crimes.

Q The educational system at Holmesburg, is that adequate?

A No, sir.

Q If there were an adequate educational system there, do you think one going through that would be more apt to be positively influenced?

A Yes.

Q A few final questions:

You indicated that bail basically should be free,

I suppose you said?

A I don't mean to indicate it should be free. What I said is that the present system, based as it is totally on a man's resources, financial resources, works tremendous inequities.

Q Let's say that everybody is equal and has equal access; that you get out until your trial comes up -- given as to the morale factor on a community to believe a crime was being committed by somebody, or whatever, and a guy is out on the street right away, maybe he is charged with a crime in the meantime, how do you balance the resolving justice kind of thought with a bail system that's prompt and equal, even if it were prompt and equal?

A One where you have speedy trials, so that someone isn't awaiting trial for six months, a year or a year and a half.

Q How do you keep it from happening?

A You do by the way the Supreme Court is assigned to do it, by saying, "Presently, if the case doesn't come to trial in nine months, it has to be dismissed. And as of July of 1974, if it's not tried in six months, it has to be dismissed." And I agree there is a real problem with respect to violent crimes, with the public attitude of somebody accused of a violent crime

getting out on bail. The only point I am making is that a lot of those people do get out on bail, and the only reason they do -- bail is set in every case --

Q I understand that.

A And everybody can get out if they had the money.

Q I understand that we must have an equal system.

That's not the problem. My question is, if you do have bail -- what do you do with the many cases of real danger where a person may do it again, and those in immediate locales feel they are subjected to that, you know, they're, too, on trial, on trial whether guilty or not guilty, rules where cases have to be tried in one form. Is there any kind of selective approach to certain basic problems within the community, whether it's a crime or gang warfare, is there any way to categorize certain areas where people do have community feelings -- is there anything preliminary at the arrest stage where you can begin to separate the wheat from the chaff?

A I think you can.

Q It seems to me there should be some organization as to what goes in and what does not go in.

A One thing you can do is take what the District Attorney denominates as major crimes; rape, serious robberies, homicides, and put them into a special program in which they

are in a way, and try to make sure that those are tried first. Cases of the possession of drugs, and drugs, and minor assault and battery, I mean; I don't think there is any great danger with those cases awaiting trial a little longer. But in terms of serious crimes, the public has an interest, the defendant has an interest, in a fast adjudication -- those are the cases you push and those are the cases to give priority.

Now, I will say that the District Attorney is making an attempt in that way by some of the diversionary programs, the District Attorneys in the districts not recommending prosecution, pre-trial probation programs, and so forth.

Q Is that based on charges put down by policemen when evaluation is done, and what is probably more of a charge -- some cases get into major trials, some cases get into domestic trials, more major than those who get the major. I suppose you agree to some assisting in the early stages?

A Sure.

Q My last question: Are you aware of any economic belief that has ever been done, and the question of what the public gets, what it pays into the prison or penal system? What I mean by that is, are you aware of any analysis of what is done that indicates that we spend a lot of money to guarantee that we will spend more money and increase further danger in

the very area we are talking about, where, if you don't have crimes, some people don't have jobs?

A Not an economic belief. I think the most recent thing which I have seen, which is very helpful, is Jessica Mitford's new book "Cruel and Unusual Punishment." It's a study of California Prisons and some other prisons, where she documents the question of economics in prisons, and it would be very useful.

Q Is that in New Jersey?

A No. I don't know where she is from.

UNIDENTIFIED VOICE: Oakland, California.

MR. RUDOVSKY: Yes. Jessica Mitford just published book which I think would be very helpful.

CHAIRMAN SCIRICA: Mr. Rudovsky, thank you very much.

MR. RUDOVSKY: Thank you.

(Witness excused.)

CHAIRMAN SCIRICA: Our next witness is Mr. Keve.

We would like to hear from Mr. Keve, and we would like to recess at 1:30. Mr. Keve's statement will probably take up to that time.

PAUL KEVE, called as a witness,
testified as follows:

CHAIRMAN SCIRICA: Thank you for coming, Mr. Keve.

MR. KEVE: Thank you.

Unlike Mr. Specter whose credentials are fairly well known to this Committee, I think it might be useful for me to tell you something of myself for half a minute so that you know the kind of experience I am speaking from.

I am a corrections careerist with some thirty years experience in the District of Columbia and the States of Virginia and Minnesota. I was Commissioner of Corrections for the State of Minnesota until I went into my present capacity of corrections consultant, generally, working around the country in many correctional programs.

The only claim as to the appropriateness of my being here today in Pennsylvania is that I have been in a number of Pennsylvania institutions at various times, and I am acquainted to some degree with the administration of corrections

in Pennsylvania.

I have done some lecturing and teaching here. Last year I did a study of Bucks County prisons. During this last month, I have been engaged full-time in the study of the Delaware County prison. I have been at Holmesburg and the other Philadelphia prisons on several occasions, the last of which was yesterday.

That is the extent of my competence and also my limitations, I am sure.

I would like to emphasize briefly for you two thrusts that I think are important for you to consider:

One, like Mr. Specter, I would argue that the state definitely should take over the county institutions and the other thrust would be that there must be far greater effort in the first place to keep people out of these institutions. Your money will be ten times better spent in trying to keep people out of institutions than to build newer, better institutions, or even nicer rehabilitation programs in the institutions.

If you want to rehabilitate the offenders, the place to do it is on the street where they have to learn to live, once they get that rehabilitation. You can't do it so easily in an institution. A person to make it on the streets has to be able to exercise responsibility.

By and large, the reason we have people in the institutions is that they have been defective in their ability to exercise responsibility. And so, rehabilitation is in effect a means or a matter of training a person to want to use and how to use responsibility in the conduct of his life.

Now, the way you learn to ride a bicycle is by riding a bicycle. By the same token, the way you learn to be responsible is by exercising responsibility. The prison, whether it's nicely run or not, with excellent budgets or not, with fine programs or not, defeats the whole business of exercising and learning how to use responsibility that you have got to have in a competitive world outside.

It goes absolutely counter to it, and this isn't because public officials or wardens are not interested or callous; this is simple inherent in the structure and management of a prison. It just about can't be otherwise. So the alternative has got to be to get the people out.

Now, you can do a great deal more than you have been doing, not just in Pennsylvania, but in every other place in the country, in this respect. You have a tremendous number of people in this area who are in prison not because that is necessary in order to protect society from them but, basically, because of procedural problems which have not been solved.

You have so many people in prison awaiting bail and who eventually get bailed. In my study in the Delaware County prison recently, I found a great many people released from the prison after one day put on bail, a great many more released in a week's time, quite a few released after three or four months, after all the procedures are accomplished.

Now, a person who is in jail only a day, a week or only for three months, obviously doesn't have to be there for the sake of society's protection. It isn't something that's going to happen in a few days to make him suddenly less dangerous; he is there only for procedural reasons.

Now, a good start has been made in attacking this problem in this whole area. You are beginning to develop bail bond procedures, and that's good. To give you an arbitrary over simplified but easily handled mathematical illustration of this, let's say Delaware or Bucks County, or any one of these surrounding counties has developed its bail bond procedure and they can claim that this month they are going to get a hundred people out of their local jail on bail.

This sounds like a nice statistic, and I am very glad to see it, as far as it goes, and that's a good start. Then you have to ask yourselves the question -- statistics seldom show this -- how long did it take you to get him out on

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bail? This is terribly important.

Suppose, for instance, you got those hundred people out after an average of ten days each. Then let's go on and suppose that they can step up and streamline the procedures and get them out faster - instead of an average five days each. Look at the mathematics of that. That five day speed-up is representative of 500 man days in jail; it represents 1,500 meals less that the taxpayers of that county will have to finance.

More importantly, it means 500 man days out on the street where they've got a chance, at least, to get a job and support themselves instead of boarding in idleness at the taxpayers' expense.

Well, that's a very simple illustration, but it's a very, very real one. The size of the figure is not properly represented by my illustration of a hundred people, or 500 man days. The fact of the matter is that it runs into the thousands in the Philadelphia prisons, particularly.

If I were a legislator, I would contrive or push in some way - the details of which I could not describe to you, not being a thoroughly Pennsylvania indoctrinated person -- I would push very hard to get a rather massive study done of the procedures which result in people being in jail as distinguished

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from crimes or concerns of social protection, because far more people in your Philadelphia prisons are there for procedural reasons, as I would describe them, rather than a basic need to lock them up in order to protect society from them.

You need a study that will ask questions such as, why are many people staying in prison awaiting procedural things longer than the sentence that they might get if they finally came to court? So that a person is liable to something like a six-month jail sentence, spend six months waiting for this to happen and then possibly even getting acquitted - think of the tremendous drain in taxpayers' dollars, in staff time and in population pressures, and all the things we could save if we could learn to streamline these procedures. It can be done. The techniques are available for it, if the political problems which are most difficult can be conquered.

Now, rather than talk about new institutions or additions to institutions, or sometimes even improvements to institutions, if we would put our money into the business of helping people make it when we release them, it would go so much farther.

These days it costs anywhere from \$40,000 to \$50,000 per bid to build a new prison - then it costs a tremendous amount to operate it. For one man to spend the

year in prison, of which the handiest comparison I know now is, it's about the equivalent cost of sending him to Harvard for a year. That's an awful lot of money for the taxpayers to put into subsidizing complete idleness for a year which is, for many people, stagnation for a year with no really useful effect to be gained from it.

Some programs are being developed, some of which I have personally had very happy experience with, for insuring the fact that a person can stay out of prison. For the cost of building a prison and holding detentioners, you could put somebody full-time with that person in the community sticking right him, to help him in every possible way to make it on the outside.

These are people who have got lots of problems. They have difficulties in knowing how to compete and how to adjust on the outside, and these difficulties keep working them deeper into the system.

Your bail bond procedure, the whole idea of cash bail, I should say rather, helps to dig them further into the system. And at the present time the bail-bond programs, I think, unfortunately, what is happening is that you are accepting the rightness of an ancient and obsolete concept and simply trying to tinker with it and maybe speed it up

a little faster when what needs to be done is to throw it out.

Holding a person in jail until he can find enough dollars to put up ten per cent of the bail that has been set for him does not make him a less dangerous person when he gets out. It seemly means that your taxpayers have to put up more money to support him in the meantime. When he gets out, he has lost his job, he has had to spend some money for bail, he is further dug into the whole problem. The flow of money ought to be the other way.

Let me give you a quick illustration which is in the juvenile field, which has been alluded to here earlier this morning. I personally was involved in the development of a program in St. Louis, Missouri, where it was important to start getting kids out of detention. These were kids from the ghetto areas largely, about 75 per cent of them were black, who were being held pending court disposition because it was presumed that otherwise they might either run away or commit new offenses.

At the time we started the program, the detention home was being filled to about 150 per cent of its capacity all the time, with kids sleeping on the floors at night. They had started construction of a large, new addition to take care of the overflow.

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We instituted our program and by a year and a half later, when the new building was finished, there were no kids to go into it. The detention population was down to less than the capacity of the old building. They are still not sure what to do with this new "white elephant" they have just built at considerable expense.

Now, the kids who are not in that building and have not been in that building for the last two years, have a better rate of showing up in court and of staying out of trouble than the kids who were detained during the same period of time.

In the first ten months that we operated that program, we took 308 kids that were considered dangerous and put them back in the street, back in school, back in their homes. While they were out there, we had quite a number of serious felonious assaults committed in detention and about fifteen escapes from detention. But for those who were put back in the street, we had not a single absconding. Everyone showed up for court. We have twelve new offenses out of the 308 kids, less or fewer offenses than there were inside the detention, and they were all less serious - glue sniffing; one youngster broke a window in his own home, things at this level; no crimes against the person, not a single one in

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the 308 kids.

Now, we have been approaching the whole business of supervising the people in the community, say, on probation or parole, with the idea of caseloads of 40 or 50 are rather good. They are not good enough anymore. In this program what we did was to hire unemployed young men without regard to education, who came from the same ghettos that the kids came from. We hired them on a full-time basis and put them to work supervising the boys and girls on the street at a ratio of one worker to five kids and adamantly held to the size of the caseload.

We gave them no desks, no offices, no paperwork. We said to them, you don't even have working hours. We don't care when you work or how much you work, but you've got five kids. Do whatever is necessary to keep those five kids out of trouble today, and tomorrow do what is necessary to keep them out of trouble tomorrow. You can love them, you can scold them, you can tutor them, you can practically move in with their families and help the whole family to do whatever it takes to keep them out of trouble. And it works.

Now, this is very expensive in terms of conventional probation or parole with caseloads of 50 to 100 and sometimes more than that. But it's dirt cheap compared with putting

them in a building. That was less than one-third of the cost per child per day of detaining these kids.

I can give you other illustrations of the same things with direct savings to the state government and to local government in the form of buildings not built, and so on, as well as the improvement of the quality of human life which is very difficult to measure.

One other point I want to make on that. You ought to take a hard look at the conventional, traditional approach to parole. A great many of the people in your county institutions are there on a technicality of the simple fact that when they were picked up on some new offense, they were on parole.

Parole officials, not just Pennsylvania but everywhere tend to have a reflex action. If a man beats up his wife on Sunday night and Monday morning she wants him out of jail, and he gets out of jail, if he is on parole, they say no, lodge a detainer against him and put him back in there.

At the Philadelphia prisons there are eighty-some people at the present moment who are there simply as parole violators. Now, I would suspect that most of them, if they did not have the parole status, would be quiteailable, and should be out. I simply say to you that the modern approach, the increasingly recognized approach, is that a person on parole

should, as far as possible, be treated like other people. If he is bailable, bail him. If, eventually, he is convicted of a new offense, that takes care of it, he goes back to prison. If he is not convicted, he should have his parole revoked and he should not, in the meantime, be held in prison just and only because he is a parolee. Yet you are boarding a great many people in this Commonwealth just for that reason.

Just one further point I will make -- there's so much I could say about the reasons for putting these institutions under state management. I would reinforce many of the things that were said earlier today, but would add one more thing.

In Delaware County Prison a new guard starts work and most of the time what happens is, he is given a badge and a whistle and shown where to go and be on duty, and that's it, essentially no training.

Now, this will vary considerably from one county prison to another. The Philadelphia prisons are working very hard to improve this and, for the most part, a man gets four weeks of training. I have personally visited many other correctional situations in this country and abroad where even four weeks would be considered much too little. And I consider it too little. For a guard to come in, brand new, never having

been in a locked facility before, and the first day on the job be on a post on his own responsibility is about like allowing the Highway Department to maintain open fires right next to a gas tank, or something. This is something that is just absolutely dangerous.

In the period of time that I have been working with the Delaware County Prison, which is only about four weeks now, there have been eleven escapes, and for the most part I think these can be traced to abysmally poor training or really absence of training on the part of the staff, and I am pretty sure that the warden there would agree with me.

In the four-counties right around Philadelphia, you have a total population of just about equivalent to Philadelphia. Altogether, I guess you have about four million people in this metropolitan area. The need for training of staff for those various prisons is immense. It simply is not feasible for one county, wherever it is in the state, by itself to set up an adequate and sophisticated training program for its guards who have a great deal to do, incidentally, with the quality of life in prison, whether it hurts people or helps people.

It can be accomplished only on a regional or state-wide basis. A county prison, maybe, will hire one new guard

every two or three weeks if their turnover is real bad; if it is better, it may be one every couple months. This is not enough to afford this sophisticated training program. You accomplish it only on a statewide basis, where the state really goes into the business adequately.

I would urge that you consider this as an extremely important concern for you. There is much more that's extremely important, one of which, I guess, is the matter of getting to lunch. But if you have questions, I will be glad to respond.

CHAIRMAN SCIRICA: Mr. Keve, we appreciate your coming here and being a witness.

REPRESENTATIVE WILLIAMS: What is your first name?

MR. KEVE: Paul.

REPRESENTATIVE WILLIAMS: And how do you spell your last name?

MR. KEVE: K-e-v-e.

CHAIRMAN SCIRICA: You have been such an excellent witness that I hate to let you go without any questions at all.

MR. KEVE: If you would like, I could come back after lunch or stay, either one, suit yourself.

CHAIRMAN SCIRICA: Mr. Williams has one short question, and perhaps if you will not mind coming back, we can get started before 2:30 and we can ask you a few questions at

that time.

REPRESENTATIVE WILLIAMS: Thank you, Mr. Chairman.

BY REPRESENTATIVE WILLIAMS:

Q Mr. Keve, two things that interested me in your testimony are the program that you have talked about to hire people to deal with the youth, without any training, was effective, is that right?

A Very.

Q That seems to indicate to me what I have been saying all along in terms of many of our problems in crime and crime prevention, rehabilitation, whatever you want to call it, that we are not calling upon some of the most effective experts, or just people who know how to deal with people. Would you agree with me on that?

A I agree with it very strongly.

Q And would you also agree that a conscious and serious search by governments for the utilization of that kind of people would help reduce that frustrating load we seem to have?

A Yes, Mr. Williams, and I think you should add to it this thought: Organizations like Alcoholics Anonymous and Synanon, in the drug addition field, long ago discovered the therapy and effectiveness there is in using the helped person

to help other people. As soon as a drunk gets into Alcoholics Anonymous and gets rather well dried out, they turn him around and get him back on the street to find someone else who is in a similar predicament and help him. It is only in that way that he has a sense of mission and importance and self value that will help him stay dry and, also, because of his own experience, he is more helpful to the other inebriates that he works with.

The same thing is true in a Synanon Program. They are using ex-addicts who have gotten cured and have gotten control of themselves to help other addicts.

We have been very slow to use the same approach though it is equally valid in the field of criminal justice. The petty crook who finally gets hold of himself and stops being a crook can be a tremendous help in programs to work with others, and there are lots of them. We can use these paraprofessionals and indigenous workers far more than we have in the past.

It is a more economic thing to do; it's a more effective thing to do, and they are available, whereas the trained professionals are not available in the numbers we need.

Q You put that very well. Your comments in juxtaposition of vested interested of the so-called professional

establishments stand in the way of our use of that, by way of comment.

One other thing, very briefly, you have indicated that these guard situations, that guard training is far below what it ought to be in across-the-board cases. Would you say that guards or the grass-roots agents, whatever the policy is or is not, there is a lack of training, a serious omission of how we approach whatever the qualities of life are?

A It is, Mr. Williams, because when criminal or prison inmates have been rehabilitated, I am convinced that has more often been because of some person who has had meaning to him in his life, rather than our so-called rehabilitative programs, training or anything else. Training under people who don't care is of no value. An institution, even without training, which has people in it who care and who relate to inmates in a very caring way, will have more rehabilitative value. Let's have both, if we can. But it's people who do it.

Q You say also that guards, since they are right there, could be those positive agents?

A Very much so.

Q I know cases where guards have been agents in changing individuals, guards who do their jobs and happen to care.

Do the studies that have been done on this show that, by and large, the people who mean the most to inmates, by categories of positions in the prison, will first be shop foremen and next will be guards, or members of the custodial force, notwithstanding the fact that some guards will be just the opposite, will be the most hated people?

What the indication is, where you have a good guard who likes people and will relate to them, he can be the most effective, and chaplains, caseworkers, people of this kind are at the bottom of the list. And I hate to say it, because that's the kind of person I am myself, by professional category, but it's so.

A We have to just try a little harder.

REPRESENTATIVE WILLIAMS: Thank you.

CHAIRMAN SCIRICA: We will recess for lunch now and will resume the hearing at about 2:20 and take a few questions for Mr. Keve at that time.

(Luncheon recess.)

AFTERNOON SESSION

CHAIRMAN SCIRICA: I think we would like to get started now.

PAUL KEVE, recalled as a witness.

CHAIRMAN SCIRICA: You testified this morning that you recommended that the state take over our county prisons. By that did you mean the take-over of the facilities that serve to sentence the defendants or detainees? And I wonder if you would just go into it a little more, as to why you think a state take-over would be beneficial?

MR. KEVE: Mr. Chairman, I am primarily thinking of services for sentenced defenders because in most states sentenced defenders are, to a far greater extent, in the state facilities than is true in Pennsylvania. In Pennsylvania the rather unusual situation exists of there being county prisons as distinguished from county jails, where a sizable number of even long-term prisoners are in them. And I would tend to think it would be wise, ordinarily, to argue that the state take over the facilities for sentenced prisoners.

Now, in doing this in Pennsylvania and, certainly, doing it in Philadelphia or the contiguous counties, it would

be legislatively difficult, and difficult in other ways, to take over facilities for sentenced prisoners without the traditional jail functions coming right along with this, because here the pattern is that two are so closely allied with each other and, really, in the same facility as each other.

So, I would say that at least where there are county prisons known and characterized in that way in Pennsylvania that the state should take them over. I would not consider myself competent to say whether this should include the take-over of facilities in rural counties that would be described as the more typical type of small county jails. I don't know what I would say about that unless I could look at it much more fairly.

But there are so many reasons, I think, why the state should get into it more. For instance, the differences in salaries is always a problem. Wherever you have correctional facilities near each other that have gross differences in salaries because of different administrations, you have constant problems. The institution with the lower salaries finds that it is simply training people for the other institution, and they have a high rate of turnover. Delaware County, for instance, starts its guards at around \$900 a year less

than the state guards would be getting just over in the next county, in Graterford, for example. The state at the present time does not pay quite as much as Philadelphia Prisons do. But there should be a standardization of this at the highest possible salary level, and a standardization of qualifications, a standardization of all of the qualities of prison operation that are so very important to a successful operation, including staff training, and so on.

Generally speaking, the city and county facilities will suffer more than the state facilities will because of the narrower base of support.

The question was asked earlier this morning, "Wouldn't it be possible for state administration to be as poor, lax, or whatever, as some of the county or city administrations?" The answer is, "Yes, it should be perfectly possible," but in the general run of experience, in this country, I think it would be found that it is less likely at the state level because it does have a broader base of support, and probably more stability of management, and is less influenced by matters of local political concern which get in the way.

I am greatly concerned, for instance about the effects of political patronage at the local level where I have been working in recent weeks. Without going into detail, I'll

tell you that it's a very substantial factor in defeating good personnel policies and in turn defeating any of the basic minimums of good management. There would be less of that at the state level, a great deal less, I am sure.

BY CHAIRMAN SCIRICA:

Q So, you seem to emphasize the need for qualified, and well-trained correctional officers, the custodial staff that have the most dealings with the inmates in any institution and, correct me if I am wrong, but I believe you said you can have good treatment programs and good chaplains, but unless the custodial staff which deals with these people on an hourly basis relates with them in a proper way, all of these programs do not have much effect.

A That is correct. That's a very strong feeling on my part.

Custody staff people are the ones who have constant daily contact. In some testimony to that fact -- when I was Commissioner of Corrections in Minnesota, I started a program which is continuing now. It takes a long time to develop it, because the training of custody staff toward the goal of actually doing away with treatment staff for the most part, so that eventually, in Minnesota, instead of having any case-workers in the institution, all of this will be done by custody

staff. The approach in working towards that is to establish an academy, which we did, for the training of all custody staff is tied in with one of the colleges, so that every hour spent in training gives college credits, and eventually, before a guard can be promoted to the lieutenant level, he will have to have at least two years of college. But our own academy there was to insure the possibility that he would reach that, by giving him help with the tuition and help with the time scheduling, and so on, so that he would continually be able to take this training with college credits and, eventually, among the promotional options for the ordinary guard would be the fact that he can move up into areas related more to counseling. Part of his time would be in the regular custodial duties, and part of his time more in various kinds of counseling duties.

The treatment staff might not entirely disappear, but to the extent that they would not disappear, they would still be there in the role of supervisory or consultant services in the treatment area, helping the custody staff in their training and giving them supervision in their counseling duties. But it would be the custody staff that would develop that capability and carry that responsibility.

Now, this means something that's more than just

the fact that you would be putting more treatment into the effort, because it's given by the custody staff who are around all of the time. It means that the job of guard in a modern prison is an extremely difficult one. In the typical prison--not talking about Holmesburg or any place, but prisons as we know them generally in this country--the guard is at the bottom of the military rank staff hierarchy. Orders tend to be developed at the top and passed down from one person to another, finally ending up with the guards, who are supposed to carry them out. He is out there where the rubber meets the road. He doesn't have anybody else he can pass the orders on to, and he has little or no opportunity for feedback up the line. He is the one who is getting the dirty looks from the prisoners; he is the one who is getting the indications of tension and hostility, the back-talk, and all of these things which are extremely worrisome, and indicators of a powder keg that he knows he is sitting on. But he has little or no opportunity to influence the decision-making process at the top.

There are a lot of reasons, psychological as well as organizational, which cause this. It's a thankless job. It's a worrisome job. And it tends to be a dead-end job. He can go just one or two notches up the ladder, to sergeant, and

perhaps if he is lucky some day, to lieutenant, but for most of them that's the end of it. Then he is stopped, and he, consequently, has a lot of motivation to protect the status quo and not rock the boat, and so on. Well, it's a desperately difficult job with very few satisfactions. There are not any of the satisfactions that the rest of us have who get opportunities to affect the processes around us. He can't affect them; he is affected by them.

Well, the day has got to come, if we are going to find our prisons operable at all, where we give the guard some opportunity to get into a job that has more satisfaction to it, or where he has broader opportunities, and he feels that he is influencing things, instead of just taking orders from people he might not like, and orders which he doesn't understand and which do not make sense to him. It's a very basic consideration on the problem of the prison.

CHAIRMAN SCIRICA: Thank you, Mr. Keve. We appreciate greatly your taking the time to appear before this Committee.

MR. KEVE: You are very welcome. I thank you.

(Witness excused.)

CHAIRMAN SCIRICA: Mr. Hillel Levinson, Director of

the City of Philadelphia is to be the next witness. I assume he is going to be here very shortly; I don't know why he is not here.

But we have three witnesses this afternoon, and I am afraid if we don't get started right now, we'll have a hard time finishing this afternoon.

The first witness for this afternoon will be Mr. Hillel S. Levinson, City Managing Director of Philadelphia.

HILLEL S. LEVINSON, called as a witness, testified as follows:

BY CHAIRMAN SCIRICA:

Q Mr. Levinson, this morning when we started out, I indicated that the state had two basic areas of inquiry concerning the county jail system. The first concerned compliance by each county with regulations promulgated by the Department of Justice, last February, under an Act which gave us the state jurisdiction over the county jail system. The second was more complex and, perhaps, more difficult to resolve, and that is, what role can the Commonwealth plan in resolving the problems of overcrowding, understaffing, antiquated and inadequate facilities such as we have at Holmesburg and other counties throughout the state?

It involved such issues as bail, speedy trials, the disposition of sentencing of inmates, and perhaps funds for new or renovated facilities.

So, with that in mind, I want to say that, on behalf of the Subcommittee of the Judiciary Committee of the House of Representatives, we are pleased to have you today testifying before us. We are pleased that you accepted our invitation.

A Thank you very much.

With your permission, I have a prepared statement that in some ways covers some of the questions that you initiated. I would like to just go forward with that and then address myself to some of the more specific questions at the conclusion of my prepared statement.

I am Hillel S. Levinson, Managing Director of the City of Philadelphia. One of my responsibilities is that of overseeing the administration of the Philadelphia Prisons which come under the Department of Public Welfare.

The early colonists of Pennsylvania introduced the concept of the penal system as we know it today. The Walnut Street Prison, first penitentiary in the world, pioneered the separation of serious criminals from petty offenders, debtors and detentioners awaiting trial.

In the United States today there are about 400 prisons housing over one-third of a million adults and over 50,000 juveniles on any given day at an annual cost of over a billion dollars.

More and more we have become aware that this prison system does not protect the people on the streets. It is wasteful and costly, and it is often cruel and inhuman.

Thankfully, the era of solitary confinement and bread-and-water feeding of inmates is over. Here in the City of Philadelphia, however, the problem of prison over-population looms ever larger as a critical roadblock in our efforts toward rehabilitation and training.

The Rizzo Administration is committed to improving the programs and the facilities at the Philadelphia Prisons.

For example:

A half-million dollar vocational training program for sentenced inmates at Holmesburg Prison is now underway, with courses in basic auto mechanics, welding, housing, and small engine repair. The program will train between 120 and 150 inmates in its first year, and construction of a new building to house some of these classes will be completed this year.

Furthermore, we have begun work on major physical

improvements at Holmesburg Prison costing more than \$2,000,000. This work includes new roofing and skylights, improvements to the ventilation system, a new boiler plant and electrical substation for heating, hot water and electrical power, a new dining hall and new bake shop facilities.

The Rizzo Administration has expedited these improvements to correct unfavorable conditions that have existed at Holmesburg for many years. Mayor Rizzo believes that while prisoners and detentioners are under the jurisdiction of the city they must be afforded proper and humane living conditions.

But the city is bearing a burden which it should not be carrying. Crime is a collective responsibility of all Pennsylvanians--not just Philadelphia. Welfare is administered for Philadelphia through the state. Education is administered for Philadelphia through the state. Why not the prisons?

Law Enforcement Assistance Administration money comes from the Federal Government through the state. The State Police and State Crime Commission make arrests in Philadelphia, although they refuse to take jurisdiction of the arrested individuals in a state institution.

Philadelphia has long been neglected by the state in the area of prison reform--not only neglected, but woefully shortchanged.

Prison reform has long been the whipping boy of politicians in Harrisburg, but the fact remains that no prison reform is possible unless the state assumes its rightful responsibility and takes over the operation of the entire system.

With the administration of all correctional institutions under the direction of the state, inmates could be placed uniformly on the basis of cell capacities available within wide areas. The duplication of services at local levels would be eliminated. The planning of penal institution locations could be done on a regional basis; and uniform programs in staff training and inmate correction, education, and rehabilitation could be implemented.

The piecemeal fragmentation of what passes for a prison system in the State of Pennsylvania is an anachronism in today's complex world. I must urge each of you, as strongly as I can, to convince your fellow legislators in Harrisburg of the urgent need to take our entire statewide prison system out of the 19th century and towards the 21st century. That can only be accomplished by a complete takeover by the state.

Thank you.

CHAIRMAN SCIRICA: Thank you very much,
Mr. Levinson.

I was interested in your comments about the plans that Philadelphia has for Holmesburg, and Representative Rhodes and Representative Hammock just walked in.

The question I wanted to ask you concerns, at what stage are these renovations in at the present time? Have appropriations been made, and what do you have to do in order to effectuate these changes?

MR. LEVINSON: Off the top of my head, I am going to give you a general answer. Some of the more detailed information in response to that, I am sure Superintendent Aytch will be more familiar with.

My understanding is that the renovations that have been enumerated, for these the money has all been budgeted and allocated. Most of the design work has been completed, if not all, at this time, and there are in most cases -- the contracts have already been let, and in some cases the work has already proceeded. If you need more detailed information, Superintendent Aytch will be able to supply that for you.

CHAIRMAN SCIRICA: In the interest of trying to hear all the witnesses this afternoon, I have asked the members to limit their questions to a period of five minutes, and I think we should just proceed down the table.

Representative Rhodes?

REPRESENTATIVE RHODES: No questions.

CHAIRMAN SCIRICA: Mr. Karl Purnell is counsel for the Committee.

BY MR. PURNELL:

Q Mr. Levinson, could you describe how the major personnel is hired at Holmesburg? Does that have to go through --does hiring and firing have to be approved or disapproved by the Board of Directors?

A My understanding of the relationship between the chain of command of the administration and the prison board is that the Prison Board does not have any direct responsibility for the daily activities of the prison. My understanding is that the main objective is to bring to our prison system a more community-based amount of information and to hopefully keep a balance in the prison between just the normal daily activities, which are the responsibility of the employees of the City of Philadelphia, and, on the other hand, an outside perspective looking in from the outside and aiding us to keep our perspective in running this very difficult area of the city.

Q Do you participate in the hiring and firing of the major personnel; is that part of your job as Managing

Director?

A In almost every case where there are changes of personnel at high levels, my office is consulted, yes.

Q And do your recommendations then have to go through the Board of Directors?

A No, they do not.

Q I see.

CHAIRMAN SCIRICA: Representative Checchio?

REPRESENTATIVE CHECCHIO: No questions.

CHAIRMAN SCIRICA: Representative Hammock?

REPRESENTATIVE HAMMOCK: I pass for the moment.

CHAIRMAN SCIRICA: Mr. Levinson, a couple of days ago, there was an article in the Bulletin that indicated that the guards at Holmesburg were inadequate in maintaining proper security there, and that the institution was understaffed. Can you tell us whether the city is taking any steps at the present time to alleviate that situation?

MR. LEVINSON: Well, again, the exact number Superintendent Aytch can supply -- but since we have taken office, since this administration has taken office, we have added guards to the number that we found at the prison. There is an increase in the total number that is presently patrolling the system. The exact number Superintendent Aytch

can supply.

The basis of that article, as I understood it, was not really a question of whether there was adequate security; my understanding of that article had to do with the question of the proper spending of money, whether it should be done in terms of hiring new and additional personnel, as opposed to using them on an overtime basis.

This is an analysis that my office, all the Commissioners, and all the various people responsible for the different portions of the city government are continually making. There are times when it is more advantageous to continue to employ people on an overtime basis, as opposed to hiring new and additional personnel. At the current time I have a group of six or seven analysts who have been reviewing exactly that question for our entire prison system. They were involved in this review prior to that article, and it is still continuing. As a result of that, hopefully, I will be able to sit down with Mr. Moke, the Finance Director of the City of Philadelphia and, based upon the recommendations that come out of my office, if it is at that time deemed advisable, we will hire additional guards, if there is a security question, or if we are not spending money properly.

BY CHAIRMAN SCIRICA:

Q Going back to the main thrust of your statement, it is my understanding that it is the position of the present administration of the city that the state take over the county jails. Now, would that mean that the state would assume complete control of the operation of the jail system as well as the funding, or would you still want to maintain some control of the operation of the system?

A I would leave that choice to the state. My preference would be that they would take over the entire operation. If, as a far-back position, the Legislature, in its wisdom, feels that it is best to just fund and allow the operations to be at the city level, then we will accept it. But our first choice would be that the state operate the entire state system.

I think I alluded to some specific reasons why that should be done. If you are purely funding a county operation, you can't take advantage of economies by having, for instance, two counties serviced by a single institution. We'd have to build two institutions and have duplication of responsibility. You can't have a balancing of inmates between the two, because you have a dividing line, this arbitrary county line. I think that the state would find it more economical in the long run if they assumed the entire operation.

CHAIRMAN SCIRICA: Representative Rhodes?

BY REPRESENTATIVE RHODES:

Q Today, Mr. Levinson, we heard testimony from the Philadelphia District Attorney, and an expert witness in Corrections, and they raised a series of questions in the minds of some of us on this Committee, about the procedures within the D.A.'s office, and associated with the Prison System in Philadelphia.

My first question to you is, do you have any recommendations for this Committee, or have you been reviewing the procedures that have to do with the incarceration of prisoners in Holmesburg and the Detention Center which might lead to a streamlining of this system, diverting the people from incarceration into community programs, some form of bail, or what-not?

A Well, that's a lot of questions, sir, if I may --

Q I understand that.

A Okay. Let me try to take them, and if I jump over anything, I'll try to go back. The easy answer is "Yes, that we are." We are reviewing the entire criminal justice system within the City of Philadelphia; in fact, there is presently, and has been convened for awhile, a group under the jurisdiction of my office, where we have representatives from the

District Attorney's office, from the President Judge of Common Pleas Court's office, from the Probation Department's office, from the Police Department, and overseen by the Managing Director's office. The whole thrust of the investigation that is going on is to take advantage of whatever areas we possibly can, the question (1) of rapidly bringing an apprehended individual, as quickly as we possibly can, into some kind of determinating facilities, so that we can very quickly find out whether he should remain in prison for any period of time, or should he be released under some kind of other exercise of control by the state.

We are also trying to make a determination as to the proper way for the police to be handling a lot of their problems they have with our Criminal Justice System. For instance, it's costing the city today in excess of \$3 million as the result of policemen spending overtime in the courts. It's a very serious economic problem. It is also a very serious policing problem, because when a policeman is sitting in a court room, he is not doing the patrol and not doing the job that he is being paid to do.

We are reviewing the procedures within the District Attorney's office itself, the handling of files, the preparation of files, the calling of witnesses, to make sure as much as

possible, that when a case is called, we don't find ourselves not only in an embarrassing situation, but also a very time-consuming and inconveniencing situation of key witnesses not being present to testify, or, sometimes, a defendant who is out on bail not being there to testify, and requiring continuances, ad infinitum.

Certain rules have been sent down by the President Judge's office. Some of them are helping us; some of them we are reviewing, because some of them are actually having an adverse effect. I would say that within a very short period of time -- well, not a very short period of time, but a comparatively short period of time -- the entire criminal justice system will be much improved. It is so ponderous and complex an operation in the City of Philadelphia, with the volume of cases that have to be handled, and the difficulty in notification procedures in court room scheduling, and that kind of thing, that I think we are a long way off from where we have to be.

But I believe that this administration under Mayor Rizzo, is dedicated to improving the system. Now, of course, you must understand that, as a managing director, as a member of the Mayor's Cabinet, I only have direct control over the Police Department. My only effect on the District Attorney's office, and my effect on the Judges, would only be

by way of recommendations for their implementation.

Q Have you received adequate and sufficient cooperation from the District Attorney's office?

A At the present time, yes.

Q Okay. I have a short time, so I will proceed with my questions:

Your statement to our Committee indicated the idea of absorbing the county prison system within the state. This may or may not take a certain amount of time for the implementation of something like that. In the meantime, of course, we are all very concerned in the Legislature. What are you doing currently within your prison system to improve it. We have heard testimony today, and I believe in our records, about the resistance of the city to implementing a decision reached by a three-judge court in Philadelphia against the prisons, declaring "cruel and inhuman" punishment for incarcerating anyone in Holmesburg.

Now, why have you spent the taxpayers' money to resist this decision if you feel, as you stated, there is a problem here. Why haven't you gone ahead and tried to accomplish these changes within Holmesburg as indicated in that very long judgment by the court? Why have you spent time fighting this decision, postponing it, I gather, for two or three years?

A Representative Rhodes, with the Chairman's permission, I would like to put judicial fact in the record that at the time of the three-judge decision of a tribunal presided over by Judge Spaeth, this was not under the Rizzo Administration; it was under the previous administration. I want to put that into the record.

Q But you have followed the case, I gather?

A Well, he can speak about his tenure.

First of all, I don't believe that the word "resist" characterizes the attitude of this administration in any way, shape or form, and if somebody did use that word in characterizing it, I would take serious umbrage with that kind of description of our attitude.

I am very proud to say that since we have taken office, more has been done to implement the recommendations of that three-judge panel than was done previously, after the decision was handed down. However, let me be very candid, if I may. Three judges sitting in a court room, and even going out and visiting a prison facility on a limited basis, in my honest opinion, may not always come up with one hundred per cent accurate decision. And I believe there are areas where honest, sincere, dedicated men can differ as to what has to be done at Holmesburg, in addition to which I believe

that there is a technical area where honest, sincere, dedicated men can differ, and that has to do with what is the most effective way of implementing the court's order, and I believe the appeals are not necessarily in terms of what the court orders, but in terms of the question of how it should be implemented. In other words, should the city be allowed within its own financial resources to make these determinations, understanding that each dollar that we have has to be allocated to many, many areas, and not just through the prison system, as to how much money you can spend? As long as the city does not abuse that privilege, or should an outside person not necessarily familiar with all the complex spending questions that go on daily in the City of Philadelphia, have the right to make arbitrary and binding decisions on the administration as to when these improvements should be implemented?

Q What --

A And I have --

Q What resources do the prisoners, residents, inmates, or whatever, have other than appeal to the courts? I mean, this arbitrary, binding judgment came from the judicial system. I am sorry; I don't follow you.

A No, I didn't say the court's decision was arbitrary and binding; I am saying I believe that the technical question

has to do with whether a -- I am trying to think of a term that is used --

Q A master?

A A master should be appointed.

Q Oh, you are talking about a master?

A I believe that's the basis for the appeals. And when I am talking in terms of an outsider being able to impose that kind of arbitrary implementation of the recommendations --

Q So, you are not disagreeing with the findings of the three-judge panel that the prison is an "inhuman, cruel and unusual punishment" institution --

A I am not disagreeing at all; that's why I am saying I am recommending very strongly that the state, with its greater financial resources and also with the existing facilities where they can take a lot of the weight off our shoulders, should be moving more rapidly in terms of accepting this responsibility in this area.

Q One final question: This question may sound strange to you, but it does concern me a lot. During the visit of the Black Legislative Caucus to Holmesburg on numerous occasions, we talked with a number of people who were held there, and who said to us that since the incident of

May 31st, and under your direction, through your representatives at the prison, and your acting under the name of the Mayor, various actions have been taken which were taken under the guise of increasing security at the prison. That, basically, so limited the programs as to freedom of speech and movements of the inmates, people at the prison, so as to raise the question in their minds as to whether you were trying to provoke an incident--I won't say, a riot--an incident which you could use as a way to effecting an act of retribution at the prison.

This was charged by many people in the prison. I point out, for example, the rule about silence in the dining room, walking in line, people being thrown out of line put back in cells during meals, programs being eliminated, and so forth. Would you respond to that?

A Sure.

First of all, to the charge that any of this is being done to provoke an incident is something that I just categorically deny. If there are specific charges that are being suggested, I'll be glad to answer specific ones, but that general charge is just something to categorically deny.

Let me talk about that for a moment, if I may, in response to your question. Again, let me go back to the

question of funding.

The City of Philadelphia has "X" number of dollars to spend on operating expenses during the course of a given year. The vying for those dollars each day by all of the departments that are under my jurisdiction is incredible. We have to service over two million people, law-abiding people, in the City of Philadelphia with those moneys. In addition to this we have to service people who have not been law-abiding, very honestly so. It's a question of trying to set up some priorities.

Q Before you go on, you don't mean the detainees, the majority of people you are holding; you don't mean those people?

A No, I do not.

Q A lot of people have never been convicted of a crime; they are just charged.

A I understand.

Q They are just spending time.

A Okay, fine. Well, that's a part of the problem in the criminal justice system. We who have the responsibility for running the prisons have the burden created by a criminal justice system that doesn't move fast enough. In other words, we are the recipients of this problem, okay?

But the point I am getting to is that there is no question but that you are going to find people who are detentioners, or in any other category, that are in the prisons, who are not satisfied with what's going on. The running of a prison today, in today's atmosphere, requires a very delicate touch, a very careful balancing between security and rehabilitation. I believe that the men whom we have responsible for this, Commissioner Wnukowski, who will testify this afternoon, Superintendent Aytch, and the men who work at the prison have an almost incredible understanding of this delicate balance.

You know, when you are talking about a man in prison as a detentioner, or whatever it is, we have a responsibility to protect him, and I think people lose sight of that issue. If you or I were detentioners in any of our prisons, you and I would want to feel somewhat comfortable and that our body and life are reasonably safe from other detentioners. And this is the primary responsibility that we have. And I very truly believe that the men we have operating our prisons today maintain that balance under most difficult situations, because you have all kinds of people in that prison. Some of the detentioners are innocent, there is no question about that. Some of them may be there on a completely unreasonable basis, but there are some very vicious people in

there also, and they are all put together. This is the system we have. When they are arrested, they wind up there all together. We have to protect them from each other. Therefore, there are rules that are imposed in a prison system which you and I may not fully understand or agree with fully, being free people on the outside. But if we were to relax those rules and let that balance go too far in terms of the relaxation of security rules, we would wind up having innocent people very seriously harmed in this very difficult community that we have set up at the prison.

So, all I can say to you is that, yes, there may be some complaints--and I am not surprised that there are complaints--and I would say that no matter how liberally--and when I say "liberally," I am not talking about necessarily being opposed to conservatively; I am saying how free we allow that system to be. There will be people who will come in and complain to us about the type of rules. One of the Mayor's favorite examples of this is that if we took an 18-hole golf course and put walls around it and set up rules about the use of that golf course and made people stay there, the most avid golfers would eventually complain about it. And I think this is exactly what you are finding to be the basis of the major number of complaints.

Now, I am not saying that all of the complaints are unfounded; some of them may well be founded, but this is something that is done at the level of Superintendent Aytch and the people who work for him. I think it would be a disservice to a man of his credentials for you and I to try to review specific questions as to this area.

REPRESENTATIVE RHODES: Thank you.

CHAIRMAN SCIRICA: Thank you very much.

REPRESENTATIVE HAMMOCK: I have some questions.

CHAIRMAN SCIRICA: You have five minutes.

REPRESENTATIVE HAMMOCK: I am Representative Hammock.

MR. LEVINSON: Before I get to the heart of my interrogatories, I wish to set the record straight on certain matters.

Are you familiar with the opinion filed by the three-judge court in the case of Gerald Jackson versus Hendricks?

REPRESENTATIVE HAMMOCK: In that opinion the court actually ordered nothing, but made a finding of fact declaring a rule of nisi. Certainly, as a lawyer, you understand that.

You indicated in your testimony, in your comments to one of Mr. Rhodes' questions, that the three-judge court

cannot or would not come up one hundred per cent accurate on the matters we are now discussing. I would submit, certainly, that Mr. Specter left a lot of information this morning, based upon information and investigation by his office, and I have the opinion here, that this is not a result of a three-judge panel sitting in a vacuum; this is the result of months of work, months of testimony, months of interrogatories, to people in the administrative capacity as well as prisoners and others. I think we ought to make it clear that it wasn't three judges just sitting in a vacuum making a decision about this important matter. I just wanted to set that straight.

BY REPRESENTATIVE HAMMOCK:

Q My first question to you, sir --

A One thing, "vacuum" is your word; not mine.

Q Well, you said there were three judges.

A I said nothing about a "vacuum." That's your word.

Q That's my word, there is no question about it.

But you said there were three judges sitting, making a decision on this matter.

A That's right.

Q Your implication was that they did not do a thorough investigation on this matter.

A If that was the implication, I didn't mean it

that way.

Q Okay, fine.

A Okay. It was not a vacuum.

Q I would like to first ask, what is it that the city, pursuing apparently vigorously, the question of appeal in this decision--why is it doing this? Now, the Commonwealth Court has recently affirmed this decision. I would like to know why the City Solicitor's office, under your direction --

A No, the City Solicitor's office is not under my jurisdiction.

Q Well now, the City Solicitor's office comes under Mr. Weinberg, and Mr. Weinberg comes under your authority.

A No.

Q He's completely independent of your office?

A That's right.

Q And you have no scope of authority?

A Over the City Solicitor?

Q Over Mr. Weinberg.

A No, he's one of four cabinet members; all of us have equal status.

Q Does he come under the Mayor's office?

A Yes.

Q The City Solicitor under the Mayor's office is

apparently pursuing vigorously the appeal. Do you feel, in your opinion, that not doing that might move us in the direction of getting this question solved, so that the court can make some specific orders?

A No, I believe I answered that question earlier. I believe the area of appeal is a very limited technical area, the question of the appointment of the master, and I don't believe it goes to the issue of the question of some of the recommendations that are contained -- or some of the findings of the three-judge panel, and we are taking these recommendations; we are not just sitting back and filing the appeal in any dilatory manner. While this is going on, there are multitudes of improvements that are being made to the prison system on a daily basis, and if anybody suggests, as I indicated before, that the purpose for this appeal is in any way to protect or insulate the city from having to go forward with these recommendations, I take very serious issue with that. I think that we have every right to appeal the issue of the master, if, as long as we are doing that, we continue to make substantial improvements to an antiquated prison system that we inherited a year and a half ago. We did not create this prison system. It was a prison system that was handed over to us after many, many, "enlightened" administrations.

Nothing has been done with them for many, many years.

Now, we got this a year and a half ago, and I am very proud of what we are doing, and I would suggest that if you wanted to accurately review what's happening, I'll be glad to line up against any prior administration on the improvements that we have made in a year and a half -- against any other administration, for whatever period of time.

Q Suppose we get into some of those things.

A Okay.

Q I've got four minutes left. What are some of those improvements?

A Did you hear my direct testimony?

Q I heard it, and I also have a copy of it. I'd like to review some of the improvements, especially some of those taking place in the last six months.

A We have put in the vocational training program.

Q Okay. How many people are taking advantage of that?

A Well, some of the specific answers Superintendent Aytch can give you. My job is not to run the prisons.

Q We will know the number later?

A The specific number, as I indicated when I first said --

Q Okay, fine.

A Superintendent Aytch will be glad to answer for you.

We are making major physical improvements, which are contained in the findings of that decision, investing over \$2 million in those improvements; new roofing and skylights, new ventilation system; a new boiler plant.

Q Are you doing anything to improve Cell Block F?

A Off the top of my head, I don't know the answer to that.

Q So, you don't know about that area?

A No. A new dining hall, new bake shop facilities-- all of these things are contained in the recommendations there. These are finally being done after many, many administrations have neglected this system.

Q What about in terms of some of the social programs there?

A Well, in my opinion, whatever that's worth, the social and rehabilitative programs for the first time in almost anybody's recollection are finally moving forward. We have had social and rehabilitative programs, in my opinion, in prior administrations, in name only, and I believe that for the first time the people who are willing to look at this,

without bias, without predetermination, will see that finally something constructive has been done in this area.

Q Do your comments also reflect the change that is taking place in reference to the programs that were conducted under Mr. Goldsboro and Mrs. Fayne?

A Well, I would suggest that there were no programs conducted by them.

Q You are saying that Mr. Goldsboro and Mrs. Fayne were doing nothing when they were there?

A They were doing things, but not what they were supposed to be doing.

Q Not what they were supposed to be doing? When we were there and talked to many of the inmates, they said that Mrs. Fayne and Mr. Goldsboro were doing an excellent job in the Pennsylvania Prisons.

A In the prisoners' opinion, that may well be true.

Q Well, yes. Isn't that the opinion, the attitudinal change of prisoners, to move them forward?

A I would suggest the fact that a prisoner feels comfortable with a particular individual, because of mollycoddling, because of complete acquiescence to their demands, because of giving in to every unreasonable request, may not be the most accurate determination as to whether or not

rehabilitative programs are going forward. And, after all, isn't the main issue the question of whether or not we have progress in the rehabilitative programs?

Q There is no question about that; that's exactly my point.

A Correct.

Q I have only two or three minutes. I'd like to finish up.

If twenty-five prisoners suggested that they were being moved forward by these two people, perhaps that is true. If fifty people suggested that, perhaps that's true. But if one hundred or two hundred or three hundred people suggested that, then it would seem to me that we were moving forward. You disagree with that?

A I don't know where you are getting your numbers.

Q I am getting my numbers from the fact that eight members of the Legislature went out there, and no less than each one of us talked to twenty-five to thirty inmates individually. Multiply that times eight and you come up with a substantial number of people who feel that social programs conducted by these people were effective.

I'd like to just make one more point.

A I just answered that. If that is, in fact, an

accurate representation of what happened, and I take very serious issue with whether it is, I would still have to disagree.

Q There were at least four members in this room who were there.

A I tell you, I am taking issue with that conclusion, as to Mr. Goldsboro and Mrs. Fayne.

CHAIRMAN SCIRICA: In the interest of time and the other members, we must move on.

Mr. Lederer?

BY REPRESENTATIVE LEDERER:

Q Mr. Manager, under the City Charter of 1951, as I recall, I was working on the City Council when this was being formulated, and the prisons had a Board of Trustees, as I recall?

A Yes, it's the Prison Board.

Q Did you think the concept of the Board of Trustees should be reviewed and looked into to see whether or not there should be, under modern conditions, a different type of board, or do you think the present concept of that board is as meaningful today, with the large prison population?

A Well, to sort of, by indirection, answer your

question, I still go back to my first statement; that the proper direction to go would be not to modify the existing program, but to have the state take over the entire program. If, in fact, that is not in the offing, and if in fact that does not occur, I would think that the present system does very well. I would think that to give the Prison Board any more direct control of the daily operations of the prison would be a very serious mistake. This, I believe, has to be left to professionals. However, I still believe very strongly that they do provide a very important function, and that is, by bringing in a layman's point of view, an outsider, community-oriented person's point of view, so that an individual such as a superintendent or a warden would have the benefit of this layman's looking at the system and adding his constructive opinion to the daily operation.

To turn more over to their control, I think, would be a mistake.

Q Do you think it's functional to separate in a prison population those individuals who are there for violent acts of crime or accusations, from those who are there for other nonviolent reasons, so that there would be no mixing of the two groups, especially since you have accurately identified the added problem of protecting everyone in the prison from

those who are violent and psychotic by nature, but who usually are the leaders in the institutions?

A I don't know how successful that would be. You know, almost anything is worth a try if it will eventually, hopefully, lead to some improvement. The problem we are faced with is that--let's assume someone is arrested for comparatively a nonviolent crime, but, notwithstanding that, shows very definitely violent tendencies while he is in prison; if you set up such an arbitrary classification, he may do himself more damage than good. It's an area that is something that maybe should be looked into.

We may have already looked into this, and, again, I would defer to the Commissioner Wnukowski and Superintendent Aytch, who are more expert in this area than I am. But I can very quickly see--unless it was very carefully handled--some built-in problems in that. If you automatically classify people this way, you might wind up with a mixture in the non-violent area, which you are trying to avoid by setting up that classification.

Q One of the problems which defense lawyers say is very difficult is setting a date, because things change very rapidly. But one of the areas, and I don't know if we are moving in this direction, is that until a person is tried, the

new procedure was that he would not be placed in a type of program, because if he is innocent he would not remain within the prison, because there is no compulsion, no prison attitude, nor institutional attitude to give him the library program, his educational right to finish high school, or to take technical training.

Do you think that if this hasn't been entirely looked into, you can look to the men in charge of institutions, and try to see if they could not set up a program, once the men are in orientation, completed while they are waiting for trial, which, unfortunately, are the largest numbers. This seems to be one of the big problems that I experienced; that if you are trying to rehabilitate a person, or re-orient him, waiting this long period, and many times he is innocent, and he doesn't have a creative program, and you lose him. There is a lot of input you can do with a person who is just waiting there, especially if he comes out in the city, because he has been held, has no opportunity to move upwards, no psychological services.

If we get into that area in our future programs which, again, I know would cost money. We are supposed to supply it, if you tell us to. You would perform a great service for many people.

A Let me assure you that it has not only been looked into but it has been implemented within some limited areas; I mean by finances in the City of Philadelphia. I couldn't agree with you more, sir, in that this is an area that requires even more intensive assistance because, as you have indicated, many of these men may well be innocent and the period of time spent in prison could be used more constructively.

I would also assure that any programs that the state would fund in this particular area, we would be more than glad to immediately implement.

REPRESENTATIVE LEDERER: I thank you very much.

CHAIRMAN SCIRICA: Representative Richardson?

BY REPRESENTATIVE RICHARDSON:

Q Your testimony relates to the fact that with respect to Holmesburg Prison, you cited several points, two in connection with the social programs in the prison, which at that time Mrs. Fayne and Mr. Goldsboro were dismissed. I just would like to know why they were dismissed. I heard you allude to them, but you didn't go into it definitely.

A No, sir, I would respectfully deny having to explain that. That's purely an internal administrative decision. There are proper forums for appeals from that

decision by the individuals. I understand--and I believe I am correct that they are even going on at present, and I think it would be a disservice to the members of the administration who work under me, and even a disservice to Mrs. Fayne and Mr. Goldsboro to dwell on that area any longer.

Q But you fired them?

A No, sir.

Q Didn't you give the order?

A I am not going to answer any questions about it.

Q I just wanted to know.

The next question that I want to get onto is the overall conditions that exist in the prison. Have you ever had the opportunity to be locked up yourself?

A No, I can't say that I have.

Q Have you visited Holmesburg Prison?

A Yes, I have.

Q Have you been inside?

A Yes.

Q And seen the cells and the kitchen? Do you feel that they are habitable?

A Are you asking, would I like to spend any time there? No.

Q Have you seen them?

A Yes. I said I've seen them.

Q It's not a place that you want to live in?

A I'm saying, no, I would not.

Q Based on the question that you answered, no, don't you think that, certainly, there should be avenues and ways in which we should not flaunt the responsibility to the state to really begin to help with the social conditions that exist in the institution itself?

A Oh, I agree one hundred per cent with you, and I believe that the City of Philadelphia, under the present administration, is doing more than has ever been done to make those improvements.

Q Then why do you feel that so many people, and not only those inside the prison, but those on the outside, tend to think the administration wants to do all it can to provoke a riot in this town, and particularly in Holmesburg Prison?

A I would say they are either uninformed or liars, one or the other.

Q Good. Then if that is the case, have you talked with the inmates yourself, to get their view of how they feel about the prison at the present time, and the tensions that exist there?

A Personally, no, sir.

Q Do you believe that there is tension at Holmesburg Prison at the present moment?

A I would have to defer to more expert opinion as to whether or not there is tension; I really can't answer that question.

Q On reason I asked you this is that when we first came to visit the prison we were told that we could not get in; that someone in the command post told us not to appear. These conditions, so controlled as they are, are very important. I was just wondering why, since it did come from the city administration -- why we were refused admittance the first time we went to Holmesburg Prison.

A I don't recall the incident. I would imagine if that did occur, it came from me.

Q I know that. That is why I am asking.

A Yes. And I would think maybe it was a matter of scheduling or something like that. If I remember correctly, though, there was a date set up and you did return and you were permitted to tour the entire facility.

Q That's why I am asking, because there was allusion to the fact that certain situations and conditions were set up so that it appeared as though it was much more acceptable for us to come now, because now we are prepared for you to come,

for the state representatives to appear, as part of the state.

A Well, no, if it were part of the state, Mr. Richardson, you would have had full access, but it is funded by the city. Our first responsibility is to the operation of the prison itself. Our second responsibility is to provide guided tours, and --

Q Okay. My understanding was that because the transfer of inmates into state institutions made it a state institution, and in terms of alliance.

A I see what you mean, yes. That really doesn't work, though.

Q Believing you feel that the conditions are deplorable as they are --

A I didn't use that word, either.

Q "Deplorable?"

A No, I didn't. You asked me if I wanted to spend any time there, and I said, "no."

Q Do you feel -- you felt before, then, that I may have used the wrong word. I'm so sorry. You said that there were poor conditions there, and you wouldn't want to live under those conditions.

A That's right.

Q Then I'm saying that the overall attitude of the

prison itself--the inmates and workers there, guards, doctors, everyone else there--it seems that the attitude plays a very important part in terms of inmates and people who certainly are being incarcerated, and that something there is wrong.

Do you feel that the behavior or the attitude of the people is important when trying to figure out how to treat people more humanely, more humane, than they are now, because I would say at this present moment that is not taking place. Don't you feel that it would help tremendously if people would have a different attitude about folks being incarcerated and that they certainly have an obligation and responsibility to treat them fairly, even though these people are locked up?

A You have a lot of questions in there.

Q Let me --

A No, that's all right. Let me start, and see how far I can get.

Your first question is, do I think that attitude is an important thing as far as people are involved. There is no question about it. I think the attitude in prisons and, hopefully, the attitude that will bring about an attitude on the part of those incarcerated, is a very important question that has to be dealt with on a continuing basis. I don't know that I agree with you that the attitude there is bad. I would

have to take issue with that. I don't also know that it can't be improved. And I think that on a daily basis, from my office, down through everyone who is responsible for this, they are always looking to improve the attitudes of the people running it and also the attitude of the prisoners. By and large, I think that the job the City of Philadelphia is doing under this administration is a most credible one. I would like to even point with some degree of pride to this, because I think again that under the Mayor's direction, and with his permission, we have made more progress in the prisons in the last year and a half than has any prior administration.

And if you, Mr. Richardson, would take a look at the records, and see how much money was spent in prior administrations in improving the facility, and see how much money was spent on increasing the number of guards, and see how much money was spent, for instance, on a drug detoxification program. It was never put in prior to this administration, and now we have a very fine one there, which is a very serious problem. Because how do you put a man who is on hard drugs into a prison cell without any proper medical attention? We finally have that under this administration. It was never done before under any of these so-called enlightened administrations.

You know, you look at a man like the Mayor, and, unfortunately, some people make judgments of him which are not supported in any way by facts. And all I am suggesting to you is that if you have criticism that you look at the facts and evaluate them with an open mind. And if you can come back to me and show that in some way we are not living up, at least to past standards, and in every case I think you'll find we are way in excess of those past standards; well, I would be glad to sit down and review them with you.

Q Certainly, I have statistics to prove to the contrary.

A I'd be glad to do that, sir.

CHAIRMAN SCIRICA: Mr. Levinson, on behalf of the Committee, I thank you for coming here.

MR. LEVINSON: Thank you very much, and I appreciate this opportunity.

REPRESENTATIVE HAMMOCK: Mr. Levinson, just one more question before you go: Do you know how many policemen there are in this room?

MR. LEVINSON: No. Do you?

REPRESENTATIVE HAMMOCK: No. We'll see.

(Witness excused.)

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CHAIRMAN SCIRICA: The next witness is Joseph Wnukowski, Commissioner of the Philadelphia Department of Public Welfare.

Mr. Wnukowski, we are very pleased you could come to us.

JOSEPH S. WNUKOWSKI, called as a witness, testified as follows:

MR. WNUKOWSKI: Mr. Chairman and members of the Subcommittee on Corrections, I wish to thank the members of the Subcommittee on Corrections for your gracious invitation to appear before you today.

As I have come prepared to deal with my subject matter in earnest, I should like to proceed with dispatch to the matter at hand: Corrections within the City of Philadelphia, and more particularly the Philadelphia Prison System.

The very name of our local corrections apparatus is misleading for in reality we are no longer a true prison system. Over 80 per cent of all persons incarcerated within Holmesburg Prison, the House of Correction, and the Detention Center have not been found guilty of committing any crime. They are, in the vernacular, "detentioners," awaiting either

the initiation of their formal hearings or the subsequent disposition of their case. For more than 2,200 adults and juveniles, we are the Philadelphia city jail. For another 400 men and women we take on the posture if not the substance of being a sentenced institutional setting.

In considering my remarks, I trust that you will retain this essential distinction and conceptualize the three structures which are located some 12 miles from our present location as being in reality the city "lock-up."

The integrity of public officials and the validity of their pronouncements have been very severely compromised and rendered suspect as recent disclosures at the very seat of our national government will attest. In the past, no sector of domestic government could have been judged more suspect over the credibility of its public pronouncements than corrections.

Candor, frankness and willingness to respond to both informed and uninformed public commentary is virtually a new dimension in current corrections policy. Correctional institutions, and local jails in particular, have too long been shrouded in the foggy bottom of official vagueness and sustained public indifference.

The general level of public consciousness regarding

correctional operations was virtually nonexistent until the all too recent incidents of human carnage and destruction. Among the councils of public policy formation, corrections planning has been relegated to the very bottom of civic priorities. If the nature of our correctional and penal systems now appears as a deep smear on the body politic, the state of our nation's local jails is the most severe and offensive aspect of that particular national disgrace.

There are over 4,000 individual jails in the United States, with an average daily population of 160,000 persons. Uniform national standards are virtually nonexistent, supervision of internal operations and evaluation of conditions still remain a mirage in the future for most jurisdictions, and most attempts at insightful public criticism are met with the blind ignorance of old attitudes, antiquated concepts regarding the rights of untried persons and worn-out philosophies of human relations.

Only 25 states presently have legislative authority to prescribe standards, inspect local jails and juvenile detention facilities, and initiate enforcement action to ensure compliance. (Pennsylvania is one of the 25.) Twelve states are without any statutes authorizing standards, inspection, or enforcement. Twenty states possess no jail inspection

laws whatsoever. Other states possess fragmentary legislation for inspections at specified intervals, with varying degrees of enforcement authority. As our local jails are called upon to handle larger and larger sections of the criminal justice caseload, the clarity of the need for reform becomes strikingly apparent.

My task today is not to chronicle the ills of our nation's jails but rather to present what I hope is an honest appraisal of one local correctional setting; namely, the Philadelphia Prisons.

Some basic data may help us to recognize the breadth of our discussion. Pennsylvania currently has 76 local jails with an average daily population of approximately 6,300 men and women.

The Philadelphia prisons account for 47 per cent of the statewide jail population. Our average daily population since the beginning of the current year has been in excess of 2,600. The figure undergoes an annual turnover of some 700 per cent establishing a yearly intake figure of 24,000.

During the past year, 33,000 separate trips were made by inmates to the sheriff's cell room at City Hall. As you can tell, many of our inmates make several trips to court

on the same case. It is not uncommon for prisoners to be called to City Hall twenty or thirty times without receiving a disposition of their case. Yet only about 20 per cent of those 33,000 separate trips ended with the defendant ever seeing the inside of the courtroom.

Each year more than 60,000 people visit prisoners in our three facilities, and to this figure we can add additional thousands of professional, official and legal visits. A minimum of 45 per cent of all incoming inmates have used various kinds of drugs and narcotics within the twenty-four hours prior to their arrest.

In statistical summation, the staffs of the Philadelphia Prisons are charged with the responsibility of dealing with a tremendous volume of humanity, which defies traditional definitions and standard classifications.

The nature of the inmate population and the manner in which they relate to their incarceration has assumed substantially different proportions in the past several years. In the past, most individuals committed to the prisons accepted their position and served their sentence or detention period with little open contempt being directed toward the system or its surrogates.

The detentioner and sentenced persons of October

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1973 do not accept their incarceration situation and indeed reject much of the system and the individuals who direct or represent the incarceration process. An indicator of this unwillingness to acknowledge traditional authority patterns and the general incarceration system is the large number of suits being filed by inmates within various correctional settings.

The validity of their criticism is borne out by the substantial number of opinions issued against correctional authorities. One such suit (Jackson vs. Hendrick) led to numerous positive changes within the Philadelphia Prison system.

The awareness of our population and their apparent commitment to challenging the criminal justice and corrections systems have vastly increased the control problems we face on a daily basis. On the other hand, the same commitment has also stimulated considerable efforts to reorient and humanize the local corrections process. Responsiveness to individual grievances is not sufficient; we must develop new strategies for the corrections environment-piecemeal responses will not help.

The great majority of local jails have never dealt with questions of correctional philosophy and the numerous

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conflicting guidelines which are created from such efforts. We have chosen to meet these issues directly, recognizing the problems and internal conflicts that would result.

Our philosophy, which increasingly guides daily operations is quite simple and straightforward. We believe that it is untenable to detain any person without contributing to his eventual reintegration into society. There can be no debate or reasonable argumentation over issues relating to the humane treatment of prisoners. The problems are created in attempting to operationalize the key variable - rehabilitation.

In a detention setting, the easy process would be to adopt a posture of merely a holding system for the police and the courts. Indeed some administrations demand no more of the prisons than to carry out security oriented detention procedures.

Some people argue that we do not have the right to rehabilitate prisoners who are deemed innocent until proven guilty. Such remarks as "how do you rehabilitate an innocent man," are a prostitution of the legal axiom of presumed innocence.

This anti-treatment orientation for detentioners does not stem from the counsels of the private bar, nor from prison reform advocates nor from societies with a

civil libertarian orientation. Such criticism against treatment of the detentioner is an example of reactionary logic, narrow orientation, and unresponsiveness to the real needs of these men and women who are temporarily remanded to our custody.

We now recognize from a very pragmatic viewpoint that most of our inmates have records of substantial criminal and deviant behavior and are quite likely to be arrested repeatedly unless something can be done to develop their capability to cope with the real world.

In our urban correctional setting, due to the length of time that so many residents spend awaiting disposition of their cases, we have the opportunity, perhaps a unique opportunity, to intervene on their behalf and initiate supportive services.

The doctrine of presumed innocence cannot, and must never be, a rationalization for denying the development of a therapeutic posture toward those who come into repeated contact with the criminal justice system. The need for individual help and the societal demands of maintaining a safe environment far outweigh the philosophical manipulations used to argue against treatment for unsentenced persons.

The first offender does not come to the

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Philadelphia Prisons, nor does the accused wealthy offender, nor the offender with influence and skilled private counsel. We are a facility which deals primarily with poor people, who generally perceive themselves as failures, possessing limited capabilities to influence their future.

Rehabilitation efforts must be brought to bear at the earliest possible moment after arrest, rather than awaiting the outcome of an often lengthy and inconclusive court hearing.

We are suggesting that, since the Philadelphia Prisons are located within an urban setting, the possibilities for fruitful supportive services, coupled with close community involvement, offer possibilities that normal sentenced institutions cannot offer. The mix of institution-community efforts must be exploited because most studies of corrections programs have shown that even in the most progressive system no noticeable dents have been made in the level of recidivism.

In correctional settings that are isolated from community interaction, we can conclude the following:

- a) No rehabilitation program has shown that successful reintegration into society can be accomplished in a

purely custodial environment without community intervention; and

- b) Merely improving the physical conditions of an institutional facility does not improve the probability of success upon release.

Having determined the importance of bringing supportive assistance to bear for our essentially untried and unsentenced population, the question must then be raised as to the type of assistance that should be rendered.

The specific types of assistance and programs currently under way in the Philadelphia Prisons I should like to have presented to you by Superintendent of Philadelphia Prisons, Louis S. Aytch, who I take pleasure in introducing to you.

Thank you, Mr. Chairman.

CHAIRMAN SCIRICA: Thank you very much.

BY REPRESENTATIVE LEDERER:

Q I wonder how difficult it is to run an institution. We have public hearings in this building, in this room, and we invite distinguished people and citizens to come and testify.

For years we have asked this staff to provide, at

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least a pitcher of water, and we can't get a glass of water for our visitors who are speaking. I think it speaks very uncooperatively of the people who run this building, who have the jurisdiction of renting this room. I don't think it is run with the style and class that it should be for our visitors.

I think they should have someone attend the door, direct people in and out who come in here to listen and see that there is proper decorum throughout the hearing, not just this hearing but any hearing.

A May I say, thank you, Mr. Lederer, for your thoughtfulness. I can use a glass of water.

REPRESENTATIVE LEDERER: I have asked the staff but bureaucracy is a very difficult thing, as you know.

CHAIRMAN SCIRICA: Mr. Wnukowski, would you like to answer any questions of --

MR. WNUKOWSKI: I would be willing to, if they are in any area that I feel competent to reply.

CHAIRMAN SCIRICA: The only question that I have is that both the District Attorney and Managing Director of the City indicated that the state should take over the operation of the county jails.

Do you have feelings on that?

MR. WNUKOWSKI: My personal opinion would be

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that I agree with that wholeheartedly. I feel that in the total prison system of the state, the uniformity, the ability to get a standard of practice, a standard of preparation of the individuals who would be working in this system, something is being lost in the dichotomy of the separation of these responsibilities.

CHAIRMAN SCIRICA: Representative Lederer?

BY REPRESENTATIVE LEDERER:

Q Commissioner, I would like to say this to you - I have sat on other legislative committees concerning the subject of our justice systems, and I want to put on the record that we have interviewed prisoners and staff on previous committees. Unfortunately, you are in an occupation, a profession, where when it comes to the legislative dollar, you're the low man on the totem pole.

A That's right.

Q Even that fact, before we go into what happens, creates problems in itself for the men who operate the prisons, who put their lives and dedication on the subject. Job for job, compared with the federal system, compared with equal occupations in the Commonwealth, people who are administrators and employes are placed in a lower economic level by wage classifications, by promotions, by considerations, the

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constant swing shifts that are involved in the operation of your programs in your institutions by providing money for the orientation and training of your own personnel, you have always been last.

So, whatever does go on, it is a problem created by the citizens and legislators, initially, and I personally have the highest regard for the full-time dedicated careerists in your occupation. I want to say that I keep that in mind when I define the problems that exist because we give you the most difficult of all problems in society to resolve.

I want to compliment you on your written statement you have made to the Committee today.

MR. WNUKOWSKI: Thank you, sir.

REPRESENTATIVE HAMMOCK: Excuse me, Mr. Chairman.

CHAIRMAN SCIRICA: Yes.

BY REPRESENTATIVE HAMMOCK:

Q Mr. Wnukowski, what is your responsibility to the prisoners?

A My responsibility is to look to the administration in terms of city practices, city responsibilities, budgeting, bringing the budget to city council, keeping watch, sharing watch, with the superintendent in terms of expenses, what we can afford and what we can do, and what we cannot do, going in

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and making pitches and pleas for more response and help where possible, as in the situation of upgrading the cost of food in the prisons. I think this would be coming out of Mr. Aytch's representations to me, and my own experience in institutions allowed us to make this appeal before city council and get more money for feeding of the inmates so that the food factor I feel is all important. The better we can feed the men, the better --

Q I am not sure I understand. Do you say that you are an intermediary between the superintendent and the managing director's office?

A Yes, because the prison system is within the Department of Public Welfare. And I have overall administrative responsibilities for the Department and thereby for the prisoners as well.

Q I see. Do you have anything to do in the area of personnel?

A In some part, yes, but in the main, personnel is the responsibility of the superintendent of the --

Q Direct responsibility of the superintendent?

A In the main.

Q In the main. However, you have an interrelated function?

A Yes.

Q Well, then, let me ask you this question: Was it on your orders that Mrs. Fayne and Mr. Goldsboro were fired?

A I think that I am going to fall back on Mr. Levinson's response to that question. I don't think we can make a public --

Q We don't seem to get an answer.

A Well, I believe that Mr. Levinson did make this clear --

Q He did answer the question. He said it was not on his responsibility.

A I think he did make it clear that there were legal areas, and that these were being pursued. I don't think it is proper to make that answer here.

Q Would it be safe to say that it was not on your responsibility, on your direct order? Can we assume that?

A I will make no comment.

Q All right.

CHAIRMAN SCIRICA: Representative Rhodes?

BY REPRESENTATIVE RHODES:

Q Commissioner, I don't mean this as an attacking question; I mean, who put this together?

A It was through the efforts of Mr. Ed Lyons, the

assistant to Mr. Aytch.

Q I could guess who put it together because it's so well done.

During my visit to Holmesburg Prison, I was very well struck by Mr. Lyons' comments to the Committee's staff. I hoped he would testify, but I got his testimony, anyway.

A And may I say, it's mine, too, because I completely concur with everything that I said here today.

REPRESENTATIVE RHODES: Thank you very much.

Now, I have two questions. One is a factual question. What is the starting salary of a guard at Holmesburg Prison?

MR. WNUKOWSKI: Gee, I am sorry I don't know.

REPRESENTATIVE RHODES: My second question is my only real question. Let me read from your testimony and Mr. Lyons' thoughts. He and I discussed this on numerous occasions. You say, "The first offender does not come to the Philadelphia Prisons, nor does the accused wealthy offender, nor the offender with influence and skilled private counsel. We are a facility which deals primarily with poor people, who generally perceive themselves as failures, possessing limited capabilities to influence their future." This is on page 4.

Now, I have to completely concur with the judgment

rendered in the statement, that the presumption of innocence doctrine by no means precludes rehabilitative measures at Holmesburg. We have discussed this all day. On the other hand, if this is so, if this is the kind of offender you have at Holmesburg, which raised the question of whether ending up at Holmesburg reflects the true condition of justice in Philadelphia or not, but merely reflects the economic and social conditions of Philadelphia; then, why couldn't you work out a program along the lines suggested by some of our witnesses today, and that would take the presumed innocent person out of a prison environment entirely, following your suggestion (A), "No rehabilitation program has shown that successful reintegration into society can be accomplished in a purely custodial environment, without community intervention."

Why couldn't you establish a program that would vastly reduce the population of Holmesburg, benefit your economic condition and simply take innocent people who have not been proven guilty out of custodial conditions altogether and place them entirely into community-based treatment programs under supervised conditions? Thereby you could really operate on a basis of true justice where the rich and the poor would be off the streets, and only those which we call socially handicapped would have proper supervision. Why

couldn't we work out a program like that?

MR. WNUKOWSKI: I think you are asking whether these people might be out on a bail situation. And this is, I think, a question for the courts. They are remanded to us for custody, and we only have three facilities available to us in which to render the service to the courts.

BY REPRESENTATIVE RHODES:

Q But given what you say --

A I think if there --

Q Followed the lines to which you testified, it would seem --

A If there were available to the court other facilities in the community that could be used in this way, and I think the future of Corrections is tending in this way, and I hope that some day here in Philadelphia we will have reached this.

Q So you have no philosophical objection to such a program?

A None in the least.

Q Where we can extend the benefit of a relief program to all the people, rich, non-poor, and those --

A I think that is in there. Our feeling is that just the poor end up coming to us, but the others, who might even be much more guilty, because of the allowances in our

society today, the person who has the money to pay a lawyer --

Q Right.

A -- has the money to pay his bail, he can be out, where the guy who doesn't have that money, doesn't have that lawyer, he has to come within the mandate, the custody of one of these three facilities.

Q This is all within one real question -- I am just driving at, trying to understand, what, legislatively, this Committee might recommend to the legislators, so they might act in a proper way and, certainly, we have control in the Legislature over the bail conditions that reign in the Commonwealth.

So, if what you are suggesting, if I understand --

A Over the pocketbooks, may I add, to build some of this kind of facilities.

Q To some extent. So what you are really saying to us is that the crux of the problem of the county jail and the prison system is the way we send people to the county jails, the conditions, the procedures, the law that governs who comes to your doors; not so much what happens when they come inside your doors. The main problem is that we have a system which sends a lot of poor, the unskilled person, to your system, and does not avail to them opportunities, under

treatment, under administrative custody, under supervision.

A But I say that there are two problems; one is the system by which they do come into the facilities; and the second is that these facilities --

Q Yes.

A -- need to be brought up, updated. We should be able to get new facilities.

Q You do say here in "B" -- I don't want to cut you, but I have only five minutes.

CHAIRMAN SCIRICA: You had five minutes.

REPRESENTATIVE RHODES: I had it. I'm sorry.

"B" says, "Merely improving the physical conditions of an institutional facility does not improve the probability of success upon release."

MR. WNUKOWSKI: No.

REPRESENTATIVE RHODES: So, if we are taking what you said to heart, you are putting the emphasis not on money in the prisons?

MR. WNUKOWSKI: In the programs.

BY REPRESENTATIVE RHODES:

Q But changing the programs that get those guys in the prison in the first place?

A Right.

Q If I can find someone to convert besides myself --

A That's right; that is my personal philosophy.

Q I wanted to get an idea of your interest.

Thank you very much. I appreciate this statement.

It's very helpful.

CHAIRMAN SCIRICA: Thank you very much,
Mr. Wnukowski.

REPRESENTATIVE LEDERER: I have a few questions.

CHAIRMAN SCIRICA: Sure.

BY REPRESENTATIVE LEDERER:

Q It was mentioned earlier that in Michigan, concerning juveniles, when juveniles are apprehended, their Department of Education sends their educational training right to the institution.

Do you think that is feasible under the Philadelphia system?

A We do have it under the Philadelphia system, sir. It's called "Pennypack House," but actually the Board of Education does send teachers, and we do have a school program for the juveniles there.

Q Okay. The next, or final question: Does someone on your staff have charge of statistics? If you could forward

this to us within a reasonable date, the comparison of the city's budget per inmate, compared with the federal budget, so that we can see the difference, we would appreciate it.

A We can get that for you, sir.

CHAIRMAN SCIRICA: Thank you very much,
Mr. Wnukowski.

MR. WNUKOWSKI: Thank you.

(Witness excused.)

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CHAIRMAN SCIRICA: Mr. Louis S Aytch is our next witness. Mr. Aytch is the Superintendent of Prisons in Philadelphia. I think he is well known to members of the Committee, and has spoken to each of us, I am sure on at least one occasion.

We appreciate your accepting our invitation to be here today.

MR. AYTCH: Thank you, Mr. Chairman.

LOUIS S. AYTCH, called as a witness,
testified as follows:

MR. AYTCH: Mr. Chairman and members of the Subcommittee on Corrections, I appreciate the opportunity to appear before the Subcommittee and I certainly hope that these hearings will lead to the enactment of legislation that will improve corrections and the entire criminal justice system.

Three years ago, social service assistance was virtually nonexistent for most of our incoming prisoners. Over the past three years rehabilitation and supportive programming had proceeded at a significant pace. Our efforts have benefitted considerably from funding received through the Law Enforcement Assistance Administration.

We develop the programs, and funding decisions are

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made based on the evaluated worth of our proposals. During the next fiscal year federal funding for programs developed by the Philadelphia Prisons will exceed \$1.3 million. The number of professional and support staff in treatment roles will exceed one hundred. This is in addition to those people who are already included in our operational budget.

The keystone in our quest to reorient inmate services is the Model Classification Program. The social service staffs at each institution have been increased with professional and selected members of the correctional staff acting in social worker roles.

All incoming prisoners are given an initial interview where various types of personal and institutional problems are discussed. This prisoner-social worker contact is unique in a detention institution setting.

After the initial interview, if the person has not received bail or another type of release within a short period, the classification board meets to consider housing assignment, work assignment and program possibilities. Psychological assistance is available on a referral basis.

The Classification Program has a community programs' coordinator who daily opens up additional community resource referral possibilities. We hope to integrate the

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Classification Program into every aspect of the correctional process.

All incoming persons who need detoxification are immediately placed in a separate dormitory at the Detention Center, which has its own twenty-four hour staff. "Cold turkey" and other forms of withdrawal are creatures of the past in the Philadelphia Prisons.

Recently the prisons received \$400,000 from the Federal Government for a unique multi-modality Addictive Disease Treatment Program. The program is unique because we now have the capabilities to provide worthwhile referral contacts as well as individual and group therapy.

A therapeutic community will be established for drug abusers who remain with us for a minimum of six months. This will be a 24-hour a day treatment unit, oriented toward personal development and decision-making capabilities, and is the first such unit to ever be established in a county penal institution.

The Philadelphia Prisons are no longer playing a passive role regarding the utilization of new treatment strategies. In addition to in-house drug treatment programs, we are moving to establish working relationships with every major community treatment center in the Philadelphia area.

When we recognize that the Philadelphia Prisons come in contact with more drug abusers than any other facility in this city, we immediately become a likely candidate to coordinate therapeutic measures. Not to recognize the crucial role that the prisons can play would be a repudiation of our entire therapeutic philosophy. New ground is being broken and in the drug abuse field we hope to move forward aggressively on behalf of our resident population.

Additional programs are carried out through utilization of community volunteers. We have a full-time staff which develops meaningful program possibilities and recruits, trains, and monitors volunteer projects. Future volunteer programming is only limited by our imagination and the level of public interest in participation.

Post secondary education is carried out through a cooperative venture with Philadelphia Community College. Over 100 inmates take regular college courses at Holmesburg Prison and upon their release are accepted as fully matriculated students at Community College. Many students have the opportunity to continue their courses with the same instructors who led their classes at the prison. Joint prison-community projects serve not only the educational needs of our residents but also stimulate the participation of the larger

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community in rehabilitation programming.

Numerous sentenced men are eligible for assignment to Work Release. During the coming year the Work Release participants will live in a house outside the confines of prison walls. Our goal is not merely to secure employment for the participant, but to provide opportunities for a meaningful job with possibilities for future advancement.

This program recognizes the reality of eventual return to the community, and encourages the necessity of making daily value judgments and decisions. A multi-faceted vocational training program has been initiated at Holmesburg Prison on training for skilled positions. This type of training is complemented with adult basic education classes and high school courses with preparation for the resident taking the examination for the General Equivalency High School Diploma.

Our medical and general health care capabilities have steadily increased with substantial increase in physician staffing. Recognizing the necessity for providing more sophisticated diagnostic services, the Philadelphia Prisons are currently working out details with the Philadelphia County Medical Society for a consulting staff of some 50 physicians from different specialties who will provide services on a part-time basis to the prisoners. Improved coordination has

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been established with the Philadelphia General Hospital resulting in more substantial referral potential for our residents.

Psychological testing and counseling efforts have been initiated under two separate programs and improved referrals are now possible to external treatment units upon an inmate's release from our custody. We are trying to implement institution-community relationships whereby the therapist who works with an inmate in the prison setting will continue to provide counseling services upon release.

To develop staff capabilities we have initiated an ambitious in-service training program for members of the correctional staff. A separate Department of Correctional Training has been established with its own professional staff. The staff will develop all training programs which will involve every employe of the prison system.

Several hundred correctional officers have already been introduced to various training cycles including an eight-week intensive introduction to the behavioral sciences. We recognize that rehabilitation programming can never have a reasonable chance for success without the support of our correctional staff and this necessitates intensive and imaginative efforts to present new material to the staff and

raise their consciousness and sense of professionalism.

All rehabilitation efforts and programs must recognize the pivotal importance of relating to eventual return to the community. Continuous incarceration in an institutional setting creates false notions of personal security, status, and individual accomplishment. Every rehabilitation program must emphasize decision-making and the assumption of personal responsibility for one's own actions. It not only goes for residents; it also goes for staff.

Yet it is this very concept which has created so many of the conflicts within our institutional setting between the custody and rehabilitation imperatives. Treatment and a generally perceived therapeutic environment question many of the traditional concepts of maintaining order and accountability within a prison setting. Traditional security oriented institutions require the development of routine situations and there is little differentiation between particular inmates and their personal needs.

Predictability is stressed through standardized policies with strict adherence to internal control methods.

The rehabilitation environment which we are building produces the opposite type of situation for the staff. Rehabilitation programming decreases the amount of predictability

about a system because it deals with each inmate as an individual human being. Rehabilitation strategies require thought, consideration of numerous alternative courses of action and, foremost, constant decision-making at all levels. Personal initiative is stimulated.

Rehabilitation programming demands personal commitment and constant awareness by all members of the prison staff. This is no easy situation to bring about, and the conflicts are liable to be substantial, and we have just gone through a year where they were indeed substantial.

When a new set of correctional priorities is established a real lack of coherence develops concerning short term and long term goals. Many older staff members see any diversion from traditional custody oriented procedures as a threat to their position of authority within the system.

A total rehabilitation environment cannot be enacted until the senior staff in all sectors, both custody and social service, resolve in their own minds what the specific goals of the system are and how they must personally relate to these developments.

While we cannot yet demonstrate that rehabilitation philosophy has statistically led to a reduction in criminal behavior among our inmates, we do know that traditional

custody oriented strategies were a total failure.

We cannot control the larger social environment in which our residents must live after their release, but the Philadelphia Prisons can set -- and we are trying to set -- an example that other governmental agencies and community groups might emulate. Perhaps no meaningful rehabilitation is possible without radical changes in our social system; yet we can at least begin that social change by altering the social and human context of our correctional institutions.

Gentlemen, that concludes my prepared statement. I do have some statistical data which might interest you, and I will be happy to respond to any questions you may wish to ask.

CHAIRMAN SCIRICA: Thank you, Mr. Aytch.

We were talking before about vocational prison facilities, whether they are going to be in permanent areas or whether they are going to be in rural settings, such as Graterford, for example, which is the institution where the defendants are sent to for Southeastern Pennsylvania.

What effect do you think it would have on the system on defendants' recidivism rates if Philadelphia were no longer able to keep sentenced defendants so that all sentenced defendants would be sent to Graterford?

MR. AYTCH: My first reaction to your question, Mr. Scirica, would be predicated on what resources the state is willing to provide of an individual nature for the defendant. In our contact with the state, they have been very willing to accept all of our sentenced prisoners. I am committed to the belief that people have individual needs. It so happens that Graterford is not too far from the area of Philadelphia. There are resources, I am sure, that would be available to some people there.

I think the Philadelphia community offers an abundance of resources, if they can be a help in recognizing a need to accept the responsibility to provide services to people as they are required. For instance, a two and a half to five-year sentence to a rapist in the state, or a six-month to ten-year sentence, which would send a person to the state, will do very little for the individual unless he can get professional help to deal with his particular problem. I think Philadelphia offers an abundance of resources, and I am not arguing against the state taking it over, but I have to be committed to the individual. I feel that, as an administrator, that is my responsibility.

BY CHAIRMAN SCIRICA:

Q Graterford is at least an hour's drive from

Center City?

A That's right.

Q And even with the best of intentions, and even with funding, I assume it would be difficult for them to run resources down to rural Montgomery County from Philadelphia; therefore, would you agree to that?

A I would agree for some type of cases. For some type of cases I think Philadelphia would offer greater resources. We have had some success with sending people to accept treatment at Hanover. That was very helpful. We have used the Northeast Mental Health treatment centers for certain kinds of offenders. I am not one for believing that the prison itself should be a self-contained entity to meet the needs. I think agencies that are established in the community to provide specific services should be required to provide the same services to people who are in custody. A man who needs teeth, or who needs eyeglasses, if there are state social services available, I think if they are in custody we have an obligation to see to it that this is carried out.

I fear that if you get people into local jurisdictions, this may not take place.

Q Fine. I would like you to share with us some of the statistics that I think you have concerning the population

of Graterford. What is the rate at Holmesburg? Specifically, what is the rate of turnover that would be indicative of persons who go out on bail; how long do they generally stay in before going out? Let's see whether we can get a feel of whether our bail system is working properly

A Well, we receive in the Philadelphia system some 24,000 to 25,000 people a year. And of that number, some 44 per cent are discharged within the first seven days. These statistics, to me, would seem to indicate that we should sort of improve our, shall we say, release by recognizance, our release on bail, which would make unnecessary these people coming into our system. There is a cost factor involved. Each time you receive a person, whether you have to accept his property or not, he must have an examination, he has to be assigned to quarters, and only a few days later he is discharged. And it would appear there is some waste.

REPRESENTATIVE RHODES: May I follow that?

CHAIRMAN SCIRICA: Certainly.

BY REPRESENTATIVE RHODES:

Q What percentage of the cost factor is represented by the 44 per cent costs?

A We are not able to give you the exact statistics as to what it costs. We are just now developing a data base

that will enable us to fix cost to an element of service. We haven't always had the kind of personnel to do that. But I think by 1975, our entire budget structure will be able to reflect that.

Now, I regret I can't answer that.

MR. RHODES: Thank you.

MR. AYTCH: We are still going on a per capita cost, on a daily basis. And that's \$13.32 a day per person.

MR. RHODES: So, you take one-twelfth of a per cent of how many thousand; \$28,000?

MR. AYTCH: Yes, you have to calculate the man days in a year, and I don't have those statistics at hand. But our base operational budget, it costs us \$13.32 a day to house each prisoner.

CHAIRMAN SCIRICA: Now, 44 per cent of the \$25,000 or so is charged within the first several days. Are all of the people who are committed as detainees, do they all go to Holmesburg; or do some go to --

MR. AYTCH: No. All of our male defendants are received at the Detention Center. This institution has a -- well, we have a working capacity of about 700. When we exceed that number we transfer internally to Holmesburg or to the House of Correction. If a person is brought to us on a

very serious charge, that is, bail in excess of \$5,000, \$10,000 or \$175,000, he goes to Holmesburg, because it is a maximum security facility. If the bail is less than \$5,000, or if he is just a county probation violator, he would be sent to a House of Correction, which is a minimal correction facility. That's how we generally keep the population down.

Now, we have an overall rated capacity in all the institutions of about 1,900 people. Today, I think there are about 2,450 people, so we are over-capacitated in accordance with our standards. This is down, incidentally, from a year ago.

BY CHAIRMAN SCTRICA:

Q How many are there at Holmesburg right now?

A There are about 1,000 prisoners at Holmesburg.

Q And what is the acceptable number?

A Seven hundred.

Q You said, I believe, this summer you sent a few hundred defendants to Graterford, and some other state correctional institution.

A Yes, about 134, sir.

Q Are any of these detainees?

A Yes, most of them were detainees. You see, it's our feeling--and this goes back to the action suit which said

that we were "cruel and inhuman," and, based mainly on over-population, and that was the main reason, among other reasons. We felt that the state should assume responsibility for certain kinds of defendants who were in with what we call the "detection of status." This detection of status is a very illusive thing; there are nine specific categories. At the time, back in April of '72, we asked the state to take 900 prisoners. And this 900 prisoners was really based on people whom we felt were state responsibilities, or would be state responsibilities; 328 of them, for instance, were in there for what we called the deferred sentence category. These people had been found guilty, but sentence was not imposed for one reason or another.

There were some 125 state parole violators. There were about 100 or more people whom we call ATA. They were returned to Philadelphia County pending other hearings. There were some people who had been arrested and were held on very serious charges. We knew these would be state responsibilities. In order to relieve our overcrowded condition, we asked them to accept that kind of defendants. We never got an approval. The agreement was that they would take 450, but out of this number we would be able to send approximately 170 or 172 to the state over a six-months' period.

Our greatest relief came through the efforts of some of the judges of Common Pleas Court, as Judge Kavanaugh, who spent two weeks with us, and took upon himself to release some people on their recognizance after some investigation. I think that had the greatest impact on reducing our population.

CHAIRMAN SCIRICA: I will just go down the table.

Representative Lederer?

BY REPRESENTATIVE LEDERER:

Q Mr. Aytch, in looking over your statistics, I note that you moved 33,000 inmates back and forth in a year.

A Yes.

Q That's like moving four army divisions back and forth, with given personnel.

A That's right.

Q Now, in summarizing this, you have the problems of daily housekeeping, to make sure that everybody exists and is fed; then you have the security problem, external as to the community, and internalized as to the inmates; and then you have your instructive programs, which you outlined today. I wonder how you could really do all of these things with the limited personnel you have, and I have often thought of what an awesome problem you have with the people involved in the prison system.

Today one of the speakers mentioned the problem, that in addition to whether you would have a golf course with a fancy wall around it, and if you were a prisoner retained there, that the normal person or inmate is motivational, and that is a question of attitude with everyone involved in the system.

Do you think that the salaries which the elected officials give the system for running it proper, especially for the guards on the technical staff?

A Well, I think as far as Philadelphia is concerned, a correctional officer's pay is not bad; it's better than the state's; not as good as New York, but better than some state facilities. I think the key factor is attitudinal; that is, to try to break through the traditional concept of the correctional officer. We hear a lot about control, about the need to tighten up, and our biggest problem is really to change the attitude to give the correctional officer an opportunity. Mr. Keve alluded to this earlier. We should really give the correctional officer a sense of responsibility, a sense of purpose. I do not agree that there is no opportunity for the correctional officer to be heard. We are improving the lines of communication. We get input from the officers about everything in prison, so they, too, will be a

lot more supportive of implementing programs. I think in terms of money, we do fairly good as far as payments are concerned. We have a long ways to go in terms of attitudes.

There are staff shortages, but before I would say, "Give me 100 more correctional officers," I would also want to make sure that we have the classification ability to determine who needs what kind of security. There are a lot of people in our system who just don't need the kind of security that we uniformly try to give them. In Holmesburg Prison there are 172 inmates, who are in what we call maximum security, or a close security kind of operation. On Saturday when I was there I talked with several. One guy is there for \$2,000 bail. "Why do you have him here?" "Well, he looks mean." That's a damn poor reason to keep a guy in maximum security. And I think we need to develop the kind of resources to make the right determinations, and then we can decide what it is that we need in terms of staffing; what it is we need in terms of construction. And these are very important factors, I think, if we are to meet the needs.

I am very happy about the work-release center. We are going to try putting prisoners on work release in a nonsecured setting. We are going to have them living in a cottage, so they can take a look out and see the river. I

hope that no one tries to swim it. But at least if we can get this concept over, then I think we will probably have a breakthrough in direction.

Q I recall a defendant in your institution awaiting sentence; that he was charged on two different occasions, and came up for sentence five months later. I can see the type of problems you must have.

At a previous meeting in one of our institutions, a former FBI staff officer addressed some of the legislators, and he suggested that in the manner in which a police officer today can take a program and police administration, that we should consider developing a program for your security officers, especially if they pertain to ex-GIs who would relate to a college level program, and that they would be subsidized by the government, going into your system and the state system, and his group was working on this.

So that the Federal Government would put the money in it, and these men would go to college and also work in your system, towards a degree in your type of administration. He was interested in GIs, because the Federal Government is committed to them by Federal Law.

Do you think that such a system would be feasible if we could recruit that type of personnel for you?

A Well, you said ex-GIs. We are trying to involve more indigenous people in the prison system. We are doing this already. I have nothing against the FBI agents, but we are dealing with 85 to 87 per cent black people, or minority groups, in an institution. And we are keenly aware of the need to get people who are sensitized to the needs of the population they are trying to serve. I'd like to point out that we do have a program, Temple School of Criminal Justice, through the late fund programs, at St. Joseph's College, programs at Villa Nova, where many are our correctional officers. I will say, in the last two years, we have a dramatic increase, students enrolling in schools of criminal justice where they are learning more about their jobs and become more professional.

We also work closely with Penn State.

Q Do you pay for their courses?

A No, the Federal Government pays to the Release Fund.

Q The Federal Government?

A That's right.

Now, we have some students whom we are paying. We have one student now at the University of Pennsylvania, and we are paying for social work. We also pay for cooks, for any person that is connected with the institution and has a

desire to improve his professionalism.

REPRESENTATIVE LEDERER: Thank you.

REPRESENTATIVE RHODES: Mr. Chairman?

CHAIRMAN SCIRICA: Representative Rhodes.

BY REPRESENTATIVE RHODES:

Q I'd like to acknowledge to you, Mr. Aytch, that during my visit to Holmesburg Prison, you were very cordial to our group, and I wish to thank you publicly for your consideration, interest and cooperation with our visits.

A Thank you.

Q A few more questions: First, do you like the work?

A Not only do I like it --

Q You love it?

A I love it, and I love it for two reasons: I'm a Philadelphian, and I am concerned with helping people, and I can't think of a group of people who need more help and direction, support and understanding, than the people who fill our prisons. I often heard it said that professional baseball players--Roy Campanella was my favorite--would probably play ball even if you didn't pay them. I am not in a position financially to do that as far as prisons are concerned, but I get a great deal of enjoyment out of it, and I feel that I am

in it because I feel we are making some progress. It's not always on a straight line; we go up and back, but I still feel that our overall goals and directions are there.

Q Representative Lederer was leaning to questions in terms of the attitudes of guards and employes in prisons. Recently, in the Legislature, there was introduced legislation to make provisions for families of guards, employes of prisons, who are slain on duty. Do you think that would be a kind of small step in the direction of improving some of the attitudes of some of the custody officers and employes?

A Well, I am sure it would benefit the families. I hope it would never have to be used. I am sure it would be helpful to the families, but I think the attitudes, really, would have to be changed through training and through greater sensitization; also, helping a correctional officer feel that he is a part of it, that he is really making a contribution.

You know, it's very encouraging: One young officer was assigned to escort prisoners to the John F. Kennedy Center, for a year. He really developed a new sense of purposefulness for his job. He felt that he was doing something. He made very constructive recommendations about whom we should include in the program. We started off by being very limited. We only included people who had three or four months left. And he said

"Mr. Aytch, I think we ought to include somebody who's doing nineteen months, because it's the younger offender who can benefit from the training." And he's still happy. The same thing with people who are working in social service, they are happy. So, I think this is what we are getting at when we talk about attitudes.

Q My next to the last question: Much of what we have heard today and at hearings in the past, and what we have already heard, leaves me to think that our big problem in the system is the one to which you are alluding; that there are too many people in the system who probably shouldn't be in the system.

Since you are a professional in this area and you have offered some statistics along these lines, what would be your estimate at any given time as to the number of people who are in the Philadelphia Prison system?

A Who --

Q The percentage of people who absolutely have to be locked up to protect society? I mean, I am trying to pose a really strict rule here; not for people who should be given help, who could use some job training, or have some psychological problem and need some counseling. I am sure there are lots of people like that; I mean, people who

absolutely have to be incarcerated, behind bars, in order to say, "This person does not pose a real threat to society."

A I have to come up with statistics that I can substantiate this, but I would like to relate one thing to you.

About two years ago, while in the House of Corrections, we had some 570 prisoners, all in what we call the detention status. Now, we would have to exclude 105 or 106 of those who were county violators, because they were not eligible for bail. But of this number 172 were in prison simply because they did not have \$2,000 bail. They had no other charges.

Q Ten per cent of \$2,000, or \$2,000?

A 172 of 500-some people.

Q Was that \$2,000 in cash, or ten per cent?

A The bail was set at \$2,000, or less. And there were no other charges pending. And that was the reason why Judge Kavanaugh agreed to come up to hear those cases, and most of them were released.

Now, the feedback we got was that some 95 per cent of those people who were released showed up in court. So that is the only personal experience that I have had.

There is now a concept of decriminalization which

I don't want to get into. I think there are national studies on that which say that somewhere between 35 per cent and 40 per cent of people who enter the system should not be there, but they are talking about something else.

But, I would say if we really screened, or got to know people and what their problems are, we could probably reduce our population substantially.

Q I guess my last question is more again on attitudes. I don't mean this to be critical in any way.

When I read this statement that you read to us, and even the statement prepared by the Commissioner, and hear your comments, I am almost not lulled--not lulled, but I feel very comfortable; I am made to feel content, happy almost, about your being in the position you are in, the kind of person you are and the kind of person the Commissioner is--but, somehow, the feeling I get as I sit here doesn't quite jibe with what I saw at Holmesburg. I am not trying to say this as an attack on you, the Commissioner, nor anything.

A Go ahead.

Q I have great respect for the officers at that institution. But somehow I get the sensation that there's this continuity between the atmosphere that I get from you and the atmosphere I picked up at Holmesburg. I don't know how to

describe it. The oppressive flavor of the place is somehow not the sum of this. If you add all this up, I don't come out with what I saw and felt at Holmesburg. I am wondering why this needles me, because I have visited a lot of prisons. The worst one was Holmesburg, by a long shot. I don't know why I have that feeling. Why is that? Can you answer that?

A Yes. I'm glad that it's a very keen and well put question. I think it's a problem that has faced prison administrators and in reading some of their works published in the early fifties or the late forties, you will find some of the same concepts.

In fact, the American Correctional Association Convention, well over a hundred years ago, came out with some of the same things we are talking about today.

So there has always been dichotomy between what the philosophy of what the administration would like to see and what actually happened.

You asked me why I like my job. I think there's a technique dealing with what you saw at Holmesburg. If you recall, during your visit, Representative Hammock raised a very good question. We didn't deny it. We pointed out, yes, we recognize this is a problem, an attitudinal problem that we are trying to deal with.

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You deal with it in two ways. You fire everybody and start all over again -- that's not the right way -- or you really try to work with people to help them see themselves in relation to their jobs. And that's what we are trying to do. It's a slow process.

Keep in mind that we are dealing with years of neglect, actually. I don't think there are any immediate solutions, any more than there is an immediate solution to all the social problems we have. It is something we have to work on. We must be persistent, we must be consistent, and we must tool up to bring about changes in attitudes. And that is what we are doing.

I will guarantee you, Representative, if you come back to Holmesburg today, you will find a climate better now than you found it when you were there before. If you come back next year, you are going to find it even better.

REPRESENTATIVE RHODES: I will do that. Thank you.

CHAIRMAN SCIRICA: Representative Lederer?

BY REPRESENTATIVE LEDERER:

Q Mr. Superintendent, because we're on a very important item, I don't think this can be limited to personnel. With all those things happening of a positive nature, it was

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recommended earlier today that one of the things that could be done was to reopen the Eastern Pen. If anyone has been in Eastern Pen for more than five minutes, that's enough to shake you down -- just to think of reopening Eastern Pen, even if they put a new motel inside those walls; it's just a vast nothing in Holmesburg, it just shakes your system and it can't be described in words, that type of emotion.

That's why I can't think, as a defense lawyer, what was mentioned earlier -- the due process concept for the psychology of the inmate, to me, stands out more than anything else, with all the hardships that causes to the administration. If a prisoner doesn't feel his due process is being protected, I think all else is lost, generally speaking. I emphasize this as a defense lawyer who deals directly with the men, and they relate this problem to me.

I might say that in the past two years they are less harsh in their attitude as to what happens to them inside. Like you get slapped around, you know, maybe slip a word out once in a while too quickly, or aggressive assault with the inmates that hasn't appeared hardly at all in the past year.

But it is in this area of due process where they do feel, for whatever reasons, the lack of personnel to communicate with properly, they feel that their injustice is being

caused inside the walls.

A Well, I'm sure to some degree it is happening and we are, as I said, trying to handle it in an intelligent way.

I have a suggestion for Eastern Pen. It should be used to remind us what not to do in the future.

BY CHAIRMAN SCIRICA:

Q Mr. Aytch, what happens when a prisoner is involved in an infraction of rules, is a hearing granted?

A Yes.

Q By means of administrative pressures?

A Yes. That's one of the things that came out of the class action suit, Jackson v. Hendricks. We had no uniform method of handling infractions. The punishment rendered was certainly different in various institutions, and we do have now a uniform disciplinary procedure that is followed in all of our institutions.

I would just like to add about that class action suit; while it is still pending in appeals, the present city administration and certainly the prison administration are moving very fast to implement the recommendations, the findings of facts in that suit. So we do have it, and we also have our handbook that is also now being distributed to all our prisoners.

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Q You say there is a hearing for infractions of an administrative rule?

A Yes.

Q Who is that before?

A It is before a Disciplinary Committee. It is composed of a warden, a social worker and members of the security staff.

The resident is presented with charges. He is allowed to get witnesses in his behalf, to prove his innocence or his guilt. He can confer. Also there's the system of appeals, particularly if a punishment is in excess of ten days.

Q Can he cross examine witnesses against him?

A Yes, he may.

Q He has no right to counsel?

A Legal counsel?

Q Yes.

A No, not as yet.

We are talking with Temple Law School about experimenting with that, but we are going very slowly. We don't want a walkout.

Q I think Joe Rhodes' statement was one of the best statements here today. The last time I was in Holmesburg

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was in July. It was very hot then. I had the feeling there was a great deal of tension in the place. Inmates were scared, the guards were scared; do you think that has improved?

A I know it has improved. I would like to remind you here, Representative Scirica, that this tragedy that happened on May 31st was perhaps one of the most serious in penalogical history, certainly, in Philadelphia.

I don't want to comment further, but I think, naturally, there were tensions on the part of the staff. People were concerned about their safety. The residents, themselves, were quite concerned. They didn't know how the staff would react. But I think in spite of the gravity of the situation, it could have been much worse. I think a lot of credit must go to the residents; a lot of credit goes to some of our staff people, most of them were able to make some changes which, I think, brought some balance to that climate, and I know things are improving.

In fact, most of the activities that were suspended immediately following that tragedy have been reinstated. Naturally, it has been restructured, but I think we are moving in the right direction.

CHAIRMAN SCIRICA: Charlie?

REPRESENTATIVE HAMMOCK: Yes.

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BY REPRESENTATIVE HAMMOCK:

Q Mr. Aytch, I want to thank you very much for your forthrightness today.

I think that some of those areas might have escaped the record. I think we might want to put some of those areas on the record with more clarity. But before we do that, I just want to make the statement that we all have our roles involved in this proceeding here. This proceeding has been taking place throughout the day. You have your role, Mr. Levinson has his role, Mr. Wnukowski has his role, and we have ours as members of the Committee trying to come up with investigation of the facts as honestly as possible and to make some recommendations to the General Assembly.

The one thing that I take offense to is when any man or woman comes before a fact finding committee and becomes defensive. I think that -- not speaking to you, sir -- but there have been people who appeared here before us here today who were exceptionally defensive in terms of their role, and I don't think that is necessary because we are not a court of law; we are a fact finding body, and we are attempting to do that.

I want to move now into some areas where I think there needs to be some clarity because I think there was over

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zealousness on the part of one gentleman who did testify. I want to pursue for just a moment the question of physical change.

Now, when we last saw you, we looked, I think, fairly thoroughly into some of the physical things that might be creating problems at Holmesburg.

A Yes.

Q And I'd like for you to put on the record, if you will, what changes are taking place in some detail.

A All right.

(Off-the-record discussion.)

MR. AYCH: In terms of physical changes that are being made at Holmesburg, specifically, the work on the roads and skylight has begun. The work on the border plant - a new power plant will be constructed outside of the wall. The contract has been let, work will begin this year.

Renovations to the bake shop - that's one area, the food service area - is very vital, and I must admit was in pretty poor condition. The contract has been let and work is being started. That includes renovation to the dining room in Holmesburg. In fact, we are right this minute moving the tables out of the area where this section is undergoing

renovation. When you were with us, our food budget at that time was some \$1.15 per day per man, and this has been increased to \$1.35 a day. We serve fresh milk three times a week. We were really prepared to serve it seven days a week but I think the cost of food went up and that cut into it.

The position for a full-time sanitarian that will give him the responsibility for supervising the environmental health of the institution has been funded, and we are interviewing candidates.

Those are physical improvements at Holmesburg Prison.

The House of Correction - the \$446,000 --

Q Excuse me. Will you just stay with Holmesburg for the moment?

A Stay with Holmesburg - well, that takes care of the physical improvements that we have there.

Q Getting back to Representative Rhodes' feelings, getting the impression that these kinds of physical changes, perhaps you don't need additional moneys from the state?

A No, that's not true at all. That's far from true.

Q What else do you need?

A Number one, let's talk about the services, improvement of the services. Since you were there last, we do

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have consultants who are given to us by the Medical Consultant Society for one year only. Very often it is necessary to transport prisoners from institutions to PGH for consultative advice. For instance, a doctor needs more information.

Instead of transporting these people some eighteen miles, and very often the doctors not getting the consultative recommendations of the doctors at PGH, we have a group of physicians -- there are sixty of them in total, who are coming to the institution now -- so as to be able to give consultations on the spot and this, of course, improves our medical services.

We have established also at Holmesburg, as alluded to earlier, a habitual diseases unit, in H block. The bottom of H block has been set aside as an after-care unit. It houses some 61 prisoners who are there for drug problems.

The situation in F block has been greatly improved. Incidentally, this is not a city-operated setup; it's really owned by the state. It's a diagnostic center, funded by state funds. But we have an obligation to see to it that conditions on that block are in top priority because we often have to send people there for observation.

Those are some of the internal changes in terms of functions that we have had. We have also added the activities

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that were not in operation when you were there. The gang Relate Society is meeting again, and the methodical JCs are having their regular meetings. The Relate Society is having their meetings; the Muslim Brotherhood is still having their services.

So the kinds of activities that had been suspended immediately following this tragedy have been reinstated.

Q Have the Muslims' services been reestablished?

A Yes, they have. I talked with Minister Abdullah the other day regarding the fast.

Q It was a big issue?

A Yes, it was a big issue. It's one that we are quite sensitive to, but I think we are obliged to make sure that people are afforded an opportunity to follow their religious beliefs.

Q But your medical services you still feel are down in recent --

A Yes, they are down, and we are having trouble retaining physicians. Just two weeks ago we met, as a result of my suggestion, Dr. Heller or Dr. Ulysses Watson, who is connected with EPPY, and did have some meetings. We are trying to involve more medical schools, particularly the teaching medical colleges to try to get them to provide direct

services to us. We do have funded a medical director's position. It is filled. We have also taken on a medical administrator, whose job it is to improve the medical facilities at all three institutions, so that if a doctor is there he can give his professional time, rather than sit around, smoking his pipe, and waiting for somebody to get prisoners.

Q I'd like to move on to another area. I spent some four and a half years in the Court Administrator's Office. I think I went to the prisons on the average of twice a week; at least once a week, to Holmesburg. During the years between '70, or maybe, '71, I didn't find many changes taking place during that period of time. The last time I was there, the incident that we are referring to, I didn't find many changes then.

A Yes.

Q You are saying now if I go there I will find a substantial lessening of tension among the inmates?

A I would say so.

I would like to point this out: If you look at the Capital Budget for 1967, it amounted to \$38,000 then. The Capital Budget for this year, for 1973-74 are \$2½ million, and that's a substantial increase.

The food cost in 1967 was 84 cents per man.

Q Is that money being spent or money allocated?

A That's money being spent, contracts let. The News Release is right here, Mr. Chairman; in fact, they are bringing in the trailers to start the work.

Q Those of us on the outside have some contact with inmates, maybe on the inside, and recently released, and they often get word that there is going to be trouble at a certain institution. I am just wondering whether you have any pipeline or any kind of in-house mechanism to test whether or not certain things are going to erupt at Holmesburg, for example.

A There is actually no way we can tell whether or not a situation is going to happen. Pipelines, yes. I think pipelines are the things that used to run the wardens and the superintendents crazy, because there are so many of them. You don't know which way to go. I, physically, visited Holmesburg and all of the institutions at very odd hours. I have contact with residents; I visit them in their cells; I talk with them and I know their feelings. I am in close contact with volunteers who come to the institution. I pay very close attention to what they pick up.

And I'd like to point out, Representative Hammock, when you were there I was very conscious of it; in fact, I think the visits you made were very helpful, because, at least,

it gave me some idea of what we needed to do and what was going on. We were aware of it, but I think the impact you get from a group of legislators who are there and are able to see things -- you know, sometimes, you can live in the smoke or the dirt so long that you get sort of impervious to it, and it is good to have insight. That's why we want community involvement.

So there are barometers. In terms of the tension of the climate, there is always an opportunity, because you're dealing with people who have many different ideas. Not everybody is well-meaning, and not every comment you hear--and I think I told you when you were there that you were going to hear a lot of things. And you have to evaluate what you hear. A lot of things have to be substantiated and corroborated before you can take action.

I would think that the climate is a little better now than you found it before.

Q Okay.

Let me just pursue this last line with you, which may be somewhat difficult for you.

A I hope not.

Q I think you indicated in your statement, on page 3, that, "A total rehabilitation of environment cannot be enacted

until the senior staff in all sectors, both custody and social services, resolve in their own minds, what the specific goals of the system are, and how they must personally relate to these developments."

A Yes?

Q And I think if you recall the incident that took place when I was last at the prison, that is, the incident involving a guard--

A Yes?

Q --who probably was one of the --

A Was a captain.

Q Was a senior guard, who was a captain, if I recall.

A That's right.

Q And who made, I think, a very derogatory remark to another guard that I overheard, and at an appropriate time I mentioned it. And without going into specific detail, his attitude was that we had no business being there and that we were probably doing more harm than good by our presence, simply because we happened to be men of color at the time, although Mr. Checchio was around, too. That's an attitude that I find very many people defending. I felt that Mr. Levinson was defending the attitude; that we should not be probing there, that we should not be inquiring; we should not be

challenging what's going on. And that's an attitude that I know you have to deal with, that we all have to deal with. We have to break down the old barriers in terms of attitudes. We've got to make attitudinal changes.

A That's right.

Q I watched a documentary several nights ago that talked about attitudinal changes which were made at Attica; that situations and programs have increased for the better since the riots there.

What can we, as legislators, do to help you to improve that attitudinal change?

A I am glad you asked the question, and I'd like to just throw out for your consideration what we are doing at present.

On October 13th and 14th, we are planning a workshop for 21 executives at the Philadelphia prisons. It's being done by a consulting firm. It has been our best judgment that two sessions are needed. The purpose of the session is that people who are responsible for administering all departments in the prisons, all disciplines, will get together and become clear on what the correctional goals should be for the Philadelphia Prisons. And we are going to fight about some policies, but we are going to come out of that meeting,

hopefully, with some understanding.

Now, we are taking this money from a Correctional Training grant that we have for the new year.

Q The federal-state grant?

A It's a federal grant, and we are hoping we are not violating any laws. One of the things you can initially do is to underwrite the next grant, as we are going to do the same thing. The Correctional Training Program which will involve the lower levels of staff -- it is being staffed, and I hope will get a six-months' experience factor, then we'll know what we need. I hope the state will also improve its curriculum so that we might be able to make greater use of it. You know, this really should be a state responsibility. I think you are talking about the state assuming responsibility for the correctional services.

We are bending our backs to meet needs for which we really do not have the resources, and I think this is one area where the state can be a tremendous help to us.

Q Okay. I have just one final question.

A And may I finish this?

It does not have to involve correctional officers for the Philadelphia prisons, because in talking with the authorities at Bucks County, at Montgomery County, and all

the areas -- all small county institutions we have the same problem. It's really the change of attitude in both top staff -- you know, a top administrator can be as disruptive to your implementing a program as someone else. You wake up in the morning and find out that the prisoners do not have two sheets, but you budgeted for it. Is it because you don't have the money, or because he feels the prisoners should not have more than one sheet?

These are very important items, and I think this is what we hope to address ourselves to in these seminars.

Q All right.

Without getting into the Goldsboro-Fayne matter, we are setting that aside --

A Thank you. You are very kind.

Q In the area of personnel hiring and firing, are you very often told what to do, or is that left pretty much to your discretion, especially in times of trouble?

A Let me be perfectly candid with you.

Q Please.

A I can't speak for the administration, but I think if you will reflect on this, that any time an administration takes office, there is a learning process that this administration must go through with respect to the agencies under its

supervision. There is a learning process for me. I have to know what -- I can read the chart; I know what my responsibilities are as superintendent; I know what the responsibilities of the Board of Trustees are -- but I would be a fool not to get in touch with the administration to find out what it wanted for the Philadelphia prisons, because this helped me to decide whether I wanted the job or not. Okay?

Now, I think any time you get a new administration with a new focus, new attitudes, there are going to be mistakes made. And I think these are things that we must live with, we have to resolve them. Yes, I am a part of the Managing Director's office, and they have concerns because they have overall conditions for the total city administration, and what happens. They get information from me. Very often they follow it; sometimes they do not follow it. But, as an administrator, I have to look at the long-range code.

I didn't answer your question. I am being pretty evasive.

Q No, I don't think so.

A But I am being as candid as I possibly --

Q I think that you have been very candid, and I think that at least we understand each other. And that's my role

And I said from the very beginning that I have a

role, so you can be certain if you will convey the message to the managing director, or whomever, that part of the role that I will continue to play while I am in office is to challenge this system, see that it does a better job, because I think that only by doing that will we be able to accomplish the things that we mutually need.

If I sit back and you sit back, nothing is ever going to come about constructively.

A If I may make a concluding remark, I think that the city administration is very well aware of that, and I think you will find that in the future.

REPRESENTATIVE HAMMOCK: Thank you very much.

CHAIRMAN SCIKIĆA: Are there any more questions?

Representative Lederer?

BY REPRESENTATIVE LEDERER:

Q Under the Philadelphia Scholarship Program, does that cover your personnel?

A I think there is a bill pending in City Council now that we ask the administration to introduce on behalf of our people. I think it would be a very good thing if it were.

REPRESENTATIVE LEDERER: I thank you.

MR. AYTCH: Thank you.

(Witness excused.)

CHAIRMAN SCIRICA: There being nothing further at this time, we will adjourn the hearing.

(The meeting was adjourned.)

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CERTIFICATE

I hereby certify that the proceedings and testimony are contained fully and accurately in the notes taken by me during the hearing on the within cause, and that this is a correct transcript of the same.

Julia Lundwall, Reporter