

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

SUBCOMMITTEE ON CORRECTIONS AND REHABILITATION

* * *

Verbatim report of hearing held
in the Majority Caucus Room,
Main Capitol Building, Harrisburg,
Pennsylvania on Monday,

October 27, 1975
9:30 a.m.

* * *

Hon. Charles P. Hammock, Chairman
Hon. David P. Richardson, Jr., Acting Chairman

Members of the Subcommittee

Hon. Michael Bishop	Hon. Raymond F. Lederer
Hon. Lucien E. Blackwell	Hon. Marvin E. Miller, Jr.
Hon. Ronald R. Cowell	Hon. Frank L. Oliver
Hon. Michael D. Fisher	Hon. Joseph Rhodes, Jr.
Hon. William D. Hutchinson	Hon. Anthony J. Scirica
Hon. George O. Wagner	

Also Present:

John W. Hartman, Esquire
Counsel for the Committee

Robert Kagan, Esquire
Counsel for the Committee

Staff Members:

Kent Adami
Jonathon Cousins
Sam McClea

Prepared under the direction
of the Chief Clerk's Office
Vincent Scarcelli, Chief Clerk

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REPRESENTATIVE RICHARDSON: I would like to call the meeting to order.

I would like at this time to identify myself. My name is State Representative David Richardson, representing the 201 Legislative District. I am also the Task Force Chairman of the Subcommittee on Corrections and Rehabilitation to study juvenile incarceration. I would briefly like to explain the purposes of this hearing under House Resolution 47 and why we are here.

Several incidents which might have been brought to your attention of inmates of abuse at the Camp Hill Institution have been brought to our attention. One specific incident in relation to the date in question that we will be referring to is October 15, 1975. It is our intention to establish exactly what occurred in these various incidents at that time, and also to bring, through a thorough investigation, the issues presented to us on this particular date dealing with immediate and appropriate action of any findings. The Subcommittee on Corrections' past track record speaks for itself. We will continue to deal in a very open manner, and we will tend to handle this accordingly. There have been

some legal questions that have been raised by the Attorney General -- which is one of the reasons why we are late getting started -- as relates to overall corrections and the incarceration of those inmates. And I just feel there has to be some understanding that this Committee will not tolerate at any cost the types of delaying tactics, will not deal relating to individuals who tend to feel that they are not concerned about what is going on at the juvenile institutions. And the purpose of this whole investigation is to investigate juvenile institutions across the entire state of Pennsylvania. I feel that we have a mandate and a responsibility to take on those particular matters, and that we will proceed accordingly.

We do have a list of witnesses that we will be calling this morning to testify. They were all served with letters over the weekend, giving them ample notice of the time. And I just feel that with the kind of responsibility that is left upon us as legislators, that we cannot any longer allow ourselves to be caught up into the kind of bureaucracy that deals with trying to camouflage situations that are clearly brought out and clearly brought to our attention.

I would say then at this point that I would like

to introduce the Subcommittee Chairman, Representative Charles Hammock, who has an opening statement. And after that, I will introduce the rest of the panel that is here thus far this morning.

CHAIRMAN HAMMOCK: Thank you very much, Representative Richardson.

Good morning, ladies and gentlemen.

We have a very long list of witnesses. Most of you already appreciate this is a very serious matter. Our Subcommittee, which is a Subcommittee of the House of Representatives Judiciary Committee has been maintaining legislative oversight on many of the problems dealing with juvenile offenders across the state, especially in as far as what is taking place and not taking place at the Camp Hill facility. This incident is disturbing. We have many allegations that are flying around. It is the purpose of this hearing and others that will be held in this matter to determine what the facts are and, if there is fault, who is to blame. What we need to do is go about this very serious business in a very serious way. As Representative Richardson has indicated, House Resolution 47, which was passed by the House, establishes

an investigation into all juvenile matters. Representative Richardson is the sponsor of that resolution. He will chair this meeting and all others pertaining to this particular incident.

Let me also state that all witnesses will be sworn in beforehand. We view this, again, as a very serious matter. I don't think we need to belabor that point.

Thank you very much, Representative Richardson.

REPRESENTATIVE RICHARDSON: At this time I would like to introduce the rest of the panel.

(Committee members and staff members were introduced.)

REPRESENTATIVE RICHARDSON: At this time I would like to read House Resolution 47 so that everyone will be fully aware of exactly what rules and regulations that we are under.

"In the House of Representatives, February 18,
1975

"WHEREAS, It is imperative that the youth of Pennsylvania who have been imprisoned or assigned to any type of correctional institution or rehabilitation facility be

treated in a humane manner without needless brutality; and

"WHEREAS, Allegations have been made that these youths are not receiving proper care and supervision; and

"WHEREAS, It is in the Commonwealth's and society's best interest to give these youthful offenders the kind of care, treatment, and rehabilitation that will most readily speed their successful return to society and prevent the reoccurrence of the acts that resulted in their imprisonment; therefore be it

"RESOLVED, That the Subcommittee on Corrections and Rehabilitation of the House Standing Committee on Judiciary investigate the problems connected with the imprisonment and incarceration of youthful offenders. This investigation shall include, but not be limited to, the following problems:

"(1) a thorough investigation of all state and county youth institutions in the Commonwealth.

"(2) brutality in correctional institutions.

"(3) the housing of youthful offenders with older offenders.

"(4) educational programs in correctional institutions.

"(5) the amounts being spent per youth in correctional facilities; and be it further

"RESOLVED, that the Committee may hold hearings, take testimony, and make its investigation at such places as it deems necessary within the Commonwealth. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and to answer questions touching matters properly being inquired into by the Committee and to produce such books, papers, records and documents as the Committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth. Any person who willfully neglects or refuses to testify before the Committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the Commonwealth in such case. Each member of the Committee shall have power to administer oaths and affirmations to witnesses appearing before the Committee; and be it further

"RESOLVED, That within thirty calendar days after the Committee has made its report, the chairman of the Committee shall cause a record of all expenses incurred by the

Committee, or the members thereof, which are payable at Commonwealth expense, to be filed with the Speaker of the House and the Speaker of the House shall cause the same to be entered in the journal thereof. No expenses incurred by the Committee or any member thereof shall be reimbursable by the chief clerk unless such expense shall first have been included as an expense item in the record heretofore required; and be it further

"RESOLVED, That the Committee report its findings to the House of Representatives as soon as possible."

That is the House resolution that we are operating under.

Now, at this point I would like to indicate that I have sent a letter to Mr. Ernest Patton, who is the superintendent of the State Correctional Institution at Camp Hill, requesting that the following inmates who are presently incarcerated there be brought to this hearing. They were all hand delivered. Superintendent Patton was hand delivered a copy of all of these names, and each one of the individuals received a copy of the letter themselves requesting them to be here this morning. There was also sent to the parents upon

call a copy of that same letter requesting that their sons appear before this Committee on Monday, October 27, 1975 at 9:30.

I would like to call at this time Mr. Michael Kaup.

(No response.)

CHAIRMAN HAMMOCK: Is Michael Kaup not present?

REPRESENTATIVE RICHARDSON: I would like to indicate at this time that Michael Kaup is not present.

CHAIRMAN HAMMOCK: He does not answer the call?

REPRESENTATIVE RICHARDSON: He does not answer the call.

Joseph Snyder.

(No response.)

CHAIRMAN HAMMOCK: Does Joseph Snyder answer the call?

REPRESENTATIVE RICHARDSON: Joseph Snyder does not answer the call, indicating he is not here.

Kendall Magwood.

(No response.)

MR. SMYSER: May I have permission to address the
Committee?

REPRESENTATIVE RICHARDSON: Not at this point.

Kendall Magwood does not answer the call, in-
dicating that he is not present.

Robert Tyler.

(No response.)

CHAIRMAN HAMMOCK: Robert Tyler does not answer
the call?

REPRESENTATIVE RICHARDSON: Robert Tyler does not
answer the call, indicating that he is not present.

Bob Gilliland.

(No response.)

REPRESENTATIVE RICHARDSON: Is Robert Gilliland
present.

(No response.)

REPRESENTATIVE RICHARDSON: Indicating that he

does not answer the call. Evidently he is not present.

Anthony Goodwyn.

(No response.)

REPRESENTATIVE RICHARDSON: Is Anthony Goodwyn
here?

(No response.)

REPRESENTATIVE RICHARDSON: Indicating that
Anthony Goodwyn does not answer the call, indicating he is
not present.

William Kane.

(No response.)

REPRESENTATIVE RICHARDSON: Is William Kane
present?

(No response.)

REPRESENTATIVE RICHARDSON: Indicating he does
not answer, therefore indicating that he is not present.

Jim English.

(No response.)

REPRESENTATIVE RICHARDSON: Indicating that Jim English does not answer the call, indicating that he is not present.

Gary Misko.

(No response.)

REPRESENTATIVE RICHARDSON: He does not answer the call, indicating that he is not here.

Ron Sutton.

(No response.)

REPRESENTATIVE RICHARDSON: Ron Sutton is an add on to the Committee's list.

Is Ron Sutton present?

(No response.)

REPRESENTATIVE RICHARDSON: Indicating he did not answer, which indicates he is not present either.

At this point, Mr. Chairman of the Subcommittee, I would like to request that subpoenas for the following ten

names that I have just read -- indicating that they did not answer the call to their names -- that they be subpoenaed and be asked to appear here Tuesday, October 28, 1975 at 9:30 -- of those names being Michael Kaup, Joseph Snyder, Kendall Magwood, Robert Tyler, Bob Gilliland, Anthony Goodwyn, William Kane, Jim English, Gary Misko and Ron Sutton.

CHAIRMAN HAMMOCK: Very well, Representative Richardson.

REPRESENTATIVE FISHER: Question.

CHAIRMAN HAMMOCK: Gentleman, I know there are going to be many questions from the representatives who are here. There has been an indication from the audience that someone would like to address this Committee. I think perhaps before we begin our discussions, perhaps we might hear from the gentleman who does want to address us. Apparently this was part of the preliminary discussion before our hearing started, and perhaps you can give us some clarification.

Please take the microphone and give us your name and who you represent.

REPRESENTATIVE RICHARDSON: We ask this person be sworn in.

MR. SMYSER: I am not here to give testimony; I am here to state the position of the Attorney General.

CHAIRMAN HAMMOCK: Are you here to state anything in regards to this matter?

MR. SMYSER: Yes.

CHAIRMAN HAMMOCK: Then I ask you to take a seat and be sworn in. And whatever comment you want to make, make it for the record please.

Mr. McClea, there is a section to be read. Would you please read that section so we can administer the oath?

MR. McCLEA: Do you want him to be sworn in?

CHAIRMAN HAMMOCK: Yes. There is an applicable section. Do you have that section with you?

MR. McCLEA: I don't have that section with me.

CHAIRMAN HAMMOCK: Would you do the proper procedure by placing your proper hand on the --

MR. SMYSER: I object to being sworn in on the grounds that I am not here to give testimony. I am here as a Deputy Attorney General.

CHAIRMAN HAMMOCK: Would you give us your name?

MR. SMYSER: My name is J. Andrew Smyser. I am

a Deputy Attorney General.

CHAIRMAN HAMMOCK: Are you representing the Office of the Attorney General, Mr. Smyser?

MR. SMYSER: I am representing Superintendent Patton as counsel.

CHAIRMAN HAMMOCK: As counsel to --

MR. SMYSER: As counsel to Superintendent Patton.

CHAIRMAN HAMMOCK: Counsel to Superintendent Patton?

MR. SMYSER: That's right.

CHAIRMAN HAMMOCK: From the Office of the Attorney General?

MR. SMYSER: I am from the Office of the Attorney General.

CHAIRMAN HAMMOCK: Then we are going to request that you make your remarks on the record and that you be sworn, sir.

MR. SMYSER: I am not here as a witness. I object to that procedure.

CHAIRMAN HAMMOCK: I understand that. If you are here to state anything with regard to this matter, then the

Committee is going to request that you put your remarks officially on record, and that you be sworn.

MR. SMYSER: Okay.

REPRESENTATIVE RICHARDSON: Put your left hand on the Bible please.

REPRESENTATIVE FISHER: Mr. Chairman, I believe that under the resolution, that anybody is entitled to be represented by counsel here. And I think if this gentleman is here representing to us that he is representing another person who has been notified to appear, that he should be given the prerogative of making a statement not under oath.

REPRESENTATIVE RICHARDSON: Excuse me. I think that, as chairman of the task force, that under this particular resolution, which calls for the names that we just read, he did not indicate that he is representing any of these gentlemen that I called -- none of the ten names. And what I am asking at this particular time is if he has any information to share from the Attorney General's Office. I did not request the Attorney General to be here this morning. So if he has some information pertinent to this investigation, then he will have to be sworn in.

Please put your left hand on the Bible.

MR. SMYSER: I am not here to provide information, I am here to state a position with respect to the reason why the juveniles whose names have been read are not present. And I am here to present that position as counsel to a state officer, Superintendent Patton.

CHAIRMAN HAMMOCK: Let me ask you this, Mr. Smyser -- are you saying that you chose not to take the oath?

MR. SMYSER: I will take the oath. I don't think that it is proper that I take the oath. I am here as an attorney representing Superintendent Patton. I am not here as a witness.

MR. KAGAN: Mr. Smyser, is the gentleman you represent called here today as a witness?

MR. SMYSER: It is my understanding that he is. Mr. Patton, have you been called here today as a witness?

MR. PATTON: Yes.

MR. KAGAN: Wouldn't it be more proper for you to state your client's position when your client is called to testify by the Committee?

MR. SMYSER: I would be perfectly willing to do that.

REPRESENTATIVE RICHARDSON: Mr. Smyser, then at that time we will hear your remarks, and you will be representing Mr. Patton. At this time I would like to call the next witness.

MR. SMYSER: I only suggested that I speak at this time for purposes of clear understanding. What I intended to address myself to was the reason why the juveniles are not present here.

REPRESENTATIVE RICHARDSON: I understand that, Mr. Smyser. What I am suggesting at this point is if you are representing as counsel, as you indicate to this Committee, Mr. Patton, then at that time we will hear from you.

MR. SMYSER: Fine.

REPRESENTATIVE RICHARDSON: On the question -- Representative Fisher.

REPRESENTATIVE FISHER: I wanted to question, Representative Richardson, the manner in which the superintendent of corrections and/or the names that were read were notified to appear here today.

REPRESENTATIVE RICHARDSON: There is a packet --

REPRESENTATIVE FISHER: I have a packet which contains a sample letter. This is a point of inquiry more than anything else. Is that the manner in which all of them were notified to appear here?

REPRESENTATIVE RICHARDSON: If I may proceed on, Representative Fisher, that is one of the reasons why the packet was presented to each member, so that each member would know exactly how persons were asked to come before this particular Committee. And I feel that letter is self-explanatory, and that certainly if there is any particular information that you would like to discuss concerning that, I would entertain it at a later time. I will not entertain it at this particular point.

REPRESENTATIVE MILLER: Dave.

REPRESENTATIVE FISHER: Mr. Miller, if I could please --

REPRESENTATIVE MILLER: Pardon me.

REPRESENTATIVE FISHER: My question is simply a point of information as to how the witnesses you called were notified to be here. I am not asking that in an interrogative

sense.

REPRESENTATIVE RICHARDSON: A hand delivered letter to all of the persons you have listed there in front of you.

REPRESENTATIVE FISHER: Each one of the people called?

REPRESENTATIVE RICHARDSON: Each of the people called. It was also submitted to Superintendent Patton.

REPRESENTATIVE FISHER: That was going to be my next question -- wasn't somebody at the institution also notified that you were requesting the presence of these individuals?

REPRESENTATIVE RICHARDSON: Yes.

REPRESENTATIVE FISHER: Thank you.

REPRESENTATIVE RICHARDSON: Mr. Miller.

REPRESENTATIVE MILLER: Thank you, Dave, no.

REPRESENTATIVE RICHARDSON: To proceed on, I will now go back to the question, and that is to ask the Subcommittee Chairman, Representative Hammock, the names that I have read, to now call for subpoenaing the following ten witnesses.

CHAIRMAN HAMMOCK: Is there a second to that

motion?

REPRESENTATIVE FISHER: I second it.

CHAIRMAN HAMMOCK: It has been moved and so second-
ed that a subpoena be issued to those people who have been
properly notified and have not yet appeared. Before the Com-
mittee votes on whether or not to issue a subpoena, which we
view as a serious matter, let me just ask -- is there anyone
here who can explain the failure of these young people to be
here?

MR. SMYSER: Mr. Chairman.

CHAIRMAN HAMMOCK: Mr. Smiley (sic) --

MR. SMYSER: Mr. Smyser.

CHAIRMAN HAMMOCK: Pardon me. Mr. Smyser, ap-
parently you have something you want to say to this Committee.

MR. SMYSER: I would like to --

CHAIRMAN HAMMOCK: And if you would like to say
something to this Committee, I am going to ask you to sit down
over there, take the microphone and address this Committee in
a proper way at a public hearing so we can have your statement
on record. That is all I am trying to say to you.

MR. SMYSER: Fine.

CHAIRMAN HAMMOCK: And if you will consent to do that, we will be more than happy to hear whatever you have to tell us.

So we will just hold the motion in abeyance for a second before we take a vote to see if there is something --

Please have a seat, Mr. Smyser. Perhaps this will help all of us -- yourself and whomever you represent and your office and this Committee.

Being an attorney and an officer of the court, we will not ask you to be sworn. We will ask you to tell us whatever you are going to tell us.

REPRESENTATIVE RICHARDSON: Before that, can I ask that Mr. Patton who he represents sit with him? That is who we really should be addressing questions to.

CHAIRMAN HAMMOCK: Okay.

REPRESENTATIVE RICHARDSON: Mr. Patton, will you take the stand please?

ERNEST S. PATTON, called as a witness,
being first duly sworn according to
law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Will you state your name for the record please?

A Ernest S. Patton.

Q Postion?

A I am superintendent of the State Correctional Institution at Camp Hill.

REPRESENTATIVE RICHARDSON: I would like to call on Representative Hammock to ask a few questions first.

CHAIRMAN HAMMOCK: Mr. Smyser, you are in the Office of the Attorney General?

MR. SMYSER: That is correct.

CHAIRMAN HAMMOCK: . And you are a deputy assigned to juvenile matters?

MR. SMYSER: I am a Deputy Attorney General. I am the director of the Office of Criminal Law. The Office of Criminal Law serves as legal counsel to the Bureau of Corrections. Camp Hill being an institution within the Bureau of Corrections, we are counsel for Camp Hill institution and to Mr. Patton.

CHAIRMAN HAMMOCK: Mr. Smyser, you have some .

information you would like to share with this Committee regarding why the youths are not here this morning?

MR. SMYSER: Yes, representative.

CHAIRMAN HAMMOCK: Would you please proceed to give us that information please?

MR. SMYSER: The youths have been advised -- Superintendent Patton has been advised on last Friday not to bring the juveniles to this public hearing today. The reasons for that advice, stated as succinctly as possible, are these:

That the juvenile act and the decisional law and the philosophy underlying juvenile corrections, juvenile justice, is one of privacy and one of protecting the confidentiality of the proceeding and of the juvenile; thus the juvenile court law speaks in terms of a hearing that is private, unlike any criminal trial. Thus the court under the juvenile court act may not let outside persons view juvenile court records. And juvenile law enforcement records likewise are entitled to privacy and confidentiality under the juvenile court law. Juveniles' names do not appear in the paper during juvenile court proceedings. There is an overriding strong policy of privacy and confidentiality in juvenile proceedings.

As the custodian of many, many juveniles, Superintendent Patton is required by law to honor this right to privacy and to confidentiality.

This is a public hearing. That confidentiality and privacy would not be preserved at this hearing. The press is here. It is public. We have advised Mr. Patton that if we see a waiver on the part of the juvenile, on the part of his parents and on the part of the Committee and the court with regard to the right of privacy and confidentiality, we will produce them. And we have every desire to cooperate with this Committee. But in the absence of that waiver of those rights, we feel we would be acting wrongfully, improperly, and possibly in a way that would create civil liability to produce those juveniles. And those are the reasons Superintendent Patton has been so advised.

CHAIRMAN HAMMOCK: That is your statement, sir?

MR. SMYSER: Yes.

CHAIRMAN HAMMOCK: Thank you very much.

Let me just ask you two brief questions.

Have the juveniles been advised that they will not be allowed to testify today?

MR. SMYSER: I cannot answer that question.

CHAIRMAN HAMMOCK: You are speaking on behalf of the Attorney General's Office, is that correct?

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: And in that capacity you represent the Bureau of Corrections?

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: Is that correct?

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: You stated that in that capacity you have advised the superintendent who works for the Bureau of Corrections, or whose ambit he comes under or scope of authority he comes under, not to allow the juveniles to testify, is that correct?

MR. SMYSER: Not to bring them here to a public hearing.

CHAIRMAN HAMMOCK: Not to allow the juveniles to be here at a public hearing --

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: -- to testify before this Committee this morning at 9:30?

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: Is that correct?

MR. SMYSER: That's correct.

CHAIRMAN HAMMOCK: Let me ask you again -- have the juveniles been advised of that, Mr. Smyser?

MR. SMYSER: That is a factual question the answer to which I just don't know.

BY CHAIRMAN HAMMOCK:

Q Mr. Patton, you have been sworn under oath to testify before this Committee this morning. Have the juveniles been so advised?

A I don't know.

Q Do you represent the Bureau of Corrections?

A That's correct.

Q Are you, in fact, the superintendent of the Camp Hill facility?

A Yes, sir.

Q Let me ask you again, have the juveniles been advised this morning as to the fact that they will not be allowed to testify this morning?

A I do not know.

Q To the best of your knowledge you do not know?

A That is correct.

Q Let me ask you just one other question, sir.

Have their parents or any members of their families, friends or relatives been advised that they will not be allowed to testify this morning?

A I am not aware of that fact either.

Q To the best of your knowledge you do not know, is that correct?

A I do not know.

Q And you are superintendent of the Camp Hill facility?

A That is correct.

Q Is that correct?

A That is correct.

CHAIRMAN HAMMOCK: I know that many of us have some questions. I am going to suggest that after we have exhausted whatever other questions we want to ask these gentlemen, that we take a brief recess and discuss the matter

that is currently on the floor; that is, the matter of issuing these subpoenas.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: I yield for a moment.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q I have just one question of redirect to the gentleman.

If, in fact, in response to the last question you responded that you do not know, then why, sir, are those juveniles not here?

A Because of the information that I received from the Attorney General's Office that they would not be present this morning.

Q At the risk of sounding somewhat curt, sir, how did the Attorney General make that decision? Why did they not tell you?

A I don't understand your question, Mr. Miller.

Q The point I am getting at -- it seems that no one knows why the juveniles -- or, in fact, that the

juveniles have been notified. At some point in time, sir, someone made the decision, some official of the state made the decision obviously that they would not be here. If it wasn't you, then it must have been someone in the Attorney General's Office. Someone made the decision. This answer, We do not know, can't go full circle. At some point in time it must stop. Someone did make the decision. And perhaps my question to you is, do you know who that was?

A I cannot answer fully. I received information from the Assistant Attorney General assigned to the Bureau of Corrections Central Office on Friday that we were not to produce any of the requested juveniles at a public hearing this morning.

REPRESENTATIVE MILLER: I thank the gentleman.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: Mr. Smyser, for the record, if and when these subpoenas are served, what would be your feelings on that?

MR. SMYSER: It would depend, Representative, on those conditions that I have stated. The existence or non-existence of subpoenas is, in my opinion, not a crucial ques-

tion. A subpoena does not serve to gain the release of an incarcerated individual, which these juveniles are. Only a writ of habeas corpus ad testificandum serves that purpose. The crucial issues, in the opinion of the Attorney General's Office are the parents' written waiver, the juveniles' written waiver, and the permission of the court.

REPRESENTATIVE OLIVER: Mr. Smyser, if you don't mind, once the subpoenas are served, what position would you take?

MR. SMYSER: I think we would oppose the subpoenas.

CHAIRMAN HAMMOCK: May I just follow up with one question, Mr. Chairman?

REPRESENTATIVE RICHARDSON: Go ahead.

CHAIRMAN HAMMOCK: You indicated in your last comment that unless a waiver, in your opinion, had been perfected -- now, the question that I asked you previously was, had the family been notified, perhaps in order to perfect that waiver. And your answer was no. Is that not true?

MR. SMYSER: That is correct.

CHAIRMAN HAMMOCK: It would be very difficult to

obtain a waiver from somebody who has not been asked or notified or told.

MR. SMYSER: And that was a function of nothing other than time and, in part, a misunderstanding. It was our understanding that the -- and this was a late Friday understanding -- that the Committee was going to be contacting the parents. And we thought and hoped that perhaps as a result of that we would have a yes or no from the parents. We feel that in order to protect the state officials who are custodians of the juveniles, that yes or no should be an informed yes or no, and that it should be in writing.

CHAIRMAN HAMMOCK: That's all.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Mr. Smyser, you stated that privacy and confidentiality required in a juvenile proceeding are the underlying reasons why you have chosen to give the advice to the superintendent that you have. Isn't it so that this underlying confidentiality and privacy is applicable only to a juvenile proceeding itself?

MR. SMYSER: I don't think that it is.

REPRESENTATIVE FISHER: All right, if I were a district attorney of Dauphin County or some other county in this Commonwealth, and I were asked voluntarily or under subpoena for the attendance of a juvenile at a hearing in the courts of the Commonwealth, do you feel this underlying confidentiality and privacy would be a defense to the Bureau of Corrections bringing that juvenile to the hearing?

MR. SMYSER: Well, in such a case I think it is probably not true that the individual is being identified per se as a juvenile who is committed to a juvenile facility.

REPRESENTATIVE FISHER: What if in his testimony that was asked of him in open court? Would there be any power that the Department of Justice would have to refuse to bring that individual to the court of law?

MR. SMYSER: If there were a writ of habeas corpus ad testificandum, I would think not. I would think the juveniles' individual private counsel would raise those objections, if any.

REPRESENTATIVE FISHER: So if those objections were not raised by the individuals' private counsel, then it would be your position that the Department of Justice would

probably not oppose the testimony?

MR. SMYSER: I believe that is right.

REPRESENTATIVE FISHER: And you have indicated that you feel some waiver is needed for this hearing. What difference is this hearing and a hearing in a court of law in one of our counties?

MR. SMYSER: Here we have no court order that the juveniles be produced.

REPRESENTATIVE FISHER: Would not the subpoena issued by the Speaker through the process enunciated and listed in our rules have the same effect in law?

MR. SMYSER: No. A writ of habeas corpus would. A subpoena does not really serve to release a person from incarceration.

REPRESENTATIVE FISHER: I agree. But would it not have the same effect -- if he was brought here in custody, would it not have the same effect as a subpoena from a court of law?

MR. SMYSER: An effect on who? I don't think I understand the question.

REPRESENTATIVE FISHER: In other words, would it

not have the same power of directing and requiring his presence as a subpoena from a court of law would have?

MR. SMYSER: No. It would not go to the custodian of the juvenile, who is the superintendent.

REPRESENTATIVE FISHER: So you are saying, in your opinion, we do not have the same power as the court has to subpoena the presence of witnesses?

MR. SMYSER: You haven't exercised any such power.

REPRESENTATIVE FISHER: If we did exercise it. And in answer to Representative Oliver's question, you indicated that you would probably take the same position if a subpoena was issued as you are taking today.

MR. SMYSER: You wouldn't be exercising the power by issuing a subpoena to the juvenile.

REPRESENTATIVE FISHER: What if that subpoena were issued to the juvenile and also to the superintendent?

MR. SMYSER: Then apparently that power would be exercised. I would have to see the form that that power would take. I know of no such power, or at least I do not know the form that it would take.

REPRESENTATIVE FISHER: That is all I have.

REPRESENTATIVE RICHARDSON: I would like to have the attorney at this point, Mr. John Hartman, raise some questions.

MR. HARTMAN: Mr. Smyser, are you suggesting that the House of Representatives does not have the power to issue subpoenas to the superintendent at Camp Hill to bring these young men to this meeting?

MR. SMYSER: It would not be a subpoena in my understanding of the term subpoena.

MR. HARTMAN: You mentioned a writ of habeas corpus. What was the nature of that?

MR. SMYSER: That is a judicial writ. I am not suggesting --

MR. HARTMAN: Is it not in the nature of a subpoena?

MR. SMYSER: No. It is an order for the release of a person who is incarcerated.

MR. HARTMAN: Well, I realize that. But it is another form of subpoena that the court issues to someone who has custody of somebody else.

MR. SMYSER: That's correct.

MR. HARTMAN: So it is another form of subpoena. And this Committee has the power to issue subpoenas. And that would include that form of subpoena.

MR. SMYSER: I would like to reiterate what I said earlier; that is, that we do not have any desire to oppose the presence of juveniles here. And I don't want my testimony to be characterized in that way, or my position to be characterized in that way. That is not the case. But we feel that certain precautions should be taken, and that we have an obligation to protect juvenile rights, and that those precautions should be taken. And I would hope that there would be an agreement that those precautions should be taken; and, that is, a knowing, informed consent on the part of the juvenile, on the part of the juvenile's parents, and on the part of the courts that the juvenile be here.

MR. HARTMAN: Well, if you are concerned about waivers from the parents and the juveniles, I fail to see why you have not attempted, or the Bureau has not attempted to gain such waivers.

MR. SMYSER: The Bureau has contacted the Committee in courts in the case of most of the juveniles --

MR. HARTMAN: I am talking about the parents and the juveniles.

MR. SMYSER: That was a step that was not taken. The courts were contacted. That was the first step. Most of the courts were opposed. We would hope that the Committee could resolve that problem with the courts.

MR. HARTMAN: I have no further questions.

BY REPRESENTATIVE RICHARDSON:

Q Superintendent Patton, when were you hand delivered this letter to ask you to appear here before this Committee?

A On Friday, the 25th of October.

Q At that time, Superintendent Patton, were the names of the juveniles listed as requesting you to bring said juveniles here to this particular hearing?

A That's correct.

Q At that time, Mr. Patton, did you contact the Attorney General's Office, or did the Attorney General's Office just call you arbitrarily?

A I did not contact the Attorney General's Office. I contacted the Central Office of the Bureau of

Corrections and indicated that I --

Q Who did you talk to?

A I talked to Mr. Francis Filipi, who is the Assistant Attorney General assigned to the Bureau of Corrections.

Q And as a result of that conversation, what did you do?

A In the meantime we had been contacting the respective courts of the juveniles, and I expressed a question to Mr. Filipi in terms of where I stood in terms of presenting the juveniles here before a public body. I received information quite late in that day that in the opinion of the Attorney General's Office, the juveniles should not be presented before the public body.

Q I am asking now, is that as a result of your call to the chief investigator in this matter at Camp Hill that is presently under investigation by the Attorney General's Office? Were you then called by his office and requested not to allow the juveniles to appear?

A Mr. Filipi came to the institution to indicate that he had received the information that Mr. Smyser

gave to you previously.

Q But that was as a result, Mr. Patton, of your call in relationship to the paper that was handed to you, is that correct?

A It was in response to a question that I had relative to the concern for privacy of the juveniles that were involved.

Q So you did know the juveniles' names? In other words, these names were not surprising to you?

A I had a letter that was delivered to me that listed the individuals that were to be brought here this morning.

Q Did you know, Mr. Patton, that all of the other juveniles themselves were personally hand delivered a similar letter that you received?

A No, sir, I did not.

Q Were you present at the institution on Friday?

A I was.

Q Did you know -- and I will ask you again -- that the juveniles were hand delivered a letter personally to

each one of them in this particular matter?

A I have no direct knowledge of that, no, sir.

Q Do you have indirect knowledge?

A I beg your pardon?

Q Do you have indirect knowledge?

A I understood that the representative of the Committee had letters to present, not only to me which was done, but to the officers that were requested to be here, and also to the inmates that were to appear here as witnesses.

Q And they are employees of yours, is that correct?

A The correctional officers are employees of the Bureau of Correction.

Q And they are under your supervision while you are superintendent at the institution?

A That is correct.

Q So as a result of that, you then did have an idea -- or as a result of them passing down information to you, that there were similar letters delivered, not only to the guards of the institution, but also the inmates?

A Your representative who brought the letter to me indicated that he had similar letters for the officers and for the inmates.

REPRESENTATIVE RICHARDSON: Mr. Smyser, I would like to ask you that under your interpretation of the subpoenas, under your understanding -- could you give me your understanding of our subpoena power that this Committee has, in your own words?

MR. SMYSER: I have not addressed myself to that either through research or in my testimony here.

REPRESENTATIVE RICHARDSON: So what did you base your information on that you came before us today? You said you felt as a result of receiving the information that was presented, that even if we were to issue subpoenas to the said inmates, that your position would still be the same, that you would refuse to have them come here. Is that correct?

MR. SMYSER: No. I said I would think we would challenge the subpoenas.

REPRESENTATIVE RICHARDSON: And I am saying, what are you basing that on?

MR. SMYSER: On a custodial obligation on the

part of the superintendent to attempt to enforce the rights to privacy and confidentiality of the juveniles in the institution.

REPRESENTATIVE RICHARDSON: Okay, to follow up on that point then, if I was to tell you that subpoena powers under the rules of the House of Representatives would indicate that they serve the same purpose as any subpoena that is issued within this Commonwealth, would you feel that would not be correct?

MR. SMYSER: I would have no reason to question it.

REPRESENTATIVE RICHARDSON: If I was to tell you that these would be the same subpoenas, if this Committee so desires that at the end of your interrogation, that we would issue subpoenas to those juveniles, would your answer still be the same?

MR. SMYSER: I would think they would be challenged, yes.

REPRESENTATIVE RICHARDSON: So then you think they would be challenged?

MR. SMYSER: Just the same as a judicial sub-

poena might be challenged that it would be the derogation of a privilege, in that the person being subpoenaed would not have relevant evidence.

REPRESENTATIVE RICHARDSON: So your prior statement to the latter one was an indication that you do believe that the subpoenas under the House of Representatives would be the same as issued by any court in the Commonwealth. And you are saying now that if they were to be issued as those same kind of subpoenas under the Commonwealth courts of Pennsylvania, you feel your office would challenge them?

MR. SMYSER: I would think they would be challenged if the conditions that I laid out were not first of all taken care of. And if they were, there would be no challenge.

REPRESENTATIVE RICHARDSON: Mr. Smyser, for the record, would you indicate whether or not you are aware of the fact that it is your office, the Attorney General's Office, who is presently also doing an investigation at this present time at Camp Hill regarding these particular incidents?

MR. SMYSER: I am aware of it, absolutely.

REPRESENTATIVE RICHARDSON: Would you say that any of your personnel, any of your people, have talked to any

of the juveniles in this particular matter as well as inmates and Mr. Patton?

MR. SMYSER: Yes, I am fairly certain that they have.

REPRESENTATIVE RICHARDSON: And would you say your investigation has certainly not met with any opposition or not met with any interference at this present time with relation to how you are running your particular investigation?

MR. SMYSER: I know of no opposition that we have met.

REPRESENTATIVE RICHARDSON: But you sat before this Committee and indicated to us that you are fully willing to cooperate, and yet you still, at the same time, indicate that you feel you would even challenge the right of not only the House of Representatives and their hand and seal to issue subpoenas, but you would challenge a subpoena if issued to those inmates to come and appear before this Committee. I raise the question as to really where the Department of Justice is standing in relationship to finding justice. And I am going to ask you that question -- are we trying to find justice here or are we palying with semantics?

MR. SMYSER: I would hope that we are here to find justice. One of the obligations that I feel as a matter of justice is the theme of privacy and confidentiality. And I would like to add that our internal investigation of this matter does not in any manner jeopardize confidentiality of privacy rights of the juveniles. On the contrary, this is a public hearing where those rights could be jeopardized.

REPRESENTATIVE RICHARDSON: Well, I raised the question solely because of the fact that it was an indication made to us the other day upon our visit that the Attorney General wanted to know exactly what we were doing in relationship to this particular investigation and why we are holding it. And I am saying at this present time that it seems to me, without any hesitation, that there is an interference on the part of this investigation to try and come up with that justice. And I would certainly hope that whoever your advisors are and whoever you are speaking to in the Department, that Attorney General Kane would certainly know we are trying to run an investigation that would certainly meet with the privacy and protection of all juveniles and any other persons who come before this Committee. I think that one of the things this

Committee has been able to do is certainly have persons testify at this particular open hearing. And if you are saying to me that you are concerned with the publicity of what is going to happen in relationship to the institution at Camp Hill, I can understand. But I do not sympathize with the situation that occurred there. And what we are going to do is try and find out all of that information. And I do feel that you should pass that information on and also state it for the record.

Representative Miller:

REPRESENTATIVE MILLER: Dave, I understand our motion is still on the floor technically.

REPRESENTATIVE RICHARDSON: Yes, it is.

REPRESENTATIVE MILLER: Just as a point of discussion, would it be possible for us to amend our motion that the Committee will allow juveniles to totally voluntarily state their position. We would like them to be here, but they can make a statement if they wish to or not. The great irony that prompts me to say this is that I would like to have a chance to question at least one of these juveniles. Because in one instance we are here today because we are concerned with their health and welfare. We have greatly varied

reports. I don't know what is true. And on the other hand, the state officials who are in charge of the juveniles who have them in custody, they, too, are concerned. That is why the boys aren't here. Maybe there is a middle road where we amend our motion to make a voluntary statement. The inconsistency is one which I hope we could bridge.

REPRESENTATIVE RICHARDSON: Thank you for your remarks.

Mr. Kagan.

MR. KAGAN: Mr. Smyser, we have no wish to join the executive branch in a confrontation of our subpoena power. Perhaps in light of Representative Miller's request, perhaps you could enlighten us as to what procedure you wouldn't object to. Perhaps you could tell us how we could get those juveniles here to testify voluntarily. If you note, the letter sent out by Representative Richardson on the 23rd of October was not a subpoena. It reads, "You are requested to make yourself available...." We had asked the juveniles to voluntarily appear before us. We had hoped that the Department of Justice and the Bureau of Corrections would have helped us along with this request, but obviously we have come to some difficulties.

Perhaps you could enlighten us as to how we could do this without getting bogged down in procedure.

MR. SMYSER: It seems to me, sir, that if the juvenile were to sign a statement that he is aware of the nature of this Committee's hearings, that he is aware of the fact that these hearings are public, that the press will be at these hearings -- and I state these things because I think it should be an informed consent on the part of the juvenile and that he elects of his own free will to appear and to give his statement, and that a similar statement be prepared, understood and signed on the part of the juvenile's parents or legal guardians; that our concern would then be eliminated, and that we would then feel that we had fully protected those rights in which we are most interested.

MR. KAGAN: Perhaps then we could meet after this and draw up appropriate language and see if we couldn't expedite these proceedings and perhaps have the juveniles before us tomorrow.

But I would advise the Committee chairman that I also feel that the Committee should vote if it chooses to exercise its subpoena power.

REPRESENTATIVE RICHARDSON: Thank you very much.

I have one point before I recognize Representative Hammock.

If I was to tell you, Mr. Smyser, that this Committee made every attempt available at its disposal to talk with the parents involved in this particular matter, and that there were no objections on the part of the parents, would your latter statement in relationship to the challenging of subpoenas still be the same?

MR. SMYSER: May I answer that by saying that for legal purposes, for purposes of protecting a right that I think is important, and for showing that we have protected that right, it is greatly preferential -- mandatory in my opinion -- that such a statement made by the parents should be a statement made in writing.

REPRESENTATIVE RICHARDSON: Well, what if I were to tell you that by word of mouth of these parents and by their own volition that they decided they wanted their child to testify before this Committee and to bring to the forefront the truth of the matter of all of the things involved in this particular incident, that they were willing to allow them to

do it without having the parents sign any paper at all?

MR. SMYSER: Well, in my opinion we are talking here about the waiver of a right. I think it is the waiver of a constitutional right.

REPRESENTATIVE RICHARDSON: Who has a bigger right than the mother and the father of a juvenile?

MR. SMYSER: No. I am suggesting that they have a very strong right to protect the rights of the juvenile, but that if a question arising subsequently about the waiver of a solemn constitutional right, it is legally proper and necessary to have that waiver in writing. And I am only saying that that waiver should be one made in writing.

REPRESENTATIVE RICHARDSON: Representative Hammock, and then Representative Miller.

CHAIRMAN HAMMOCK: Mr. Smyser, we certainly don't want to prolong this discussion. I certainly appreciate myself the spirit of confidentiality that you speak of, and certainly the spirit that our laws, indeed the decisional case law, also speaks of in terms of protection of the rights of juveniles. What you have said to us this morning is that if, in fact, a waiver is perfected by the parents, as you

indicated, that perhaps your office would be inclined then to allow the juveniles to testify. I would ask you, would you take that position if you were talking to the Supreme Court of Pennsylvania?

MR. SMYSER: In what context?

CHAIRMAN HAMMOCK: If we were sitting here this morning as the Supreme Court of Pennsylvania? Would you take that same position if the Supreme Court of Pennsylvania had requested the juveniles be here and requested what we are, in fact, requesting? Would you then say to the Justices that you would not allow the juveniles to testify unless a waiver has been perfected via the parents?

MR. SMYSER: The situation is one that is very difficult to envision, but I think our legal position would be exactly the same, yes.

CHAIRMAN HAMMOCK: Then you think your position would not vary?

MR. SMYSER: No, I do not think it would vary.

CHAIRMAN HAMMOCK: Have you been instructed, Mr. Smyser, to oppose a subpoena if and when it were issued?

MR. SMYSER: No.

CHAIRMAN HAMMOCK: Have you had conferences with any of your superiors about any of this morning's proceedings?

MR. SMYSER: Yes.

CHAIRMAN HAMMOCK: To whom did you speak?

MR. SMYSER: I have spoken with both the Solicitor General, Mr. Yakowicz, and the Attorney General, Mr. Kane.

CHAIRMAN HAMMOCK: Have they advised you to oppose, if and when a subpoena was issued, to oppose the subpoena?

MR. SMYSER: No. That wasn't discussed. I answered a question earlier about that as honestly as I could. I did not mean to indicate that I had received instruction. I was simply saying that it seemed to me that if there were subpoenas, we would oppose them.

CHAIRMAN HAMMOCK: Was this not discussed in your conferences with the Solicitor General or the Attorney General?

MR. SMYSER: No, it was not.

CHAIRMAN HAMMOCK: Thank you, sir.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q A brief question to Mr. Patton. And indeed, I as a Committee member should apologize. I have not come prepared for this question of questioning the subpoena power of a standing House committee. But just from a point of information -- you have been the director at Camp Hill for more than two years, is that right?

A I was appointed in December of 1968.

Q Do you recall approximately two years ago a request tendered to you from the then Chairman of this Committee, Representative Tony Scirica, requesting the presence of juveniles before the Committee for various points of information?

A No, I don't.

Q Do you recall that, in fact, juveniles did appear before this Committee and gave testimony for the information of the Committee?

A No, sir I do not recall that.

REPRESENTATIVE MILLER: I have no further questions.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: Mr. Smyser, when this Committee breaks, would you be willing to consult with the Attorney General or your immediate superior or whoever it might be to see if his or her feelings are the same as yours in opposition to the service of these subpoenas?

MR. SMYSER: Yes. I would assume that I will be able to consult with the Attorney General within a reasonably short period of time. And assuming I can, I will.

REPRESENTATIVE OLIVER: Would you be good enough to bring that information back to this Committee?

MR. SMYSER: Yes, sir.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Mr. Smyser, would your position be the same if this Committee decided to hold this hearing in executive session as provided under Rule 51?

MR. SMYSER: I am not that familiar with the procedure. Is it entirely private?

REPRESENTATIVE FISHER: My next question, of course, would have been how that is applied now in light of the Sunshine Law. So I don't see any reason for the answer at this point.

MR. SMYSER: You would still have the problems, just parenthetically, of the juveniles entering and leaving and being photographed and possibly being interviewed and identified.

REPRESENTATIVE RICHARDSON: Thank you, gentlemen.

Oh, I am sorry, I would like to recognize the presence of Representative Lederer, who joined us over half an hour ago. I am very sorry for not recognizing the gentleman. And I call on him at this particular time for any questions he may have.

BY REPRESENTATIVE LEDERER:

Q I have one question for you, Superintendent Patton.

What would your feelings be if we brought the hearing to the institution rather than at the capital here?

REPRESENTATIVE RICHARDSON: Would you repeat the question? I don't think everyone heard it.

BY REPRESENTATIVE LEDERER:

Q My question is, what would your feelings

be if we brought the hearing to the institution itself?

A My personal opinion, without discussing it with the Attorney General's Office, would be that it could be a private hearing in that particular situation, and that there would be no objection. That is a personal opinion.

REPRESENTATIVE LEDERER: That's all.

REPRESENTATIVE MILLER: Does counsel for Mr. Patton share that opinion?

MR. SMYSER: If that were a private hearing in the institution -- and I don't know what the Sunshine Law implications of that would be -- but if it were a private hearing, I would see no reason for objecting.

REPRESENTATIVE MILLER: You would object then to taking transcripts because, indeed, it would not be private.

MR. SMYSER: If they were transcripts that would become public transcripts I would object. If the transcripts would remain private, I would not object.

REPRESENTATIVE MILLER: Thank you.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

MR. KAGAN: Let me just ask you a few questions.

If a juvenile were to be in the Camp Hill facility. And I haven't been there, but let's say he had a window that overlooked the street. And let's say he observed an accident which occurred outside of his window, and one of the parties to that accident subpoenaed him to testify as to what he had seen. Would your office oppose that subpoena?

MR. SMYSER: If we were not satisfied that the juvenile was represented by counsel or was receiving --

MR. KAGAN: If he was called as a witness.

MR. SMYSER: Called as a witness and had no representation by counsel, is that your question?

MR. KAGAN: No. If he was called as a witness to testify to some facts that he had seen with regard to that accident, would your office oppose that subpoena?

MR. SMYSER: I believe that the approach I would take would be to advise the court of the person's status as a juvenile, to apprise the court of that confidentiality and privilege problem, and to leave that question up to the court then to decide.

MR. KAGAN: Would you state to the Committee the statutes upon which you based this confidentiality and privacy

issue?

MR. SMYSER: Primarily upon the Juvenile Court Act, which is found in Title XI, Purdons. I don't know the section numbers, but it is found in the pocket part.

MR. KAGAN: Does that refer to legislative proceedings?

MR. SMYSER: No, it makes no reference whatsoever to --

MR. KAGAN: Does that apply to court proceedings aside from the proceeding in which the juvenile is directly involved as the defendant?

MR. SMYSER: No. It does not specifically apply to other court proceedings.

MR. KAGAN: Well, how can you say it applies to this hearing?

MR. SMYSER: Because of the general nature of the Juvenile Court Law.

MR. KAGAN: If the stenographer would read it back -- you just said it does not apply to this type of hearing. I am wondering what the objections of the Department of Justice are. This is not a hearing that touches on any act

allegedly committed by the juvenile. This is not a criminal proceeding. This is a fact finding hearing.

MR. SMYSER: I see a right broader than the specific sections of the Juvenile Court Law.

MR. KAGAN: On what constitutional provision are you basing your argument?

MR. SMYSER: On a constitutional provision that --

MR. KAGAN: If the act doesn't apply, you must be going outside of that statute. Perhaps it would be the constitution, or perhaps it would be something else that the Committee is not aware of. If so, we would like you to inform the Committee.

MR. SMYSER: I can't cite cases; I can't cite constitutional sections. I haven't had an opportunity to do that kind of research. It is a general right to confidentiality and privacy that I think we all recognize with respect to juveniles, and that I feel should not be lightly discarded.

MR. KAGAN: Well, I would hope that the Department of Justice is equally aware that the House of Representatives, as a co-equal branch of government, also has its rights and prerogatives, including the right of subpoena, including

the right to gather information concerning the subject matter of things we must legislate upon; and that if the Department of Justice would come here to interpose objection to certain proceedings in the House of Representatives, that they would be prepared on a statutory basis to come in and fight whatever they see the rights of these juveniles to be. So far we haven't seen any. So far we have a generalized notion of privacy and confidentiality not grounded on any statute, not grounded on any constitutional provision. We would hope that the Department of Justice would see fit to cooperate with this Committee to expedite these proceedings rather than obfuscate the issues.

MR. SMYSER: We would gladly brief the issue, give citations -- absolutely.

MR. KAGAN: That's all. Thank you.

REPRESENTATIVE RICHARDSON: Mr. Smyser, just before the Committee breaks for a five minute recess, let me ask you a question.

Have you read House Resolution 47?

MR. SMYSER: I heard you read it today.

REPRESENTATIVE RICHARDSON: Before today have

you read House Resolution 47?

MR. SMYSER: No, sir, I have not.

REPRESENTATIVE RICHARDSON: Is it your understanding that the information that I have read in House Resolution 47, that the Committee may hold hearings, take testimony, make its investigation at such places as it deems necessary within this Commonwealth, that it may issue subpoenas under hand and seal of its chairman, commanding any person to appear before it and to answer questions touching matters properly being inquired into by the Committee and produce such books and records, etc., etc. -- would you still say then that your answer would be the same, that this particular resolution under the hand and seal of the Commonwealth of Pennsylvania, House of Representatives, would not be in order? Is that what I hear the Attorney General's Office saying to this House of Representatives Committee?

MR. SMYSER: No. I don't think that is at all what I have said.

REPRESENTATIVE RICHARDSON: Well, I am really trying to be very patient, Mr. Smyser, indicating earlier that I feel there seems to be some problems with the Attorney

General's Office and this House Committee to investigate such matters. We are trying to get to the bottom of this particular matter. Do you then indicate to me on the information I have just read to you that this Committee is out of order in getting into the kind of information that we are trying to bring forth in these hearings?

MR. SMYSER: No. I am only suggesting that that mandate should be carried forward in compatibility with and in respect of the rights of juveniles that I feel exist here.

REPRESENTATIVE RICHARDSON: Thank you very much. At this particular time, Mr. Smyser, I would hope you would keep yourself available, because there is a possibility that you will be called again.

At this time I would like to give our stenographer a break. We will take a five minute recess.

MR. SMYSER: May I simply request that the Committee, inasmuch as it can, instruct the press not to release the names of the juveniles that have been read here today?

REPRESENTATIVE RICHARDSON: Release them to who?

MR. SMYSER: To the public through the press;

that they not be published in the newspapers.

REPRESENTATIVE RICHARDSON: Well, I think in light of our past proceedings, and as you have indicated under the juvenile act, just as it is indicated in the state laws, you know you are not supposed to do that. We can request that, Mr. Smyser, but as you know, the newspapers and others have done exactly what they want even in relationship to juveniles. Thirteen and fourteen year olds names are printed in the paper in relationship to cases. We have no control over that. I would like to state that at this time.

This House stands recessed for five minutes.

(Witness excused.)

(A. recess was taken.)

REPRESENTATIVE RICHARDSON: I would like to now at this particular time call the meeting back to order, reminding those that are present that we are here under the task force of the subcommittee on corrections to investigate youth incarceration upon incidents that have occurred recently at the Camp Hill institution, Camp Hill.

Just before our recess I indicated that we were

about to proceed on a motion that was on the floor of this Committee to call for the subpoenas of the ten juveniles that were called this morning and there was no response, indicating that they were not present. At this particular time, Mr. Chairman, I so move to the members of this Committee that we issue subpoenas to the following names that I have called off.

There is a question. Representative Rhodes.

REPRESENTATIVE RHODES: No question.

REPRESENTATIVE RICHARDSON: On the question --
Representative Miller.

REPRESENTATIVE MILLER: A Committee question to
Representative Richardson.

Is it your intent to specifically name those individuals that we wish Chairman Hammock to subpoena here, or is it your wish, or would you accept a general motion directing the chair to use his discretion?

REPRESENTATIVE RICHARDSON: I am specifically asking this Committee, under each of the ten names of the juveniles involved in this particular matter, to be each issued a subpoena to appear before this Committee on Tuesday, October 28, 1975 at 9:30 a.m. in this Majority Caucus Room.

I want to make it very clear so that those are involved will understand the motion. The motion is to incorporate the ten names that I have already called, issuing the subpoena to Superintendent Patton with the ten names of the juveniles who he is in charge of at that institution, to bring those juveniles before this Committee tomorrow morning. And I would have to call them by name so that Representative Hammock would know who those individuals are and asking that they appear before this Committee.

Are there any questions on the motion?

REPRESENTATIVE RHODES: Second.

REPRESENTATIVE RICHARDSON: Representative Rhodes has seconded the motion.

CHAIRMAN HAMMOCK: I think we have already agreed and we have already voted. We will take a public vote. We have already agreed and have decided what it is that we are about to do. It is a very serious matter. We do not take this matter very lightly. I want to make that very clear to everybody here present; that a committee of the House should have to issue subpoenas in this case.

Before we do vote, however, is Mr. Schmeer (sic)

here?

MR. KAGAN: Smyser.

CHAIRMAN HAMMOCK: Excuse me, Mr. Smyser. Has he left the room here? Is he back in his office?

MR. GILMAN: Mr. Smyser is currently in conference with the Attorney General.

CHAIRMAN HAMMOCK: Would you please give us your name?

MR. GILMAN: Yes. My name is Glenn Gilman. I am also a Deputy Attorney General.

CHAIRMAN HAMMOCK: I think I can remember that a little easier, Mr. Gilman.

All right then, we will ask for a roll call vote.

REPRESENTATIVE RICHARDSON: I will call the roll.

Representative Oliver.

REPRESENTATIVE OLIVER: Aye.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Nay.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Aye.

REPRESENTATIVE RICHARDSON: Representative

Lederer.

REPRESENTATIVE LEDERER: Aye.

REPRESENTATIVE RICHARDSON: Representative

Hammock.

CHAIRMAN HAMMOCK: Aye.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

REPRESENTATIVE RHODES: Aye.

REPRESENTATIVE RICHARDSON: Representative

Richardson is aye.

Mr. Chairman, the Subcommittee on Corrections' vote is six aye's and one nay. The vote being unanimous, the motion is carried to follow through on the proceedings of issuing a subpoena to Superintendent Patton to ask that the following ten juveniles whose names have already been called be subpoenaed to be here tomorrow morning on Tuesday, October 28, 1975 at 9:30 a.m.

Representative Hammock.

CHAIRMAN HAMMOCK: Mr. Patton, would you please again take the microphone for a second?

MR. GILMAN: May I sit with him?

CHAIRMAN HAMMOCK: Yes, please, Mr. Gilman.

ERNEST S. PATTON, recalled as a witness, having been previously sworn according to law, testified as follows:

CHAIRMAN HAMMOCK: Superintendent Patton, and Mr. Gilman who is sitting in from the Attorney General's Office, please be advised that as Chairman of the Subcommittee of the Judiciary Committee on Corrections and Rehabilitation, that I will sign subpoenas directing you, in your capacity as superintendent of the Camp Hill facility, to produce those juvenile offenders who are involved and whose names have been cited earlier this morning. I am reluctant, as we are all, to have this kind of situation develop this morning. Being a Committee of the House of Representatives, we were hoping that we would have cooperation from the administrative branch of government. This is a very serious matter, and we are trying to fact find. We understand and appreciate the underlying concept of confidentiality that certainly is accorded to juveniles in normal proceedings. However, we do not feel this is a court of law. We do not feel we are violating those principles by asking their presence to testify this morning as to the facts that were occasioned in the last several days

to them or to any others that they saw or were involved. We do not feel we are violating the spirit of the juvenile act. This is a very difficult matter, and these are very difficult times.

But we are directing you, sir -- we will issue and I will sign -- I am directing several members of my staff, Mr. Kent Adami and Mr. Sam McClea to see that the subpoenas are properly served.

And I would just pass one other thing on to you, Mr. Gilman, and hope you would pass it on to Mr. Smyser, that I am requesting the Attorney General to be present here tomorrow. If he is not here, I will issue a subpoena to him. We feel this is a very serious matter. We want the cooperation of the executive branch.

Are we clear?

MR. GILMAN: I am clear on that.

CHAIRMAN HAMMOCK: Are you clear on my statement?

MR. GILMAN: Yes. I don't agree with it, but I am clear on it.

CHAIRMAN HAMMOCK: All right.

MR. GILMAN: Representative, I --

CHAIRMAN HAMMOCK: I am not asking for your agreement. Do you understand it?

MR. GILMAN: Yes, sir.

CHAIRMAN HAMMOCK: Okay.

Now, was there something that you wished to say?

MR. GILMAN: I would like to make one request, if I may.

In light of the fact that current good faith attempts at avoiding confrontation are being made, would the Committee consider postponing for twenty-four hours or forty-eight hours the service of the subpoenas?

REPRESENTATIVE RICHARDSON: Mr. Chairman of the Subcommittee on Corrections, this House investigation is under House Resolution 47. This Committee has voted already to pass subpoenas. We tried to resolve this matter before. This Committee did take a vote, and at that particular time it was then the wish of the Attorney General's Office -- which you represent -- that there would be some type of problem in relationship to challenging subpoenas issued. I, therefore request, as Chairman of the Task Force of the Subcommittee on Corrections to investigate juvenile incarceration, that

we not entertain any motion to postpone any proceedings to deal with bringing justice to the forefront, particularly in regards to this investigation.

MR. GILMAN: Is that an answer for the Committee?

REPRESENTATIVE RICHARDSON: Yes, it is.

MR. GILMAN: Thank you.

CHAIRMAN HAMMOCK: Thank you, Mr. Gilman.

I think perhaps we can move on.

REPRESENTATIVE FISHER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Mr. Chairman, could I just ask Mr. Gilman to explain in a little detail the question that you asked Mr. Richardson about the delay? Were you talking about service, or were you talking about presentation?

MR. GILMAN: Well, the main point would not actually be service, it would be presentation. The reason that I requested the delay is so that we might have a brief period of time in which to work out the details of the conditions Mr. Smyser spoke to you about earlier regarding the waivers and the permission of the courts. It might be rather

difficult for us to obtain those necessary things within the next twenty-four hours. And if we are not able to, we would then be under the gun, so to speak, of contempt with the Committee if we do one thing, and with the court if do another. It makes it rather difficult to perform one's duties.

REPRESENTATIVE FISHER: Was your question directed with the idea of possibly voluntarily complying with the request of this Committee?

MR. GILMAN: We would like to be able to if we are able to work out the details that Mr. Smyser spoke to.

REPRESENTATIVE RICHARDSON: You are not answering the question.

REPRESENTATIVE FISHER: Well, I was asking whether the question was asked with the intention of voluntarily complying. You sort of gave me a couple of double negatives there.

MR. GILMAN: Well, what do you mean by voluntarily complying?

REPRESENTATIVE FISHER: In other words, are you asking for some period of delay in order to avoid the necessity of this Committee to subpoena these people here?

MR. GILMAN: Yes, I am. We are representing today that we are going to make good faith efforts in whatever number of hours are given to us to obtain the consents of the courts and the consents of the parents and of the children, so that we would avoid any legal confrontation on this point.

REPRESENTATIVE RICHARDSON: Representative Fisher, I would like to indicate at this time, based on information that was just received by me that if, in fact, Mr. Gilman's statement is in order, then we shall hold up. The thing is that the subpoenas will be signed under the hand and seal of the Subcommittee Chairman, Representative Hammock, but that we will not wait with the double talk we have been getting all morning. We will not wait to let them try and move this Committee. This Committee has some findings that they must proceed on. I think we have acted already in good faith. We do not owe the Justice Department anything, because they have not given us anything in relationship to their own investigation that they are having. I want to make it very clear that I think this is a delaying tactic. They have asked for forty-eight hours to review a situation that does not require forty-

eight hours in time. The incidents that occurred are very serious and, therefore, do not require another delay. We have delayed it long enough at this point. And I think if all of those legal questions would have been raised over the weekend, there should have been some burning of midnight oil so that they would be done at this time. So I have already answered your question. And in due respects to what you have said, that we are saying that those subpoenas will be issued. And if Mr. Smyser and Attorney General Kane get back before these hearings are over today indicating there is going to be something worked out, we will listen to it at that time. But at this particular time the motion stands as is.

MR. GILMAN: Mr. Richardson, I would like to object to your characterization of our position as double talk. Lawyers are under some restraint to act according to the law, and politicians are not always under that same restraint.

CHAIRMAN HAMMOCK: I object to that statement. Let me just say, Mr. Gilman that I strenuously object and oppose that statement. We are here sitting as a committee of the House of Representatives, not as a bunch of politicians. And I want you to understand that.

MR. GILMAN: I do understand that, sir. I asked

--

CHAIRMAN HAMMOCK: Then please don't refer to this Committee as a bunch of politicians. We are sitting here as elected officials trying to conduct the business of this Commonwealth.

MR. GILMAN: Politicians --

CHAIRMAN HAMMOCK: And until this point, we have had nothing but interruptions and lack of cooperation from the Department. And if they continue, sir, we will take it further. And you can rest assured of that.

MR. GILMAN: Politicians is not a curse word. I am not aware of it.

CHAIRMAN HAMMOCK: Well, I oppose and object to your using that language. And I don't even think it is funny, sir. And from one lawyer to another, I would strenuously oppose the use of your language to this Committee.

MR. GILMAN: Well, as I say, we are making good faith efforts to comply with the law on both sides of the question.

CHAIRMAN HAMMOCK: Well, we have just about had

enough -- and I concur with Representative Richardson's use of the language -- double talk from you guys.

Let's get on with the hearing, Mr. Chairman, if you please, sir.

REPRESENTATIVE RICHARDSON: Representative Rhodes, did you have a comment?

REPRESENTATIVE RHODES: I was just going to point out that I don't think we have to make a determination now about your intentions. Tomorrow morning we will vote on whether to cite you for contempt or not. We will decide at that point whether or not your actions have been in good faith. We don't have to determine that today.

MR. GILMAN: Well, the question was the amount of time necessary to --

REPRESENTATIVE RHODES: I know. We can determine that tomorrow. If tomorrow you come in without the kids and make a presentation before the Committee, we will determine at that time whether you have done so in good faith. That will affect how we vote on the motion of contempt. So I think it is a moot -- it is not something we should get too wrapped up in right now.

MR. GILMAN: Okay.

REPRESENTATIVE RICHARDSON: Thank you very much.

I would like to move on now with our hearings.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to call to the stand Mr. James Burgh. And would he also bring his counsel along with him please.

JAMES G. BURGH, called as a witness,

testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q First of all, let me ask you this: Do you understand why you were asked to come here today?

A Yes, sir.

Q Mr. Burgh, did you let this Committee know the results of some incidents that have occurred -- do you understand why you are here? That is what I asked you. Do you understand why you are here?

A Yes, I do.

Q Do you understand the seriousness of the whole investigation?

A Yes.

Q I want to try to make it very clear that we are going to do anything in our power to make it very clear that all of the confidentiality and your rights are protected as a juvenile in the state of Pennsylvania. And I would also ask that you be sworn in. Do you understand what it means to be sworn in?

A Yes.

Q Would you, recognizing that you understand that -- do you have any objection to being sworn in to testify at this particular hearing?

A No.

Q Has anyone intimidated you or anyone coerced you into coming -- no.

Has anyone intimidated or made you come today to testify before this Committee against your will?

A No.

Q So we don't get bogged down, would you raise your right hand and place your left hand on the Bible please.

(The witness was sworn.)

BY REPRESENTATIVE RICHARDSON:

Q Would you state your name and identify your counsel who is sitting next to you?

A James Grant Burgh.

REPRESENTATIVE RICHARDSON: Would counsel identify herself please?

MS. CHOMSKY: I am Judith Chomsky from the Juvenile Law Center in Philadelphia. And today is the first time I have spoken to James about representing him, and he has acquiesced.

I would like to say that I hope that any public record of this hearing and any newspaper reports from this hearing will omit his name.

REPRESENTATIVE RICHARDSON: Well, I would like to let counsel know that the press is here. We can request, as we have done at the beginning, to not use Mr. Burgh's name in this particular hearing because he is a juvenile. And in relationship to the record, we can ask that it be expunged from the record in terms of the notes of testimony on this particular hearing. But we cannot stop anyone from going out and talking about it. We don't have the right to do that.

MS. CHOMSKY: All right.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: If we could for a moment, we would like to speak to Ms. Chomsky.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: At this time I would like to ask if Superintendent James Jackson would also step to the stand.

JAMES JACKSON, called as a witness, being first duly sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: Would you state your name, your address, the institution that you are from and your position?

MR. JACKSON: I am James Jackson, Executive Director of the Youth Development Center in Philadelphia, 151 West Luzerne Street, Philadelphia, Pennsylvania.

REPRESENTATIVE RICHARDSON: Thank you very much.

Please be seated.

Now, as a result of something happening sometime in October, Mr. Burgh, what I would like for you to do is to describe to this Committee how you happened to appear here before this Committee concerning those particular incidents that did occur at the previous institution that you were at. You can consult with counsel.

(Mr. Burgh consulted with his counsel at this point.)

MR. BURGH: I was in my cell while some people were throwing fire out on the tier. I was on restrictions because I'd done something earlier, so I couldn't go to a concert they went to. There was about eight of us there. And two people were throwing fire when everybody returned from the concert. Some guards came up and they hit my gate.

REPRESENTATIVE RICHARDSON: Will you explain what you mean by "hit your gate"?

MR. BURGH: They opened my cell. And I knew what was going to happen, so I wanted to go along peacefully. But they took and grabbed me and put my arms behind my back and handcuffed me and then started beating me. Then they took

me out of my cell, and one of the officers smashed my head into all the other cell doors all the way down the tier, and then threw my head into a brick wall when I came down the steps. Then he was choking me all the way to "D" Ward, which is Mohawk. When I got in Mohawk --

REPRESENTATIVE RICHARDSON: Could you explain what Mohawk is to the Committee. And when you said you were beaten in your cell -- now, take your time. Make sure we get everything that you are saying.

And I would like at this point to make it very clear that -- Mr. Jackson, he is under your supervision at your institution, is that right?

MR. JACKSON: That's correct.

REPRESENTATIVE RICHARDSON: And I would like to make it very clear that there should be no repercussions at all because this gentleman is testifying before this Committee -- any danger to his life or anything of that nature. Do you feel that that safety could be provided at the Youth Development Center at Second and Luzerne Street?

MR. JACKSON: Yes, I do.

REPRESENTATIVE RICHARDSON: I want you to take

Before you start naming names -- and please answer me as honestly as you can -- do you have any fear at all that at any time there may be repercussions against your person, against you, for making this testimony? And it is no reflection on the gentlemen here. Do you have any fear at all of that?

MR. BURGH: No.

REPRESENTATIVE MILLER: Would you prefer that this Committee take this testimony in executive session? That is your decision.

(Mr. Burgh consulted with his counsel at this point.)

MR. BURGH: I am willing to speak in public.

REPRESENTATIVE MILLER: At any point in time if you chose to change your mind, you just say so and inform the Committee of that.

Thank you.

REPRESENTATIVE RICHARDSON: Take your time. Go ahead.

MR. BURGH: So then Mr. Benner came in, and he

MR. BURGH: I am not sure.

REPRESENTATIVE RICHARDSON: Do you remember the day?

MR. BURGH: It was a Wednesday.

REPRESENTATIVE RICHARDSON: Was it in September?

MR. BURGH: It was in October.

REPRESENTATIVE RICHARDSON: Sometime in October. Early part of October or latter part of October?

MR. BURGH: It was the early part.

REPRESENTATIVE RICHARDSON: Early part of October, indicating that the early part of October that this incident did occur, indicating that we don't have a specific date at this point.

Was it of this year?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: Go ahead.

MR. BURGH: There was two other guards that also scored me out.

REPRESENTATIVE RICHARDSON: Okay, go ahead and continue.

MR. BURGH: There was Mr. Forker and Mr. Strock.

REPRESENTATIVE RICHARDSON: If they did anything, what did they do?

MR. BURGH: They were just there in case I started getting wild or something, which would have been hard for me to do. But anyway, they came to my cell. Mr. Strock was behind me and Mr. Forker was beside me. But they never beat me. It was just Sergeant Benner and Sergeant Stotelmeyer.

REPRESENTATIVE RICHARDSON: As a result of that beating, did you require any type of hospitalization? Did you require any kind of medical attention at all? Did you see a nurse, or did you see a doctor?

MR. BURGH: Yes, I did.

REPRESENTATIVE RICHARDSON: That day?

MR. BURGH: That night.

REPRESENTATIVE RICHARDSON: At the institution?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: Do you remember the doctor or nurse's name?

MR. BURGH: No, I don't.

REPRESENTATIVE RICHARDSON: Does she work at the institution?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: Or does he work at the institution?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: Do you remember about what time it was?

MR. BURGH: Somewhere around 10:00.

REPRESENTATIVE RICHARDSON: At night?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: And as a result of your being treated, what did they do?

MR. BURGH: Put iodine on my cuts, cleaned them up and put iodine on them. That's all.

REPRESENTATIVE RICHARDSON: Were you still in pain after the iodine was administered.

MR. BURGH: I sure was.

REPRESENTATIVE RICHARDSON: As a result of that, what did they do after you left the infirmary or doctor's office or whatever?

MR. BURGH: Could you say that again?

REPRESENTATIVE RICHARDSON: Yes. What did they

do after you were administered the iodine and whatever else they did? Where did you go then?

MR. BURGH: They took me back to Mohawk.

REPRESENTATIVE RICHARDSON: Did you complain of any physical injury yourself?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: To anyone? To whom did you speak?

MR. BURGH: The guards, some of the guards that were on.

REPRESENTATIVE RICHARDSON: Do you remember their names?

MR. BURGH: No, I don't.

REPRESENTATIVE RICHARDSON: But these are the ones that work in the Mohawk area?

MR. BURGH: Yes.

REPRESENTATIVE RICHARDSON: And as a result of you telling them, what did they do?

MR. BURGH: Nothin'.

REPRESENTATIVE RICHARDSON: As a result of that particular incident, was there any information that you shared

with anyone else in order to bring out the information to the public to let folks know you were injured? Did you contact your parents?

MR. BURGH: No. I was going to write a certified letter, because any other letter wouldn't have gotten out of there. But I got transferred before then.

REPRESENTATIVE RICHARDSON: Okay, did you let anyone know about this beating that you received while you were there?

MR. BURGH: Just about everybody in Mohawk knew about it and everybody in "C" Ward, because in "C" Ward they saw it. And in Mohawk they saw me when I was walking past their cells, and there was a lot of talk about it.

REPRESENTATIVE RICHARDSON: At this time I don't have any other questions. I want to move on and ask the Chairman, Representative Hammock, if he has any questions.

CHAIRMAN HAMMOCK: Would you give me your full name again?

MR. BURGH: James Grant Burgh.

CHAIRMAN HAMMOCK: James, do you feel comfortable here this morning testifying before us? Are you at ease?

MR. BURGH: Yeah, I'm a little nervous.

CHAIRMAN HAMMOCK: It's understandable. We have had a busy morning, and we haven't even begun yet really.

What I want to do now is go back over your story a little bit, okay? We have to be as precise as we can in your best recollection, okay?

MR. BURGH: Okay.

CHAIRMAN HAMMOCK: It may seem that I am picking at you or picking at the issues, but I want you to be comfortable.

How old are you?

MR. BURGH: Seventeen.

CHAIRMAN HAMMOCK: How long were you at Camp Hill before this incident occurred?

MR. BURGH: About ten months.

CHAIRMAN HAMMOCK: You were there ten months before this happened?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: How long ago did this happen, a week, two, three, last week? Did it happen last week?

MR. BURGH: No. It was about --

CHAIRMAN HAMMOCK: Week before last?

MR. BURGH: About three weeks ago.

CHAIRMAN HAMMOCK: About three weeks ago?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Now, let's see if we understand what happened. You were in your cell minding your own business. Did you light a fire?

MR. BURGH: No, I did not.

CHAIRMAN HAMMOCK: But there was a fire that started?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And you stated that two people lit a fire, is that right?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you see the fire being lit by these two people?

MR. BURGH: Yes, I did.

CHAIRMAN HAMMOCK: And when the fire was being started, were there any young people who were in the cells who complained about the fire being started -- yelled out and said, "Hey, somebody is starting a fire."?

MR. BURGH: No --

CHAIRMAN HAMMOCK: Tried to let people know about it?

MR. BURGH: Not really. If anything --

CHAIRMAN HAMMOCK: Keep your voice up. I can't hear you.

MR. BURGH: If anything, they were telling them to go ahead and do it.

CHAIRMAN HAMMOCK: How many people were on this cell block at this time or on the floor you were on?

MR. BURGH: There were --

CHAIRMAN HAMMOCK: If you can recall.

MR. BURGH: There were five people around my area.

CHAIRMAN HAMMOCK: Around your area? And you saw some of the people starting the fire?

MR. BURGH: Yes, I did.

CHAIRMAN HAMMOCK: And then somebody came into your cell?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And do you know who that some-

one is?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Why did that person come to your cell in particular?

MR. BURGH: I don't know. I really don't know.

CHAIRMAN HAMMOCK: Well, were you involved in starting the fire?

MR. BURGH: No, I was not.

CHAIRMAN HAMMOCK: But this person came to your cell --

MR. BURGH: And several others, too, who were not involved.

CHAIRMAN HAMMOCK: Well, I am talking about you now.

MR. BURGH: Yeah.

CHAIRMAN HAMMOCK: Someone came to your cell.

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did this person open the cell with a key, or how did this person let themselves into your cell?

MR. BURGH: There is a switch box, and they use

a lever to open up the cells.

CHAIRMAN HAMMOCK: There is a switch box?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: In front of your cell.

MR. BURGH: No. It's all of the way at the end of the tier.

CHAIRMAN HAMMOCK: At the end of the cell block?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And this person did something to the switch box which opened your cell?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And then came in your cell?

MR. BURGH: The guards were standing out in front of my cell. They had someone else hit the switch box so in case I tried to run out or something.

CHAIRMAN HAMMOCK: So there was a guard at the switch box who manipulated or moved the switch, and there was a guard in front of your cell?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Okay.

Who was the guard at the switch box?

MR. BURGH: I don't know.

CHAIRMAN HAMMOCK: Did you see that guard?

MR. BURGH: No.

CHAIRMAN BURGH: Who was the guard in front of your cell?

MR. BURGH: Sergeant Stotelmyer.

CHAIRMAN HAMMOCK: Then this person came in your cell?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: What is the first thing he said to you?

MR. BURGH: He didn't say nothin' to me.

CHAIRMAN HAMMOCK: He didn't say anything to you?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Did he ask you whether or not you were involved in setting the fire?

MR. BURGH: No. But when they were hitting me, when I was on my bed --

CHAIRMAN HAMMOCK: No, no, no. Before we get to somebody hitting you, what was the first thing this person said to you?

MR. BURGH: The first thing he said to me --
"You like starting fires, huh, Burgh?".

CHAIRMAN HAMMOCK: This person said something
about a fire being started?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did that person ask you
whether or not you started the fire?

MR. BURGH: No, he did not.

CHAIRMAN HAMMOCK: Did the person say anything
like, "Somebody set a fire, and you are to blame."?

MR. BURGH: No. He said, "You like starting
fires, huh, Burgh?". That's all he said.

CHAIRMAN HAMMOCK: So in your opinion -- let me
ask you a question in your opinion -- did this person have
any right to question you or do anything to you physically
about the fire?

MR. BURGH: No.

CHAIRMAN HAMMOCK: That was the first thing --
after this person was inside your cell, crossed over the
threshold into your cell block -- your cell room, right?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did he reach out and grab you?

MR. BURGH: He grabbed me by -- my hair was platted at that time, and he grabbed me by my plat.

CHAIRMAN HAMMOCK: Grabbed you by the hair of your head -- a plat --

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And did what?

MR. BURGH: And threw me down on the bed.

CHAIRMAN HAMMOCK: Threw you on the bed?

MR. BURGH: His knee was on my neck.

CHAIRMAN HAMMOCK: Was there one person in the cell or two or three or others?

MR. BURGH: There was three people in the cell at that time.

CHAIRMAN HAMMOCK: In the cell room at this time there were how many?

MR. BURGH: Three.

CHAIRMAN HAMMOCK: Three. How many physically grabbed you at that point?

MR. BURGH: Two.

CHAIRMAN HAMMOCK: Two. One person grabbed you

by your hair. Where did the other person have you?

MR. BURGH: By hands. They were handcuffing me.

CHAIRMAN HAMMOCK: By your hands?

MR. BURGH: Behind the back.

CHAIRMAN HAMMOCK: Behind the back?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: So one person grabbed you by the hair and the other person had you handcuffed behind your back?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Were you handcuffed or just being held?

MR. BURGH: I was handcuffed.

CHAIRMAN HAMMOCK: You were handcuffed?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: You actually felt the cuffs on you?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: So one person had you behind the back and the other person had you by the hair?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did they ask you any questions about the fire?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Then what happened?

MR. BURGH: Like I said, they started hitting me. So when they got me out of the cell, they started smashing my head against everybody's gate. There were five gates down the tier.

CHAIRMAN HAMMOCK: Okay, we have got to go a little slow, because I am a little slow, and I want to make sure I understand what you are saying.

One person had you by the hair and one person had you behind the back, and then they started to hit you?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Hit you where, in the head?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And slapped you in your face?

MR. BURGH: Not slapped, punched.

CHAIRMAN HAMMOCK: Punched you with their fists?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: In the face?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did they hit you any place else on the body?

MR. BURGH: Yes, on my back.

CHAIRMAN HAMMOCK: On your back?

MR. BURGH: And ribs.

CHAIRMAN HAMMOCK: And your ribs?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: You actually felt blows being hit in the back and the ribs?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you see these blows coming at you?

MR. BURGH: No, I didn't.

CHAIRMAN HAMMOCK: Was it by a fist or elbow?

MR. BURGH: By a fist.

CHAIRMAN HAMMOCK: Was there an instrument in this person's hand?

MR. BURGH: No, there was not.

CHAIRMAN HAMMOCK: Did anybody hit you with any instrument?

MR. BURGH: No.

CHAIRMAN HAMMOCK: All right. So now you are down on the bed. They have got you down on the bed?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you say, "Hey, let me up. What's this all about."? Did you make any complaints?

MR. BURGH: No. I was too busy screaming.

CHAIRMAN HAMMOCK: You were being physically brutalized -- well, perhaps that is not the correct characterization. You were being physically assaulted at that point.

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: So you were screaming?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And what were you screaming?

MR. BURGH: I was just yelling out.

CHAIRMAN HAMMOCK: Did you say, "Hey, let me go. I didn't have anything to do with this. I don't know anything about this."?

MR. BURGH: No.

CHAIRMAN HAMMOCK: What I don't understand at this point, James, is why these guards came after you. Do

you have any reason why they might come after you?

MR. BURGH: No, not unless they were giving me a going away party or something.

CHAIRMAN HAMMOCK: I beg your pardon?

MR. BURGH: Not unless they were giving me a going away party.

CHAIRMAN HAMMOCK: Were you supposed to go away?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: When were you supposed to go away?

MR. BURGH: The day after that.

CHAIRMAN HAMMOCK: The next day?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: They knew you were going away?

MR. BURGH: I think they did.

CHAIRMAN HAMMOCK: You believe they did. All right, let's stop there for a while.

After you were down on the bed -- okay? -- did somebody try to drag you out of the cell? Did they try physically to take you out of the cell room you were in?

MR. BURGH: No.

CHAIRMAN HAMMOCK: They just stayed there and continued to assault you?

MR. BURGH: Until they were ready to take me out, yes.

CHAIRMAN HAMMOCK: Until they were ready to take you out?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did they take you out?

MR. BURGH: Yes, they did.

CHAIRMAN HAMMOCK: Did they carry you out -- or how did they take you out?

MR. BURGH: Well, my hands were handcuffed behind my back.

CHAIRMAN HAMMOCK: Okay.

MR. BURGH: And they had my hands all the way up where my head is with my arms way behind my back, so I was walking on my toes -- on the tip of my toes. I really couldn't control where I was going or nothin'. They were more or less carrying me out.

CHAIRMAN HAMMOCK: And there were two people?

MR. BURGH: There was one person doing that.

CHAIRMAN HAMMOCK: One person carrying you out with your hands up this way some kind of way?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Where was the other person, still in the cell room?

MR. BURGH: No, he was in front of me.

CHAIRMAN HAMMOCK: Was this happening to anybody else at the same time it was happening to you?

MR. BURGH: Not at the same time.

CHAIRMAN HAMMOCK: Not at the same time?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Okay, the guards that came in -- can you identify them by name?

MR. BURGH: Yes, I could.

CHAIRMAN HAMMOCK: Who are they by name?

MR. BURGH: Sergeant Stotelmyer, Sergeant Benner and Mr. Forker.

CHAIRMAN HAMMOCK: Was Mr. Forker in the room with you?

MR. BURGH: Yes, he was.

CHAIRMAN HAMMOCK: He was the third guard that

came in while the other two were there, is that right?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: James, let me ask you again the question that Representative Rhodes asked you, the gentleman that is back here, and Mr. Miller asked you, who is over here. Do you have any fear at this point in telling us this story openly in front of the public?

MR. BURGH: No, I don't.

CHAIRMAN HAMMOCK: You do not?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Okay, I am going to ask you, James, would you look around this room please and identify, if you can, any of the men that were striking you and point them out?

MR. BURGH: Sergeant Stotelmyer (indicating) and Sergeant Benner (indicating). Those were the two that were striking me.

CHAIRMAN HAMMOCK: Indicating that there are some gentlemen over here. Which gentleman is Mr. Benner? Would you describe what they are wearing?

MR. BURGH: Sergeant Benner is wearing a white

tie, blue shirt, blue blazer, and blue pants. And Sergeant Stotelmyer --

CHAIRMAN HAMMOCK: That's good. Will you describe what Sergeant Stotelmyer is wearing?

MR. BURGH: Sergeant Stotelmyer is wearing brown tie, a brown blazer and a brown shirt.

CHAIRMAN HAMMOCK: Okay.

Now, you were being taken out of the room, the cell block, okay? Then what happened?

MR. BURGH: Sergeant Stotelmyer -- like I said, I was up in the air.

CHAIRMAN HAMMOCK: Keep your voice up now so we can hear you.

MR. BURGH: I was up in the air. I didn't have no control over where I was going. He was controlling my destiny like. He was smashing my head against the next five cells all the way down the tier.

CHAIRMAN HAMMOCK: Now, let me see if I understand you.

As you are being taken out of the cell, they are taking you in some direction. After you came out of the cell,

did you turn right or left?

MR. BURGH: Left.

CHAIRMAN HAMMOCK: You went left out of the cell?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And you were walking down the corridor and somebody is holding you as you go down the corridor past some cells?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And then you said somebody did something to your head as you were going down these cells?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: What did he do?

MR. BURGH: He was smashing my head -- we were moving fast, and he was smashing my head into the bars on the other people's cells.

CHAIRMAN HAMMOCK: So as you are going down the corridor past these cells, somebody is constantly hitting your head against these --

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Against the outside of the cells, against the steel bars?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Go on.

MR. BURGH: Then they got me to the last cell, which is where I hit my ribs and my head again on the bars. And there is a stairway that comes down off the tier, a winding stairway, so there is a wall in front of you.

CHAIRMAN HAMMOCK: Let me see if we all understand. You are going downstairs now?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: You were on what floor?

MR. BURGH: Third tier.

CHAIRMAN HAMMOCK: You were on the third tier?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Now they have got you going down the winding staircase?

MR. BURGH: Well, the stairs are like square. They go straight down. Then there is a wall here (indicating). Then the steps come down this way.

CHAIRMAN HAMMOCK: So as you are going down it kind of looks like a "Z"?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Coming down the stairs there is a wall, and then you come off this way and go down, is that right?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Sort of like a level?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: So you are at the point where you are coming down that level and there is a wall there?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: What happened at that time?

MR. BURGH: He threw my head into the wall.

CHAIRMAN HAMMOCK: Banged your head forcibly against the wall?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: One person?

MR. BURGH: One person.

CHAIRMAN HAMMOCK: Who was the person?

MR. BURGH: Sergeant Stotelmyer.

CHAIRMAN HAMMOCK: Then what happened?

MR. BURGH: Then they took me downstairs, and everybody was yelling and going on. And Lieutenant Williams

was there. And he saw the way I was, but he said nothing.

CHAIRMAN HAMMOCK: All right, let me stop you there again, James. As I said, we have to get all of these things out.

Is Lieutenant Williams in the room?

MR. BURGH: Pardon?

CHAIRMAN HAMMOCK: Would you look around this room and see whether or not Lieutenant Williams is in the room? Have you seen him here this morning?

MR. BURGH: No, I haven't.

CHAIRMAN HAMMOCK: He is not in the room?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Go on.

MR. BURGH: So Sergeant Stotelmyer grabbed me by the neck then and was choking me. I couldn't breathe all the way to Mohawk.

CHAIRMAN HAMMOCK: Was Benner with you at this time?

MR. BURGH: All the guards were, yes.

CHAIRMAN HAMMOCK: So there was Stotelmyer, as you identify, and Benner. Was there anybody else that was

carrying you or escorting you to wherever your destination was?

MR. BURGH: They were walking beside us. That's all.

CHAIRMAN HAMMOCK: Then what, you finally hit the bottom of the stairs?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Then what happened?

MR. BURGH: Sergeant Stotelmyer put his hand around my neck and was choking me. I couldn't --

CHAIRMAN HAMMOCK: Wait a minute now. Somebody was choking you?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: How was he choking you, like this (indicating)?

MR. BURGH: One hand all the way around my neck.

CHAIRMAN HAMMOCK: One hand?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And where was the other hand?

MR. BURGH: On my handcuffs behind my back.

CHAIRMAN HAMMOCK: On the handcuffs behind your

back?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Go ahead.

MR. BURGH: So he was choking me all the way to Mohawk. Kept on gasping for breath but couldn't get it. So then I got inside of Mohawk, and Sergeant Stotelmyer smashed my face into the wall and asked me who was involved. And I told him I didn't know. And he told me if I came off the wall I was through dealing. Then when he unhandcuffed me, Sergeant Benner smashed my face into the wall again. Then they locked me in my cell -- searched me down and locked me up.

CHAIRMAN HAMMOCK: When they smashed your face into the wall, did they do it by taking one hand and smashing the side of your face into the wall?

MR. BURGH: Well, they took and put one hand in back of my head and smashed it.

CHAIRMAN HAMMOCK: The back of your head?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Put a hand behind your head --

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: --and forcibly butted your head against the wall?

MR. BURGH: Yes. My whole face, yes.

CHAIRMAN HAMMOCK: Did you bleed?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: In the front?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Or in the rear?

MR. BURGH: In the front.

CHAIRMAN HAMMOCK: In the front?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: What about the side? Did you bleed on the side?

MR. BURGH: Yes. I had some bruises on the side.

CHAIRMAN HAMMOCK: Some bruises on the side?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Then they locked you up?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Now, let me skip to another part.

Did you ever receive any medical treatment, as

Representative Richardson asked?

MR. BURGH: Yes; like iodine, cleaning my cuts.

CHAIRMAN HAMMOCK: Who treated you?

MR. BURGH: There was a male doctor up there.

CHAIRMAN HAMMOCK: A male doctor?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Do you know the name?

MR. BURGH: No, I do not.

CHAIRMAN HAMMOCK: Okay.

You were treated and received some iodine for
your cuts?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Any bandages?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Did the doctor ask you what
happened?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Were you ever treated by a
nurse?

MR. BURGH: No.

CHAIRMAN HAMMOCK: About what time of the day or

night did this happen, James?

MR. BURGH: About 8:00 at night.

CHAIRMAN HAMMOCK: Eight o'clock at night?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: About what time did you see the doctor, right away, half an hour?

MR. BURGH: About 10:00.

CHAIRMAN HAMMOCK: Two hours later?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Where were you all this time between the time they locked you finally in the cell area called Mohawk until you received some medication? What time? About how long?

MR. BURGH: I was in the cell all of the time, in the Mohawk cell. But it was two hours before I received any kind of medication.

CHAIRMAN HAMMOCK: It was at least, in your estimation, two hours?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: James, I have just got one last question I would like to ask. It may sound a little

strange to you, but why did all of this happen to you? You weren't involved in starting the fire. In your opinion?

MR. BURGH: I don't really know. I don't have no answers for that.

CHAIRMAN HAMMOCK: Had you been giving Sergeant Benner any trouble prior to that particular time?

MR. BURGH: I very seldom see Sergeant Benner.

CHAIRMAN HAMMOCK: Had you been giving Sergeant Stotelmyer any trouble that day during that particular time?

MR. BURGH: No.

CHAIRMAN HAMMOCK: So you weren't causing any disturbance?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Why did it happen to you?

MR. BURGH: I don't even know.

CHAIRMAN HAMMOCK: Did you see anything happen to anybody else?

MR. BURGH: I didn't see it happen to them, but I seen them when they came by my cell in Mohawk.

CHAIRMAN HAMMOCK: You saw the results of whatever happened to them?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And what were the results?
Did you see anybody injured?

MR. BURGH: Yes. One boy was coming by my cell.
He was limping. He had a dislocated ankle.

CHAIRMAN HAMMOCK: Well, you saw him limping?

MR. BURGH: Yes. Both his eyes were messed up.

CHAIRMAN HAMMOCK: His eyes were -- you say they
were messed up? Were they bloodshot, were they bruised?

MR. BURGH: They had swollen up.

CHAIRMAN HAMMOCK: They had swollen up?

MR. BURGH: His whole face had bruises and blood
all over. His nose looked like it was broke.

CHAIRMAN HAMMOCK: And you saw somebody taking
this other young person by the cell? You saw this?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Who were the people that were
taking him? Can you identify them by name?

MR. BURGH: I believe it was Mr. Gavigand.

CHAIRMAN HAMMOCK: Mr. Gavigand?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Anybody else that you can identify by name?

MR. BURGH: I saw another boy come by. He had a --

CHAIRMAN HAMMOCK: No, I mean any other guard, correction officer?

MR. BURGH: No. There was only one guard that brought him by my cell.

CHAIRMAN HAMMOCK: Is Mr. Gavigand in the room?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Have you seen him here this morning?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Do you see him here now?

MR. BURGH: No.

CHAIRMAN HAMMOCK: James, are you actively participating in any program at Camp Hill to be released from Camp Hill?

(Mr. Burgh consulted with his counsel at this point.)

MR. BURGH: I am not in Camp Hill.

CHAIRMAN HAMMOCK: I am sorry. At the time you were in Camp Hill, had anybody approached you about participating in a program to be released from Camp Hill, any special program?

MR. BURGH: There were people that came in and talked to me, like case workers, from Camp Hill Project.

CHAIRMAN HAMMOCK: In your understanding of the Camp Hill Project, what is the Camp Hill Project all about? In your understanding?

MR. BURGH: To help young people that are in there to get out.

CHAIRMAN HAMMOCK: To help young people in there to get out?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Again, this is a hypothetical question. I would like your opinion answer.

In your best opinion, do you think the guards at Camp Hill approved of the project?

MR. BURGH: No.

CHAIRMAN HAMMOCK: Why do you say that?

MR. BURGH: They were always giving them hard times.

CHAIRMAN HAMMOCK: Giving who hard times?

MR. BURGH: The Camp Hill Project.

CHAIRMAN HAMMOCK: Now, what do you mean by hard times?

MR. BURGH: Things that, like, they tried to get done, they would try to, like, make everything go backwards.

CHAIRMAN HAMMOCK: In your opinion, the guards were trying to make everything go backwards?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: What do you say to substantiate that opinion? What makes you have that opinion?

MR. BURGH: Because when I was talking to them, the way the guards would act. Like when I was in Mohawk, they wanted to see somebody over there. And they said, "Yeah". And they let them go over to see somebody. Then they'd make them get out.

CHAIRMAN HAMMOCK: They would tell the Camp Hill Project people to leave?

MR. BURGH: Yes -- the Mohawk guards.

CHAIRMAN HAMMOCK: When they -- meaning the people from the Camp Hill Project -- went to Mohawk, the guards would ask them to leave?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you ever hear a guard ask somebody to leave?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And what did the Camp Hill Project person say?

MR. BURGH: He didn't say anything; he just left.

CHAIRMAN HAMMOCK: He just left?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: After having been asked to leave by the guard?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Thank you, James. I don't have anything else to ask you right now. You have been very candid and very honest, and I hope you will continue to be so. At least I believe you.

REPRESENTATIVE RICHARDSON: At this point what I would like to do, James, is break for a recess. I have two

witnesses I would like to put on the stand. I am going to break so you will be allowed to go to lunch at this point. We are going to ask you to come back at 1:30. At that time we will resume questioning of this Committee.

(Witnesses excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to call to the stand Mr. and Mrs. Snyder.

PATRICIA A. SNYDER, called as a witness, being first duly sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: Will you state your name and address for the record please?

MRS. SNYDER: Patricia Ann Snyder. My address is --

REPRESENTATIVE RICHARDSON: Hold it. Who are you the parent of?

MRS. SNYDER: Joseph Snyder.

REPRESENTATIVE RICHARDSON: Mr. Snyder, would you also --

MR. WISSLER: My name is Clarence Wissler. I am Joseph's stepfather.

REPRESENTATIVE RICHARDSON: Would you please stand and be sworn?

CLARENCE A. WISSLER, called as a witness, being first duly sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: Would you state your name please?

MR. WISSLER: Clarence Albert Wissler.

REPRESENTATIVE RICHARDSON: Mrs. Snyder, you just talked to me out in the hall, did you not?

MRS. SNYDER: Pardon me?

REPRESENTATIVE RICHARDSON: You just talked to me out in the hall, didn't you?

MRS. SNYDER: Yes, I did.

REPRESENTATIVE RICHARDSON: And at that particular time you indicated to me that you were the son of Joseph Snyder?

MRS. SNYDER: The mother of Joseph Snyder.

REPRESENTATIVE RICHARDSON: Pardon me.

And you are the stepfather of Joseph Snyder?

MR. WISSLER: Yes.

REPRESENTATIVE RICHARDSON: And is your son presently incarcerated at the Camp Hill Institution?

MRS. SNYDER: Yes.

REPRESENTATIVE RICHARDSON: And as a result of your receiving a letter, could you explain to this Committee what you did?

MRS. SNYDER: I received the letter -- I think it was dated the 19th of this month. And previous to that I had retained Arthur Dils, an attorney, for Joseph because he had sent me a letter previous to that that his new sneakers had been stolen from the school, and he was threatened.

REPRESENTATIVE RICHARDSON: By who?

MRS. SNYDER: He did not say in the letter. So I retained Arthur Dils who didn't know what to do. So I went over to talk to Joseph, and he didn't mention nothing about the sneakers or anything. That was on Monday. On Tuesday I got this letter from him. And I retained Arthur Dils. Arthur Dils called Mr. Bitner at the institution and ex-

plained to him about this. Well, he gave him the run around that he couldn't do this, couldn't do that. So then on Saturday I got another letter from Joseph. I wrote Joseph a letter back and told him that I had retained Arthur Dils and all and not to worry about it, because he was recommended for release last month.

Then on the 19th -- I hadn't heard anything from Joseph -- I got another letter. And I believe I gave you a copy of it.

REPRESENTATIVE RICHARDSON: I have it right here.

MRS. SNYDER: And I took that letter to a friend of mine, Mr. Stephen Reed, who is a Representative. And I went around to the Independent Press, and I talked to the editor around there. And he asked me what I intended to do about it. And I told him that I intended to prosecute to the fullest extent of the law. But I am still concerned for my son, because my son is still over there.

REPRESENTATIVE RICHARDSON: At that point, Mrs. Snyder, we requested that your son appear here today to testify to such problems and incidents that occurred with him over there at the Camp Hill Institution. My question is, would

you object to having him come and testify before this Committee about the problems at the Camp Hill Institution?

MRS. SNYDER: No, sir. I feel he should be here. I thought he was here all of the time.

REPRESENTATIVE RICHARDSON: Did you request to Mr. Patton or anybody else for him not to be here this morning?

MRS. SNYDER: No, I didn't.

REPRESENTATIVE RICHARDSON: Did you receive any word from anyone on this Committee asking you to appear here this morning?

MRS. SNYDER: I got a letter in reference to my son who was supposed to be here, and I told him when I seen him last week to cooperate with the Committee or anybody else.

REPRESENTATIVE RICHARDSON: And as the result of that, as of this morning he did not appear. And you are saying to this Committee very candidly and very clearly that you have no problem with him coming before this Committee and testifying?

MRS. SNYDER: No, sir. I was concerned. In fact, I went over and talked to the DA over in Carlisle about that.

I tried to locate my attorney in reference to the letter. Because I know the boy is over there, and it is my responsibility for the boy to come to the Committee. And I couldn't very well do that when he is over there.

REPRESENTATIVE RICHARDSON: Do you know that this Committee is concerned about the rights and protection of your son and the rights of the young people in relationship to their testifying before the Committee. As you know, the press is here and other members are here. There are also some guards here, and the institutional superintendent and some members from the Attorney General's Office. Knowing all of that, do you still feel the same way that you would like your son to come and testify before this Committee?

MRS. SNYDER: Yes, sir, I do. I seen my son when he was beat.

REPRESENTATIVE RICHARDSON: Would you note for the record how old your son is?

MRS. SNYDER: My son is fifteen. He will be sixteen in December.

REPRESENTATIVE RICHARDSON: I just feel that you should be commended for coming forth to this Committee as

you have done in bringing information to this Committee.

Now, I know some of the other members of the Committee do have some questions. But I want to make it very clear to you exactly what is being done. Tomorrow morning we would like for you to also be here with your son. There are some members from the private counsel agency who have represented Mr. Burgh, who was testifying previously, who will also be here tomorrow. And if there are any legal questions, they can take care of them. But I want to make sure that the confidentiality of your son is protected. And I want to make it very crystal clear that one of the reasons why this investigation is going on, to make sure that those things are taken into full accord.

And also at that time I would want to make it very clear to Mr. Patton, who is in this building now, that there should be no repercussions, no maiming, no kind of threats, either subtle or open or verbal, that would result in any injury to their son in relationship to what is going on inside the institution. And I just feel as Chairman of this Task Force on juvenile incarceration that it should be stated to you so that you will know. Because I understand,

based on our conversation outside, there were some problems about his being afraid over there at this present time, knowing what the situation is and the fact that he has brought certain information to our attention.

Representative Rhodes.

REPRESENTATIVE RHODES: Did anyone from the Bureau of Corrections or the Attorney General's Office or anyone from the institution contact you or your husband to ask whether or not he would object to your son appearing before a Committee today?

MRS. SNYDER: No, sir.

MR. WISSLER: No.

REPRESENTATIVE RHODES: You had no contact?

MR. WISSLER: We went over to see him last Wednesday. The boys were out in the yard. And we were standing in the doorway, and the guard that was at the desk said, "Will you sit at this place here?" I don't know why he had us sit there. And he listened to everything we had to say to the boy. Any other time the boy was allowed out in the yard to have a visit. We went over last Wednesday, and he was not allowed. They made us sit there at the desk so the guard could

hear everything that was going on, and the boy was scared.

REPRESENTATIVE RHODES: This question of threat — what exactly do you mean there have been some threats?

MR. WISSLER: Well, the boy had his sneakers stolen, and the boy said he was scared to do anything. He don't know who took his sneakers, and he was scared to say anything over there. He is scared he would get in trouble.

REPRESENTATIVE RHODES: No threats to yourself?

MR. WISSLER: No.

REPRESENTATIVE RHODES: Threats on your son?

MR. WISSLER: Yes.

REPRESENTATIVE RHODES: Are you concerned about his testimony before the Committee?

MRS. SNYDER: We are concerned about my son.

MR. WISSLER: We are concerned about having him here to see why these guards and stuff beat him up. That's my motive.

REPRESENTATIVE RHODES: You want him here?

MR. WISSLER: I want him here. I want him here, sir, I do. Because I haven't slept in a week since that boy been over there. I ain't a scared to tell people that I did

time in the penitentiary myself. But when I saw what was done to that boy, that cured me, believe me.

REPRESENTATIVE RHODES: How soon after he was beaten up did you see him?

MR. WISSLER: Why, his head's all scabbed up.

REPRESENTATIVE RHODES: How soon after he was beaten up did you see him?

MR. WISSLER: Well, we was over last Wednesday. That's when we seen what happened to the boy, when we went over to see him.

REPRESENTATIVE RHODES: How soon after he was beaten was that?

MR. WISSLER: I couldn't say when this beating occurred.

MRS. SNYDER: Sir, the letter that I gave to him -- he said he wasn't allowed to write. The letter was dated the 19th. It said he was beaten on the 15th after a concert.

REPRESENTATIVE RICHARDSON: The 15th of October, 1975?

MRS. SNYDER: Yes. It states in the letter.

REPRESENTATIVE RHODES: And you were over last Wednesday?

MR. WISSLER: Yes, sir, we were over last Wednesday.

REPRESENTATIVE RHODES: That was the same date he was beaten.

MRS. SNYDER: No, a week later. I seen my son on the 22nd.

REPRESENTATIVE RHODES: You went to visit on the 22nd. How bad did he look?

MRS. SNYDER: Well, he still had a big black eye, and his arms were like raw where he said they had cuffed him. And he had a big knot on his shoulder and on his head. And he said there were other black and blue marks. But I couldn't very well ask him to show me, because the guard was sitting right there.

REPRESENTATIVE RHODES: The guard was still sitting there?

MRS. SNYDER: Yes. But I could see that he had been beaten.

REPRESENTATIVE RHODES: Did that give you cause

for concern that he might be subject to other beatings?

MRS. SNYDER: Yes. That's when I told him to cooperate and do everything, because I had hired an attorney for him.

REPRESENTATIVE RHODES: Well, I don't think you have to be worried at this stage with the Committee involved.

Thank you.

REPRESENTATIVE RICHARDSON: Bob Kagan.

MR. KAGAN: You say that normally when you go to visit your son, he is allowed to visit with you in the yard and you have a free conversation with him and nobody listens?

MRS. SNYDER: Yes, sir.

MR. KAGAN: And are you telling this Committee that when you went to see your son after your son was beaten, the procedure was changed and there was a guard sitting next to you?

MR. WISSLER: The guard was sitting at the desk where the boy comes out of the cage. And we were standing there at that door because you are not allowed to smoke in that building. Some of the boys who are in quarantine are

the only ones allowed to be in that building for a visit. But after you get out of quarantine or something, you get out into the yard. And we was standing there at the doorway and I was ready to light up a cigar, and he said, "You can't smoke in here. Will you go over and sit down until your son comes?" And I didn't say no more to him. So I guess what he meant was that the boy wasn't allowed out in the yard.

MRS. SNYDER: Joseph told me that he was what is called security, and that all of his stuff was removed from his cell.

MR. KAGAN: Did the guard offer you any explanation?

MR. WISSLER: No, sir.

MRS. SNYDER: No, sir. I didn't ask him.

MR. KAGAN: Thank you.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: Just a few questions, Mrs. Snyder.

You have stated that you obtained an attorney?

MRS. SNYDER: Yes, sir.

REPRESENTATIVE LEDERER: Has that attorney talked to your son yet?

MRS. SNYDER: I don't know if Mr. Dils has been over to see him or not. That I couldn't tell you. I tried to reach him before coming up here.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: Did you son state to you why he was put into this Mohawk or Behavioral Adjustment Unit?

MRS. SNYDER: Seems like it's some kind of punishment, according to his letter. For what reason, I don't know. After all, he wasn't the aggressor in this.

REPRESENTATIVE OLIVER: That's all.

REPRESENTATIVE RICHARDSON: Did anyone inside of the institution in the administration level, either Mr. Patton or his deputy or his assistants or any guards or the Attorney General or the Commissioner of the Bureau of Corrections, contact you and your husband in relationship to the incident that your son was involved in at all since October 15th?

MRS. SNYDER: No, sir. In fact, I talked to Mr. Bitner before seeing my son on the 22nd. I went there. He didn't know I was sitting on the particular letter I gave

to you. I went to find out when my son was going to be released and to talk to him. And I asked him at that time if I could see my son, and he said my son wasn't there. So I got quite angry. I told him, "Mr. Bitner, I think you are lying to me. My son is either here or in the hospital. Just where the hell is he? I want to see my son right now." Then he let me see him.

REPRESENTATIVE RHODES: He lied to you?

MRS. SNYDER: Yes, he was lying to me. He told me my son wasn't there. And he got very red in his face then when I put some pressure on him.

REPRESENTATIVE RICHARDSON: Let me ask you this. After some twelve days, has anyone from the institution to this day talked to you concerning this particular incident with your child being involved at the institution as of yet?

MRS. SNYDER: No, sir, they haven't. No one has talked to me; only my son.

REPRESENTATIVE RICHARDSON: Has the Attorney General's Chief Investigator -- I don't know his name -- did he at any time contact you to say he was the Chief Investigator in this matter?

MRS. SNYDER: No, sir. I have been trying to get calls through to Mr. Kane's office.

REPRESENTATIVE RICHARDSON: And as a result of your trying to get calls through to Mr. Kane's office, what has happened, Mrs. Snyder?

MRS. SNYDER: So far I haven't been able to reach Mr. Kane.

REPRESENTATIVE RICHARDSON: Did you talk to anyone in his office?

MRS. SNYDER: Just the secretary on Friday.

REPRESENTATIVE RICHARDSON: What did she say?

MRS. SNYDER: She told me to call back this morning. Of course, I had to go to Carlisle and then come here.

REPRESENTATIVE RICHARDSON: Do you have any questions, Representative Miller?

REPRESENTATIVE MILLER: No questions of this witness. Thank you, Dave.

REPRESENTATIVE RICHARDSON: Thank you very much for your cooperation. And like I said, we hope you will appear here tomorrow morning. At that time we will be calling

your son.

Mr. Kagan.

MR. KAGAN: I would just like to make one statement.

You are entitled to witness these and mileage for your attendance here today. So if you will just give your name and address and your mileage from your home to here to Mr. McClea, he will take care of that for you.

MR. WISSLER: What time is this hearing tomorrow, sir?

REPRESENTATIVE RICHARDSON: Starting at 9:30 tomorrow morning in this same room.

MRS. SNYDER: Could someone tell me if my son can have a suit over there, or does he have to come in here tomorrow in his prison clothes?

REPRESENTATIVE RICHARDSON: Can he have a suit?

MRS. SNYDER: Well, when you leave the stand, I will ask Mr. Patton if he can have a suit.

MR. PATTON: Yes, he can.

REPRESENTATIVE RICHARDSON: Mrs. Snyder, Mr. Patton indicates that your son can have a suit.

(Witnesses excused.)

REPRESENTATIVE RICHARDSON: It is now 12:36. As I indicated, we will recess until 1:30. This hearing is adjourned until 1:30.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call this Committee, which is the Task Force investigating juvenile incarceration under the Subcommittee of Corrections and Rehabilitation, back to order.

We wound it up around 12:36, and at that time we had dismissed Mr. Burgh with his counsel, along with Mr. Jackson. And at this time we would like to move on and proceed and have Mr. Burgh come back on the stand along with his counsel.

JAMES G. BURGH, recalled as a witness, having been previously sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: For the record, I

would like to have read into the record -- Mr. Kagan has gotten some legal definition, and I would like to have him read that into the record for our purposes at this hearing.

MR. KAGAN: Thank you, Mr. Chairman.

So as not to burden the hearing with any long involved explanation, but primarily for the benefit of the members of the Department of Justice who are here, the subpoena power of the legislature is found in Article II, Section 11 of the constitution giving each House of the General Assembly the right to process. Purdon's statute 4661 says, "Each branch of the legislature shall have the power to issue their subpoenas heretofore practiced into any part of the Commonwealth, and by attachment to impel the attendance of all persons summoned as witnesses, and in the case of any witness brought to the bar of either House shall refuse to be sworn or affirmed, or having been sworn or affirmed, shall refuse to render an answer to all legal questions duly propounded, the Speaker of the House upon such refusal shall have the full power by the direction of the said House to issue to the Sergeant at Arms a warrant of commitment." And it goes on.

And then I would bring the attention of those interested to 18 Purdons 5110, which gives you the statute for contempt to the General Assembly. So as there not to be any mistake, the General Assembly does, in fact, by the constitution and by statute have the right to subpoena any and all persons.

REPRESENTATIVE RICHARDSON: Will you also read the other section that defines what a habeas corpus is?

MR. KAGAN: It came up this morning that possibly a writ of habeas corpus -- there was some question as to procedure, as to how we would impel certain juveniles in the Camp Hill Institution to come before this Committee. And I would just direct the attention of the members of the Committee to Pennsylvania Law Encyclopedia, Section 6, Witnesses -- Writ of Habeas Corpus. "Writ of Habeas Corpus ad Testificandum is in the nature of a subpoena."

REPRESENTATIVE RICHARDSON: Thank you very much.

When we broke for lunch, it was Representative Oliver's time for questioning. So at this time I will call on Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Jim, this lever that has to be activated to open the cell door, is this lever in an area where anyone could operate this, or is it just in an area where just personnel can do it?

A Yes, it is, but it is like -- it's locked behind metal doors. Someone has to take a key and unlock the doors on it. Like, it's in a box.

Q I see. In other words, let me say to you then, most of the time when the cells are opened, the guards or some personnel are actually the ones that do it?

A Yes.

Q All right, my second question to you -- how far away was your cell from this fire?

A The fire was about two cells away from me.

Q Two cells away?

A Yes.

Q I see. All right, this young man who had his ankle dislocated, can you tell this Committee who that was -- his name?

A Michael Kaup.

Q Michael who?

A Michael Kaup.

Q Kaup. Is he still an inmate?

A Yes, he is.

REPRESENTATIVE OLIVER: That's all I have.

REPRESENTATIVE RICHARDSON: Representative
Lederer.

BY REPRESENTATIVE LEDERER:

Q Could you tell me how long after the in-
cident you were transferred to the YDC?

A Two days.

Q Two days later?

A Yes.

Q At anytime that you have been at the YDC and
the two days previous to going there, did anyone from the
Attorney General's Office contact you, or any private in-
vestigators of any type?

A No.

Q Mr. Burgh, during the time of this incident,
did you every lose consciousness?

A No, I did not.

Q You stated earlier that when you were being taken away from your tier some of the other inmates were hollering at the guards to take it easy.

A Yes.

Q Do you remember that very plainly?

A Yes.

Q Did you struggle at all?

A I couldn't struggle.

Q You were completely overpowered?

A Yes.

Q Would you say you bled profusely, in that you would have left blood on cells, or walls or anything?

(Mr. Burgh consulted with his counsel at this point.)

MR. BURGH: Yes.

BY REPRESENTATIVE LEDERER:

Q So you did -- maybe I should reword that -- there was a lot of blood involved?

A Yes.

Q Would you say that any of this blood got on

the correctional officers, on their uniforms and what have you?

A It might have. I don't know though.

Q Now, you did state that you saw two other juveniles brought over to where you were being held, and they were swollen and bleeding?

A Yes.

Q Would you say that in the course of their struggle possibly blood was gotten on the uniforms of the guards?

A Yes. In one boy's case, yeah.

Q Getting back to when they first took you out of your cell, how many officers, to the best of your knowledge, were in the tier itself? I believe you stated two came into the cell?

A Three came into the cell.

Q I'm sorry. Three came into the cell?

A Yes.

Q Were there any other officers you could possibly see out in the tier itself?

A Just Lieutenant Williams. That was it.

Q So you could identify four altogether?

A Yes.

Q Just one last question.

When the toilet paper was thrown out on the tier, would you take this as more of a protest than trying to burn down the institution?

A No.

Q You think they were trying to burn down the institution?

A I think they were doing it for something to do.

Q Would you repeat that?

A They were just doing it for something to do.

Q Well, my thoughts right now -- I have been up to White Hill in Camp Hill. It would be kind of hard to burn the place down. So if I were an inmate and I wanted to protest or have something to do to show my unhappiness with the situation, I might possibly take a roll of toilet paper, light it and throw it out of the cell; knowing full well in my own mind that there was very little chance of the building burning down. Would you agree with that?

A Yes.

REPRESENTATIVE LEDERER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Jim, you stated in answer to one of Representative Oliver's questions that the fire that apparently started this whole disturbance was about two cells away from where you were?

A Yes.

Q You were on the third tier, is that right?

A Yes.

Q That is "C" range?

A "C" Ward.

Q That is "C" Ward?

A Yes.

Q Okay.

At the time this fire started where were most of the youths from the range? Was this at the time the concert was going on?

A Yes.

Q How many of you were left back on the range?

A About eight of us, maybe ten of us.

Q And my question is in reference to the range you were on. So there were about eight or ten of you left back on the range, is that right?

A Yes.

Q Now, you stated that somebody hit the switch that opened the doors, opened the doors to the cell. And at or about the same time there was one of the guards right in front of your cell, is that right?

A Yes.

Q Now, how long had he been right in front of your cell?

A Well, see, they hit the gate as soon as the guard gets in front of your gate.

Q But this switch you said opened all the gates, did it not?

A No. It opened my cell.

Q It opened your cell?

A Yes.

Q So there are switches that work individually?

A Yes.

Q Now, at the time a guard appeared in front

of your cell, someone else hit the switch and your gate opened, is that right?

A Yes.

Q How long prior to the gate opening up had you seen the guard there?

A Just as soon as they hit my gate. That's when I saw him.

Q At or about that same time?

A Yes.

Q Had he been around prior to that?

A I hadn't seen him, no.

Q Were there any guards around when this fire started?

A There was an officer that takes count, but he wasn't in the ward when the fire started.

Q You didn't see him anyway?

A No.

Q How long before the gate had opened had the fire started?

A About 15 minutes, half hour.

Q So it had been sometime before the actual

gate opening?

A Yes.

Q Was there any other disturbance going on at the time the gate opened?

A There were people shooting water at the lights trying to put the lights out.

Q Was there any noise?

A Not that much.

Q Were you making any noise at that time from inside your cell?

A No.

Q So it's your statement here today that you were just sitting in your cell, is that right?

A Yes.

Q All right now, you were scheduled to leave the institution the next day?

A Yes.

Q And that was as part of the Camp Hill Project?

A Yes.

Q Did you, in fact, leave the institution the next day?

A No, I didn't.

Q When did you leave the institution?

A Friday, around 1:00.

Q Friday. So you left two days after this incident occurred?

A Yes.

Q Did you leave as part of your transfer into the Camp Hill Project?

A Yes.

Q And who was the first person, other than individuals or guards -- you stated you told some of the guards in the BAU what happened, and they didn't do anything about it. Who was the first person you told about this incident other than them?

A I really didn't tell anybody; everybody knew about it. Everybody knew.

Q Well, when was the first time you discussed this incident with anybody outside of the Camp Hill Institution?

A Thursday.

Q Thursday?

A Yes.

Q Which --

A The day after.

Q The day after?

A Yes.

Q Who did you discuss this incident with outside of the Camp Hill Institution Thursday?

A A man from the Camp Hill Project.

Q Do you know his name?

A All I know is his name is "T".

Q Did he come into the institution to see you?

A He came to Mohawk to see all of us.

Q Did you give him a statement of some sort?

A Yeah, I told him my side of the story.

Q Do you know if he wrote it down?

A No, I don't.

Q To the best of your knowledge, you didn't sign any statement?

A When I was discharged I did.

Q You signed a statement when you were discharged?

A Yes.

Q Where was that statement signed?

A At the Camp Hill Project office.

Q Who did you give that statement to?

A I believe it was Dr. Jerry Miller.

Q When was that?

A Friday.

Q That would be two days after the incident occurred?

A Yes.

Q All right now, this fellow, Snyder, Joe Snyder -- his parents were here to testify -- do you know where Joe Snyder was when this whole disturbance started?

A In his cell.

Q Where was his cell located in relation to yours?

A Right next door to me.

Q Would that be towards where the fire was or away from the fire?

A Three cells away from the fire.

Q So he was away from the fire?

A Yes.

REPRESENTATIVE FISHER: That's all.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: Mr. Chairman, I have a few questions of Mr. Jackson.

REPRESENTATIVE RICHARDSON: All right, Mr. Jackson, will you return to the stand?

JAMES JACKSON, recalled as a witness, having been previously sworn according to law, testified as follows:

REPRESENTATIVE LEDERER: Mr. Jackson, to your recall or knowledge, did any medical records come from Camp Hill to the YDC on Mr. Burgh?

MR. JACKSON: I have received no records at all from Camp Hill.

REPRESENTATIVE LEDERER: To your knowledge, was he examined by doctors at the YDC?

MR. JACKSON: Yes, he was examined by a doctor, and he was scheduled for skull x-rays, which were done. But

we don't have the results back yet, although we have a verbal okay that he was alright. There are no problems.

REPRESENTATIVE LEDERER: Now, if this Committee would like to subpoena your records, the medical records, at the YDC, they would be available?

MR. JACKSON: Yes; although I don't have them with me.

REPRESENTATIVE LEDERER: No, no.

That's all I have.

REPRESENTATIVE RICHARDSON: Along that line of questioning, Mr. Jackson, when Mr. Burgh was brought into the institution last Friday, were you present?

MR. JACKSON: No, I wasn't present. There was some reason he was held up, and I had left by the time he got there.

REPRESENTATIVE RICHARDSON: And when did you first physically see Mr. Burgh?

MR. JACKSON: Tuesday morning -- I am not sure of the date -- the following week, the week after he got there.

REPRESENTATIVE RICHARDSON: As a result of that,

what I want to do is find out from you -- did you witness at all any physical injuries to his person?

MR. JACKSON: There was none apparent to me, but our doctor, when he examined him, the only thing he said was there was an abrasion above the bridge of his nose. At that point I couldn't see anything.

REPRESENTATIVE RICHARDSON: Mrs. Chomsky, I would like for the record at this time for you to show some pictures of Mr. Burgh to this Committee, and for you to explain what those pictures are.

MS. CHOMSKY: Do you want me to describe them?

REPRESENTATIVE RICHARDSON: Will you explain what these pictures are of, since they are in packet form?

MS. CHOMSKY: There are four pictures of James. I was informed that they were taken October 17th. I have no personal knowledge of that.

REPRESENTATIVE RICHARDSON: Two days after the incident?

MS. CHOMSKY: Yes.

REPRESENTATIVE RICHARDSON: Of this year?

MS. CHOMSKY: Yes.

REPRESENTATIVE RICHARDSON: Go ahead.

MS. CHOMSKY: They are of his upper body from his chest up. They show marks on his face, on his forehead, on his shoulders, on his chest, on his neck, and on his arm.

REPRESENTATIVE RICHARDSON: Could you show those pictures to the Committee? And would you so submit them to the Committee so they can be an exhibit? Do you have other copies?

MS. CHOMSKY: No, I don't.

REPRESENTATIVE RICHARDSON: Where did you obtain them?

MS. CHOMSKY: They were given to me.

(Photographs were viewed by the Committee members at this point.)

REPRESENTATIVE RICHARDSON: Is it possible, now that you have given these pictures to the Committee, is it possible to make some copies available to this Committee for its record?

MS. CHOMSKY: I will attempt to -- you mean pictures in addition to these?

REPRESENTATIVE RICHARDSON: Yes.

MR. KAGAN: You can have these back, but if possible, could you furnish the Committee with reproductions?

MS. CHOMSKY: I will try to.

REPRESENTATIVE MILLER: Who was the photographer who took the pictures?

MS. CHOMSKY: I am sorry, I don't know that.

REPRESENTATIVE MILLER: Jim, do you know who took the photographs?

MR. BURGH: I don't know.

REPRESENTATIVE MILLER: Where were you when these were taken?

(Mr. Burgh consulted with his counsel at this point.)

MS. CHOMSKY: Do you want him to answer that question?

REPRESENTATIVE MILLER: Are you addressing that to me?

MS. CHOMSKY: Yes, I am.

REPRESENTATIVE MILLER: Well, if you are sub-

mitting information that will influence this Committee -- I realize there may be some secondary problems involved here, but discretion being the better part of valor, if you are going to submit them, you should be prepared to stand by them.

(Mr. Burgh consulted with his counsel
at this point.)

REPRESENTATIVE MILLER: Well, can you answer me this? Will these same photographs be made available to the Justice Department personnel who are looking into this independently, I understand, for an investigation?

MS. CHOMSKY: I will attempt to have -- those are the only copies I have. I will try to make them available both to you and to the Justice Department.

REPRESENTATIVE MILLER: Will the Justice Department people be aware of their source so that they can be validated as actually having a photographer attesting to him having been photographed two days later?

MS. CHOMSKY: I will attempt to get verification and an affidavit from the photographer and submit that to the Committee and to the Justice Department.

REPRESENTATIVE MILLER: I would suggest that the Committee not accept these at this point in time as any --

CHAIRMAN HAMMOCK: Representative Miller, I was going to ask if counsel could step to the bench here for a second.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: Representative Fisher has a question.

REPRESENTATIVE FISHER: Jim, since you were there when these pictures were taken, could you tell us when they were taken and where? You don't have to say who took them, but a photographer at such and such a time and such and such a place.

MR. BURGH: I don't remember the place, right?

REPRESENTATIVE FISHER: Well, was it at the Camp Hill Project at or about the time you were giving a statement?

MR. BURGH: It was about the time I was giving a statement.

REPRESENTATIVE FISHER: So it was at the office

of the Camp Hill Project? Is that fair to say? Is it accurate to say it was at the office of the Camp Hill Project?

MR. BURGH: Yes.

REPRESENTATIVE FISHER: And you don't know who the photographer was?

MR. BURGH: No.

REPRESENTATIVE FISHER: But it was a photographer there at that site, is that right?

MR. BURGH: Yes.

REPRESENTATIVE FISHER: That's all.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Do you think you could produce that photographer if you had to verify your story -- or, counselor, would that be a possibility?

MS. CHOMSKY: It is a possibility.

REPRESENTATIVE MILLER: Thank you.

REPRESENTATIVE FISHER: I have one other question. Did you look at the pictures?

MR. BURGH: Yes, I seen them.

REPRESENTATIVE FISHER: Do the pictures accurately reflect your condition at the time you were in the Camp Hill

office?

MR. BURGH: Yes.

REPRESENTATIVE FISHER: Thank you.

REPRESENTATIVE RICHARDSON: Representative
Hammock.

CHAIRMAN HAMMOCK: Jim, I am going to stand up
here and ask you some questions.

Is that a picture of you (indicating)?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And is that your neck?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And how did you get that
scar on your neck?

MR. BURGH: From when Sergeant Stotelmyer was
choking me.

CHAIRMAN HAMMOCK: Is that what you described
this morning when you said the guard had you by the throat?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And the other guard had you
handcuffed behind your back?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that how you acquired the scratch on your neck?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that another picture of you (indicating)?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that your forehead there in the picture?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: How did you acquire that mark at the top of your forehead?

MR. BURGH: From my head hitting some of the metal bars.

CHAIRMAN HAMMOCK: Is that what you meant this morning when you said the guard physically forced you into these bars as you were passing the cells in the corridor?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And hit you several times along four or five cells?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that correct?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that how you got that scar?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Now, is that a scar there on the right side of your face?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you have that before this incident occurred?

MR. BURGH: No.

CHAIRMAN HAMMOCK: And you received that scar in the course of this incident?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Did you have any medication for that scar?

MR. BURGH: Yes, I did.

CHAIRMAN HAMMOCK: When did you receive that medication?

MR. BURGH: Wednesday night.

CHAIRMAN HAMMOCK: The same night of the incident?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: I show you another photograph.

Is that a photograph of yourself?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Is that your shoulder there in the picture?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: When were these marks received?

MR. BURGH: On my way down to Mohawk.

CHAIRMAN HAMMOCK: On your way down to the place you call Mohawk, which would be the Behavioral Adjustment Unit?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: And how did you receive those scars on your shoulder?

MR. BURGH: Hitting the bars.

CHAIRMAN HAMMOCK: Being forced against the bars as you described to us this morning?

MR. BURGH: Yes.

CHAIRMAN HAMMOCK: Mr. Chairman, I would request these pictures be introduced in the record as part of this testimony in evidence, and although we are not accurately --

well, let's put it this way in legal ease -- following the rules of evidence, I think they ought to be introduced and made a part of this record. This gentleman this morning testified to the fact that this did, in fact, occur to him, and these pictures seem to be an accurate reflection of what happened during the course of that incident, irrespective of when or where they were taken. They were certainly taken after the incident occurred and prior to the time he came here this morning to testify. I so move.

REPRESENTATIVE RHODES: Second.

REPRESENTATIVE RICHARDSON: Properly moved and seconded that the four pictures presented before us of Mr. James Burgh be submitted for evidence to this particular Committee and marked as Exhibit 1. We really don't need a motion for that.

(Four photographs of James G. Burgh -
produced, marked for identification and
admitted into evidence as Judiciary
Subcommittee on Corrections and Re-
habilitation Exhibit 1.)

REPRESENTATIVE RICHARDSON: What I would also like to do at this time is make notification of the fact that I would like to have copies of these pictures made so we will be able to make sure that counselor who provided these pictures to us will have a record of them for herself.

All right, were there any other questions?

(No response.)

REPRESENTATIVE RICHARDSON: I would like to thank Mr. Burgh for his cooperation --

REPRESENTATIVE RHODES: Oh, I am sorry, may I ask a few other questions?

REPRESENTATIVE RICHARDSON: I am sorry, Representative Rhodes. Go ahead.

REPRESENTATIVE RHODES: Just a couple of questions, Mr. Burgh.

That night, that Wednesday night, were you on any kind of special lock up that night in "C" Ward because of any disciplinary problems?

MR. BURGH: Yes. I was on restriction.

REPRESENTATIVE RHODES: Why were you on re-

striction?

MR. BURGH: For being on the tier talking when it was time to go to eat.

REPRESENTATIVE RHODES: Would you say that a little louder please?

MR. BURGH: I was standing on the tier talking when it was time to go eat.

REPRESENTATIVE RHODES: For doing what?

MR. BURGH: I was standing on the tier talking to somebody when it was time to go down to eat.

REPRESENTATIVE RHODES: So did you go to that show that was --

MR. BURGH: No.

REPRESENTATIVE RHODES: You were not at that show?

MR. BURGH: No.

REPRESENTATIVE RHODES: Did any disturbance occur that night while the other people in the ward were at the show -- in the ward?

MR. BURGH: The fire and the water.

REPRESENTATIVE RHODES: Fire and water?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: What do you mean water?

MR. BURGH: Well, there were a couple of people squirting water at lights.

REPRESENTATIVE RHODES: Squirting water at lights?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: How were they doing that?

MR. BURGH: Well, the bottle has a nozzle on the end of it.

REPRESENTATIVE RHODES: The light in the cell or the light in the hall or what?

MR. BURGH: The light in the hall.

REPRESENTATIVE RHODES: And this question of fire -- what exactly -- what kinds of fires were set? What do you mean by fire?

MR. BURGH: There was one newspaper, one page from a newspaper that was set on fire and thrown out on the tier.

REPRESENTATIVE RHODES: Was that the only fire that you saw?

MR. BURGH: And there was toilet paper set on fire and thrown out.

REPRESENTATIVE RHODES: How much toilet paper?

MR. BURGH: About three feet.

REPRESENTATIVE RHODES: You mean three feet of tissue paper?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: Three feet of toilet paper bound up in a ball or just thrown out?

MR. BURGH: It was lit at the end and just thrown out.

REPRESENTATIVE RHODES: I see. That was thrown out of the cell?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: Into the tier?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: From the same level you were on, the third tier?

MR. BURGH: No. This was closer up front. There was not -- it didn't come from my tier.

REPRESENTATIVE RHODES: Those tissues didn't

come from your tier?

MR. BURGH: No the bottom tier.

REPRESENTATIVE RHODES: The bottom tier?

MR. BURGH: Yeah.

REPRESENTATIVE RHODES: What about the newspaper?

Where did the newspaper come from?

MR. BURGH: The bottom tier.

REPRESENTATIVE RHODES: The bottom tier?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: And the water was also

from the bottom tier?

MR. BURGH: The water was from the top tier.

REPRESENTATIVE RHODES: The water was from the
top tier?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: You told the Committee
a pretty heroing tale of the guards coming in that night. Did
anybody help you?

MR. BURGH: No.

REPRESENTATIVE RHODES: No guard involved in the
institution offered you any assistance in any form while you

were being taken to Mohawk?

MR. BURGH: No.

REPRESENTATIVE RHODES: No guard at all?

MR. BURGH: No.

REPRESENTATIVE RHODES: Earlier in your testimony you mentioned that you were not clothed when they came into your cell, is that right?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: Is that correct?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: Did they allow you to dress before they took you to Mohawk?

MR. BURGH: No.

REPRESENTATIVE RHODES: Are you telling this Committee you were taken naked --

MR. BURGH: Yes.

REPRESENTATIVE RHODES: -- out of your cell, bounced along this cell block, bounced into walls naked and taken naked into Mohawk?

MR. BURGH: Yes.

REPRESENTATIVE RHODES: Do you feel any pain now,

physical pain, from what happened? Are you in any discomfort from what happened -- any of your injuries that you received that night?

MR. BURGH: I do get a lot of headaches. I have a lump on my head, and I get a lot of headaches every now and then.

REPRESENTATIVE RHODES: Thank you, Mr. Burgh.

REPRESENTATIVE RICHARDSON: I would like at this time to thank Mr. Burgh and Mr. Jackson, indicating that sometime during this proceeding that if Mr. Burgh is needed again, I would hope you would make him available to this Committee.

Mrs. Chomsky, I would like to thank you very much for taking your time and providing counsel to Mr. Burgh in this particular matter, recognizing the seriousness of this. We certainly hope that the confidentiality and everything that has been talked about earlier will be met, and that there will be no repercussions for Mr. Burgh of this.

Jim, I would like you to know that if there are any repercussions of any kind that result in injury to you or your family as a result of your testifying before this Committee, I would hope you would get in touch with myself or

any other member of this Committee and let us know -- either Mr. Jackson or Mrs. Chomsky -- anything that may develop, I would like you to let this Committee know. I thank you very much, all of you.

(Witnesses excused.)

REPRESENTATIVE RICHARDSON: Attorney General Kane I understand is here. Does he wish to testify?

GENERAL KANE: I am available to the Committee. I was informed that you wanted me tomorrow morning, but I am here and available.

REPRESENTATIVE RICHARDSON: Yes, there was some question. Would you please approach the bench?

HONORABLE ROBERT P. KANE, called as a witness, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Would you identify yourself for the record please?

A I am Robert P. Kane. I am the Attorney General of Pennsylvania.

Q Attorney General Kane, as you know, pursuant to House Resolution 47 under this Task Force to investigate juvenile incarceration here in the state of Pennsylvania, we are presently investigating the Camp Hill incidents recently at Camp Hill. This morning you had a gentleman before us by the name of Mr. Smyser who indicated that he was representing your office, and that he was concerned about the confidentiality and safety of the young people at Camp Hill. As a result of a letter that was given to Superintendent Patton and also each and every individual inmate that was involved in this particular matter, along with notifying their parents in relationship to the particular incidents, to appear here this morning at 9:30 a.m. in front of this Committee -- as a result of that, Mr. Smyser testified this morning that he had advised Mr. Patton, the Superintendent of the Camp Hill Institution not to allow those young people to appear here before this Committee. I would like at this point just to stop and ask you why such a ruling was passed down, recognizing that as you are a body of this government in the state of Pennsylvania also investigating this particular matter, and knowing that under this resolution that we are now operating

out of, that we entered into Camp Hill last Thursday and that we are also investigating this matter, why there was an attempt to obstruct this Committee from moving forward in relationship to dealing with this particular investigation?

A Mr. Richardson, if I may, you used the word obstruct. There is no desire on the part of the Attorney General or the Department of Justice to obstruct you or the functions of this Committee. There is every desire on the part of the Pennsylvania Department of Justice and myself and my associates to abide by the law of the Commonwealth of Pennsylvania. And we have a serious legal question, which is yet unresolved -- whether or not this Committee or any committee or any other body who has the power to issue subpoenas can subpoena and have us honor the subpoena of a juvenile who is in our care and custody by virtue of court order. We are working even now to clarify that situation. The regular means of producing a criminal, a person who is committed to our care and custody if he is an adult convicted criminal in our care and custody in a state correctional institution or a juvenile adjudicated to us by the court, is by means of habeas corpus, not by means of subpoena. So first of all, we have a tech-

nicality with respect to the distinction between a subpoena and a habeas corpus proceeding.

Q On that point, isn't a habeas corpus a subpoena?

A No.

Q If I read to you some information that indicated that a habeas corpus was a subpoena, would your testimony still be the same?

A Well, the nature is different. You would have to go to a court in a proceeding in habeas corpus to get him, if you went that way rather than you just issuing a subpoena. But that is essentially a procedural question.

Q Proceed on.

A We are working now to contact the parents of all of the juveniles that you want to secure in writing their waiver of the appearance of these juveniles here. At the point we make those contacts -- and as I say, that is now being done -- we would go back to the courts. We have already communicated with the courts and preliminarily -- no, I stand to be corrected. Five of the courts have said no and three have said yes. Five of the judges who committed these juveniles

have said no, they would not permit the child to appear. That was sort of a cold turkey question at that point. And three have indicated that they would. I believe the court would be influenced by the child's waiver and his parents' waiver and, of course, we didn't start with that. We were somewhat going simultaneously. We didn't know the nature of your hearing here today, you know, as to particularly what you wanted.

Q I am sorry, I didn't understand that statement.

A I said we did not fully know until this morning what the nature of what it was that you wanted and when you wanted it. At least I didn't know until this morning.

Q What if I told you, Attorney General, that there was hand delivered to the Superintendent, Mr. Patton, a letter, not subpoenaing him to be here, but a letter of request to appear here this morning, along with several guards at the institution as well as some of the inmates at the institution, to be here to testify pursuant to House Resolution 47, as a result of which I sent a copy of the resolution which made it very clear, and also a copy of the

rules of this House of Representatives, Rule 51, to each and every member. Earlier testimony indicates from Mr. Patton that he talked to someone in the Attorney General's Office with all his information that he was armed with -- certainly he had knowledge and certainly transferred that information to someone in your Department; perhaps maybe not to yourself, but to someone certainly inside of your Department with regard to what this hearing was about, and also in relationship to the fact that the information was available inside of that packet, noting that there were going to be hearings here this morning and what the nature of those hearings were. And I am saying at this point, Attorney General, are you indicating to me that because you did not have knowledge of it, that that was an indication of why Mr. Patton was not supposed to bring these inmates over?

A Oh, no, no. Mr. Richardson, the delivering up of those inmates is purely and solely a legal question. Please look at the converse of that; had we delivered up those juveniles this morning and we had made an error of law and exposed those people to an infraction of their rights without going back to those courts and without going back to those

parents, that is not something that I take lightly. You know, we both have oaths to uphold the laws of this Commonwealth, and I am going to do that.

Q So am I.

A Yes, sir.

Q No question about it.

The other thing is that, if I also indicated to you that I contacted all of the parents of those young people involved in this particular matter and they consented to allow their children to testify, would your statement still be the same?

A Oh, yes. I have to get a waiver, which is a very simple document that they waive any rights that they have with respect to their children being exposed. I have to go back to those courts. I only have custody of those children in and by virtue of a court order. And there is some legal question every time you take this one step further. I can assure you that in another twenty-four or thirty-six hours I can have made all of the contacts and done all of the legal research. You have confronted us with a legal question. And as your counsel will tell you, not every legal

question can be answered in a two minute "Let me think about that and let me give you an answer." sort of a thing. You have raised what I think is a matter of first impression. It has not occurred before; certainly it has not occurred to my knowledge.

Q. What if I told you, Attorney General, that there have been other Houses of Representatives hearings where juveniles have been brought before other committees involving certain questions that relate to a particular situation, and they were brought before the House Committee, would you still say your answer would be the same?

A. Oh, yes, my answer would still be the same. I would be curious at what legal look was taken at the child appearing. I would hope to find out that the courts knew about it and assented to it and the parents knew about it and assented to it. And for the protection of the child, I would want some of this stuff in writing.

Q. Recognizing that this morning our Subcommittee here -- I mean this Committee here decided to issue subpoenas to ask that those names of the ten juveniles who are presently incarcerated at the institution at Camp Hill appear tomorrow

morning, are you indicating to us that you are refusing to allow them to appear before this Committee to testify?

A Until I can satisfy myself, Mr. Richardson, that those subpoenas are the proper way to bring those juveniles here and that their rights under the law are protected, I can't answer you yes or no. I wish I could, but I don't have that information, as I said before.

Q Let me say this to you, Mr. Attorney General; that if I told you that where you are sitting now a mother of one of the inmates today came on her own to this Committee and testified before this Committee, and in no uncertain terms made it known to this Committee that she wanted her son to appear here before this Committee to bring out the truth about what happened to her son, would you still say your answer would be the same, indicating that the family who certainly has the right and protection of the child --

A No, no. I want that mother to sign a waiver, so that I can't have her later --

Q What if she signed one already?

A Fine, fine; you have done one of the ten I am in the process of doing now.

Q Well, what I am saying is that I have gotten already a commitment from all of the parents. The only thing you need is their signature, is what you are saying --

A Right.

Q -- which is a technical point. It has nothing to do with the fact though, however, Attorney General, that at the time of this particular incident that occurred on the 15th of October, that the Attorney General's Office nor the Bureau of Corrections nor any of the personnel at Camp Hill contacted any of the parents or were concerned enough to contact any of the parents concerned in this particular matter in this particular incident. And I am wondering now why the sudden interest --

A The sudden --

Q Excuse me.

-- of making sure that the rights are well protected of the particular inmates involved all of a sudden. It just seems to me to be a little strange. And I am raising the question, as I did with Mr. Smyser this morning, because I feel it is a concern. It is a delaying practice seemingly going on right now to deal with trying to get down to the

nitty gritty of this particular problem that is existing over at Camp Hill. And I am concerned --

A Mr. Richardson --

Q Excuse me.

-- that those inmates over there at the institution who are presently there are in imminent danger of their lives perhaps. And it has been brought to our attention by the mother sitting here that we are trying to get to the bottom of this whole issue. And I am saying at this particular time we are not getting the cooperation from the Attorney General's Office that would help us to make sure we follow through on it in its entirety.

A May I respond now?

Q Yes, you can.

A Mr. Richardson, I want to point out to you that you do not have a monopoly on the concern for the children at Camp Hill.

Q I am sure I don't. There are several other parents and others who are concerned about it.

A And there is an Attorney General, believe it or not, who is equally concerned.

I ordered an internal investigation of this matter, as you know, Mr. Richardson, before this Committee ever began any action. That internal investigation --

Q To your knowledge.

A Sir?

Q To your knowledge.

A Well, I was not aware of any action by this Committee prior to last Thursday. If you had an action on the Camp Hill matter of October 15th, 1975, before last Thursday, I do not know about it.

Q That is what I am saying.

A Thank you.

I want to get to the bottom of what happened on the night of October 15th and October 20th, the other incident, as much as you do. The same law that I am serving cuts both ways, and if there was a wrong done, it is my duty and responsibility as the Attorney General to see that it is righted. We share that in common, Mr. Richardson. And the use of the term by you of delay is foreign to my experience in this matter in any way, shape or form. So I object to the use of the term delay. Delay what, the truth?

Q Yes, delay the truth of the fact that there have been some incidents that occurred at Camp Hill that we are expeditiously as possible trying to get to the bottom of. And this morning, upon that request, there was a gentleman, Mr. Smyser, who came before this Committee at the request of, I guess it was you, and said that they advised Superintendent Patton not to bring these young people here.

A That's right.

Q And I am saying that in my understanding and interpretation as I see it as one who is also investigating this matter under the same law that you are operating under, that it raised the question to me very seriously of the delay of trying to get down to the bottom of it. And I am only asking you, Attorney General, some questions that will help clarify and also bring some light to this Committee some questions that were raised earlier. And you were asked to come over so we might be able to resolve them.

A When I was made aware at 20 minutes till two this afternoon when I was finishing my lunch downstairs that you wanted me to testify, I came up here of my own volition. You were indicating that you wanted me to come

here tomorrow morning.

Q Mr. Smyser said he would get in contact with you and get back to us.

A Yes. He came down --

Q And when you appeared here out of courtesy in this room and also as a branch of government, we asked you to come forward at this particular time because there was some information that you had to share with this Committee.

I don't want to hog the Committee hearing by getting into a dialogue with you, but I would like to call on Representative Hammock if he has some questions of the Attorney General.

CHAIRMAN HAMMOCK: No questions.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q I am Representative Miller from Lancaster.

A Yes, sir.

Q Just a few technical questions.

I understand that your Department began their investigation approximately a week ago, is that correct?

A Okay, the report of the incident of October 15th began flowing to Superintendent Patton and to Commissioner Robinson on the 16th and 17th of October, the day following and the following day. When I became aware of it, I directed Mr. Robinson to conduct an internal investigation. In other words, they were providing him with information, a report of what occurred. I said, Investigate what occurred. He has an internal investigatory unit which investigates unusual incidents in our prisons, not only state prisons but also county prisons. And I ordered that, I believe, on the 20th.

Q So I understand, the control of that investigation then is under Mr. Patton's direction?

A No, no, no. It is under Commissioner Robinson's direction.

Q Oh, Commissioner Robinson's direction?

A Right. It is not under Superintendent Patton's direction, no.

Q I am sorry, I misunderstood.

A The Bureau and the institution are two different things.

Q A secondary question -- in conducting that

investigation, at some point in time an officer of the Bureau will have to ask these gentlemen whom we have subpoenaed -- the juveniles -- they will have to ask them questions.

A Right.

Q To which they will respond.

A Right.

Q In doing so, they will be responding to an officer of the state.

A Right.

Q Or an officer acting in behalf of the state. My question to you is, in that response where the juvenile will be making the response to the Correction Bureau official, how would that be different than if I were there right now at the institution asking that child the same question?

A Excellent question. The distinction is --

Q I don't know.

A Right. Any information that we take is confidential in nature; that is, the nature of the statement taken in an investigation. It is not done pursuant to the Sunshine Law, where you do this in open public hearing.

Q But I find language pertinent to your pre-

liminary investigation --

A Sir?

Q There are remarks pertinent to your preliminary investigation in this article of October 22.

A I am not familiar with that article.

Q Oh, all right.

A I'm sorry.

Q Those are the types of questions.

A Fine.

Q If I were to go to Camp Hill now and ask to see one of those students and make the statement that I would be talking to him in confidence, would that be permitted?

A I don't know what the regulations of the Bureau and the institution are. Is Superintendent Patton here?

Q Attorney General Kane, that is the real question I have in my mind. I don't care what form it is in. I just think now the responsibility has been given to this Committee to get questions answered, and I think we should be able to find out one way or another. I am not picky about what the form is, but somewhere along the line we will have

to make some decision, as you will, sir. And some first hand knowledge in basis of fact based on those statements that juveniles have has to be attained. Now, is there a form you would suggest? Incidentally, my statement isn't suggesting your Bureau won't do the job. That is the least of my worry. But the question has now been brought into the public forum, and people are saying, "Well, why can't the juveniles say?" And we don't have an answer for them.

A Well, we are sensitive to their legal standing and what protections they must be afforded. We simply have custody of those people, Representative Miller, by virtue of court order.

Q The irony is that on one hand the Committee is concerned about the treatment they may have received or may not have received by state officials; and the other hand, another state official is protecting them again under the legal premise you are raising.

A Right. These are the conflicts we always come to. And I think they can be satisfactorily resolved, and we are moving along very swiftly. The legal answers don't come very swiftly.

Q Who could answer that question as to whether or not I could stop by on my way home?

A I wonder if Superintendent Patton could respond to that?

MR. PATTON: Certainly.

GENERAL KANE: He can handle your request.

MR. PATTON: Mr. Richardson was in the other day. There will be no problem at all.

REPRESENTATIVE MILLER: But my question is, would we be abridging this very principle that the state raised in doing so?

MR. PATTON: It would be in confidence. It would be through a state official. It would be in a different setting.

REPRESENTATIVE MILLER: Thank you, sir.

Thank you, Mr. Attorney General.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Mr. Kane, based on what I have heard so far, based on the pictures that I have seen, to me personally at this time it seems a clear case of brutality as far as these

guards are concerned. I would like to ask you pertaining to your own investigation, if you found this out yourself that this was actually a fact, what sort of action would you take on this?

A Well, you would take the action, I think, from two standpoints, Representative Oliver. One, we are the employer of those guards -- if indeed brutality exists -- so you would take an employment discipline under the rules and regulations of their employment.

Two, if you had a prosecutable criminal case, you would institute the prosecution.

Q This is what you would do?

A Yes. So you have two avenues, one or the other or both, to pursue.

REPRESENTATIVE OLIVER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Attorney General Kane, do I understand you correctly as far as the subpoenas are concerned and the questions of subpoenas versus habeas corpus -- do I understand

your position and that of your Department, that even if these subpoenas are served on the youths and the superintendent, which we directed by motion earlier today, do I understand that you would direct your subordinates in the Department to oppose them?

A Until the legal standing was clarified, yes. And I don't mean necessarily litigation.

Q All right, in other words, at the present time you would --

A At this point I would direct them as they were directed this morning, not to respond to those subpoenas. When the law is clarified, I reserve the right to amend or alter that answer.

Q Right.

 Based on that position, your present position for this moment, would you also similarly oppose a request by this Committee upon the superintendent to subpoena the records of those statements given by any of the youths in that institution to whoever has made this investigation for the Justice Department?

A Well, until the investigation is complete,

Representative Fisher --

Q Right, at this moment. If there is a report from those ten people who we are attempting to subpoena, and we subpoenaed those reports, would you also direct your subordinates at this time to oppose that kind of subpoena?

A I believe that I would, but I would have to think about that. Until our investigation is complete, I would oppose responding to a subpoena, yes, of a piece of an investigation.

REPRESENTATIVE FISHER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: No questions.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

BY REPRESENTATIVE RHODES:

Q Let me ask you one question, Mr. Attorney General.

A Yes, sir.

Q Is the heart of your objection to our subpoenaing the youngsters that this is a public hearing?

A Well, that is a substantial part of it,

Mr. Rhodes. The rights and protections of those juveniles in our custody I am very sensitive to. I am somewhat equally sensitive to my duties and responsibilities as the person who sits at the head of the Department who has custody of these children. And until I can satisfy myself that this is the legally proper and responsible thing to do, we took the position that we took this morning that Mr. Richardson referred to, yes.

Q I understand your much understood commitment to faithfully carry out the duties of your office, Mr. Attorney General. But what my question goes to is, is the element of our hearing or these youngsters appearing before our Committee

A. That is a major element.

Q -- that bothers you, is that it is a public hearing?

A Yes.

Q What would be your position if we voted to go into executive session?

A I would have to consider that as a significant element where perhaps these people are being protected.

Q If all of the judges involved or any of the

judges -- well, you already said five preliminarily indicated a negative response --

A But they didn't know the child's position and they didn't know the parents' position.

Q But let's assume for the sake of discussion that one judge, or any judge, says he will not permit this Committee to have one of the youngsters before us and we persist in our subpoena, which of those orders would you honor? And I am not trying to put you between a rock and a hard place.

A It sounds like the three branches of government are coming to a collision. I have the judges on one side, the legislature on the other, and here I am in the executive.

I would be influenced by that position but necessarily concluded by it. I do not consider any of those things conclusive in and of themselves.

Q But if it was a strict question of the conflict between an order of the court and a subpoena of this House, which one would you honor?

A Which body do I want to be in contempt of?

Q That's what it comes down to.

A Well, given that choice, I believe we would meet each other in Commonwealth court and let them decide the issue.

Q Probably.

A Yes.

Q For the benefit of the Committee and its staff, we have constitutional authorization to subpoena.

A Oh, yes.

Q Do you have at your disposal any constitutional or statutory references that are the basis of your objection to our subpoena?

A I do not. People are at this very moment working on that. And from the time this matter started developing as a legal issue this morning, I was in a meeting in the Governor's conference room, and Mr. Smyser came and pulled me out of there and discussed this matter.

Q You don't have any available right now?

A No, I don't.

Q Would you be willing to make your brief available to our Committee and legal staff?

A Oh, heavens, yes. We will make our research available to you.

Q We have legal questions about the procedure ourselves.

A Right.

Q I think it is highly likely that we will vote Mr. Patton in contempt, and you ought to keep that in mind.

A (No audible response.)

REPRESENTATIVE RHODES: Thank you, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Attorney General Kane, you stated that the investigation is going on as swiftly as possible.

A Yes.

Q Did you give your Department any date for completion?

A No. It is very difficult, if not impossible, to say to an investigator, Do an investigation and have it completed by X. You rob the quality of a good investigation. And, very frankly, if the old adage "haste makes waste" has

any application, it certainly has it in the area of investigation. You can't put a hard time fix on investigation, because investigation begins with an assertion, and you go pursuing that assertion as you would on the branches of a tree until you have satisfied yourself that you have exhausted everything that deals with that assertion. You can't fix a time limit on it. It certainly has the highest priority, and it is not being competed, you know, with some other similarly situated situation.

Q Would you know how many investigators Commissioner Robinson assigned to this investigation?

A I think three; the head of his investigations unit and two others. I don't know how large a staff he has right now.

Q Did you assign any other attorneys also from your Department?

A No. We have assigned counsel in the Bureau of Corrections, and they get their legal advice from Mr. Smyser's unit, which is the criminal law division of the Pennsylvania Justice Department.

Q Would you say that by now every inmate that

was at this incident on the 15th should have been contacted by now?

A Any witnesses, participants or witnesses?

Q The inmates themselves.

A Witnesses?

Q Let me try and rephrase it.

A Well, there are three hundred and some people --

Q No. I understand there were eight juveniles at the time who were incarcerated at this folk festival. Would you say by this time all of them should have been contacted?

A Oh, yes, I would believe so.

Q Are you aware that at least one has not been contacted?

A No, I wasn't.

Q That may be an unfair question, and I thank you.

A Certainly.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: No questions.

BY REPRESENTATIVE RICHARDSON:

Q To be perfectly honest with you, I think that it should be fair to note that all of the representatives have asked questions they felt were pertinent to this investigation. And I would suggest to you at this present time that this Committee has requested that these juveniles be present tomorrow to avoid any legal confrontation as much as possible with the Department. If we are about, as you said in your earlier statement, that we are about justice and getting justice done and to avoid having to hold Mr. Patton in contempt, I would hope very seriously that out of that which has been transpiring and going on between your office and part of the legal staff of this Committee, that it will be resolved this evening and that tomorrow those juveniles will be present -- and to resolve it as quickly as possible. I feel there is a situation in front of us that I cannot stress the seriousness and danger of too much, and I think you are well aware of it.

A I am.

Q And I feel at this present time we have a

situation that we want to resolve as quickly as possible. And I want to thank you for coming here.

A . Well, let me respond to you. You admonished me to have them here -- or requested me very strongly to have them here, and you suggested the possibility of a contempt proceeding against Mr. Patton.

Q That's correct.

A Okay, let's share our responsibilities. Let's not bring those youngsters in here and violate the law of Pennsylvania in the guise of getting at justice. The worst thing justice can do is be seen violating the law itself.

Q That is my point. I think that is the question that is in front of us now, Mr. Attorney General; that you are violating the law by not allowing them to appear here where we can ask them whether or not they are willing to testify with their parents being present. That is my point exactly. And I don't understand for the life of me, recognizing that those points are very clear and we are not violating the law, that after talking to Mr. and Mrs. Snyder who appeared here before this particular Committee, whose son is incarcerated, that they are overwhelmingly ready to allow

their child to testify; as other parents who have been talked to in this matter are overwhelmingly ready to have their child testify to get this particular matter out of the way. And I am saying that that seems to me to be a violation of the law not to allow them to do that.

A Well, there are three folks that are involved in this equation as we see it, Mr. Richardson. There is the child, the parents and the judge. Now, please know that the judge gave us custody of this child pursuant to a court order. I would be remiss from a number of standpoints, in my judgment, if I did not go back to that court and say to that court, "Jimmy Smith says he will testify. We have a waiver here, Judge. His parents say they wish him to testify. Judge, would you concur?"

Q The only problem I have, Attorney General, is that it seems to me -- and maybe I don't know what kind of law we are operating under -- that if a juvenile is either a witness of or thereto in relationship to another incident, the judge is not contacted and asked whether or not he should be a witness to appear in another case.

A If you move that child around, the judge is

contacted.

Q Well, I beg to differ. As an example, at Camp Hill a juvenile was taken down to the house of corrections to appear as a witness before another court concerning another matter that was not in relationship to that particular judge who committed him to that institution. On the part of the institution they allowed him to be transferred, not by the court or the judge.

A I can understand that.

Q Okay. What I am saying to you now is, here is a totally different matter. This is not a criminal proceeding. This is not a juvenile hearing, which is seemingly the statute under which you are operating. I have not seen any statute or law that cites your position at this present time, nor have I verbally heard you give us any particular statute of the law that you are citing your findings on. And I just feel that at this particular time that I can only stress to you how important it is to have these young people here tomorrow whose parents have already consented to allowing them to testify.

A I appreciate that, Mr. Richardson. But

answer yourself one question: Why are all juvenile hearings in private?

Q This is not a juvenile hearing. I beg to differ. This is under the rules of House Resolution 47. This investigation is going on concerning juvenile institutions across the state. Unfortunately, you were not here this morning as I read House Resolution 47 in its entirety as to exactly what it meant.

A I have no question about that resolution.

Q Okay. And I feel we are operating under the correct guides and rules, and we proceeded in that manner. We have made a step by step approach to making sure the rights of all of the children were protected under this Commonwealth of Pennsylvania. And I am saying that it seems to me at this present time we are in a situation where we have not gotten the type of cooperation that I would feel would be necessary to try and complete this investigation.

A And I respectfully submit to you, Mr. Richardson and other members of this Committee, that this Committee has had and will continue to have and has at the present time our cooperation. We will not violate the law

in that cooperation.

REPRESENTATIVE RICHARDSON: Thank you very much.

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q I just have one brief observation, Mr. Kane.

In the event that we are able to resolve this, then it would not necessitate the issuance or serving, if you will, of the subpoenas.

A That's right.

Q Subpoenas are now in the process of being prepared, as many things are now in the process of being done at this late hour. The subpoenas are being prepared. I would urge you to use your good offices to work out something with the judiciary. We have three coordinated branches of government here, the legislative, the executive and the judiciary. And as you well know, we intend to do what we have to do. And you have stated to this Committee previously that you intend to do what you have to do.

A Right, right.

Q And if it ends up in front of the Supreme Court, so be it. But I can say to you that Mr. Patton is

going to get a subpoena holding him in contempt if those kids aren't here tomorrow morning. And I can say to you -- and we have been around before. And I appreciate your position as Attorney General, and I hope you appreciate our position. Mr. Patton is Superintendent under your ambit of authority, and I would just hope you would use your good offices.

If that does not occur, Mr. Kane, as I have indicated to you before, we have no compunction of going to any limit to do what this Committee is empowered to do. So I would, again, hope you would exercise your good offices. I don't think we need to belabor this.

A You have the pleasure of the good offices of the Attorney General. The only place I can take a slight exception with what you said, Mr. Hammock, is tomorrow morning. I don't know that I can do everything that you are putting a burden on me of doing.

Q I certainly appreciate that. But let's face it now, you have had this matter under investigation for at least two weeks.

A No, no. Today is the 27th. I ordered the investigation -- well, it isn't even two weeks old. Let's

put this in perspective. The incident occurred on the 15th, and this is the 27th.

Q Well, let me just say to you that we are approaching two weeks.

A Okay, Wednesday night it will be two weeks.

Q Well, I am saying that Mr. Patton is going to feel the wrath of this Committee unless your offices are able to work it out; judiciary notwithstanding.

REPRESENTATIVE RICHARDSON: Attorney General, I would like to thank you for coming before this Committee. I hope this matter will be expedited as quickly as possible.

GENERAL KANE: I share that hope.

(Witness excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to call Mr. Pecheco to the stand.

REPRESENTATIVE FISHER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: I would ask the fellow members of this Committee to refrain from discussing the issue of whether or not this Committee is going to bring up the

question of contempt or whether or not this Committee will hold in contempt any person who is subpoenaed until the time that that person has, in fact, refused to either testify or refused to bring before this Committee some person the Committee has requested. I know Mr. Hammock and Mr. Rhodes referred to holding somebody in contempt, and I know it was not said intentionally that way. But I think we should not make a decision on what we are going to do until that time.

CHAIRMAN HAMMOCK: I would just like to say -- and I am glad we are discussing it openly, because this is a public hearing. I certainly appreciate your comments, Representative Fisher. The fact is we have already decided. This Committee has already decided and voted to issue subpoenas. That means that this gentleman over here, Mr. Patton, stands to feel the wrath of this Committee. Now, I certainly appreciate all of the legal ease. I appreciate the Attorney General's position. I appreciate the weighty matter we are dealing with. But, you know, I just think that somewhere along the line -- and I am saying this for the benefit of all of us, including myself -- that we have got to get to the point where the Attorney General's Office and the Bureau of

Corrections for this state is going to start to cooperate with the legislative branch of government. That has not happened. That is why we have had so many resolutions, not only in the House, Mike, but also in the Senate, asking for an investigation of that Bureau of Corrections. Something is going wrong over there. Something is amiss. Something is afoul. Something smells rotten in Denmark with that Bureau of Corrections, not only in the juvenile area -- and I am saying it publicly -- but in other areas. We spent the entire summer looking at the Behavioral Adjustment Units. We saw what happened to those Behavioral Adjustment Units. And we are going to -- and I hope you will agree that we are going to -- continue to say to Mr. Kane, to say to Mr. Robinson -- not only to Mr. Patton, but other superintendents -- "Gentlemen, you are going to be here time and time again. We are going to make it a matter of public record until you clean up that Bureau of Corrections."

Now, we are not saying that everybody in prison ought not to be there. But I think that everybody in prison ought to be accorded at least some justice and fair play, especially when you are dealing with a matter of this nature. It is intolerable to have a Deputy Attorney General come in

here on the morning of a hearing as ill prepared as he was; not presenting one citation, one shread of legal documentation on his position here this morning. That is an affront to you as an attorney and to this Committee. And to have the Attorney General of the state come in here and say at nearly 3:00 in the afternoon, that he is not prepared to present any legal evidence, having been asked by five members of this Committee. That is why I am saying this publicly, not to hear myself talk. I would rather be quiet. But I want the Attorney General to understand, I want the Committee to understand and the public to understand that there is some commitment, and that the Bureau of Corrections and the Department of Justice over there, which operates more as a department and not as an office of justice, to begin to stop this -- as Dave called it this morning -- double talk.

REPRESENTATIVE FISHER: I agree with you that we have not received the cooperation. All I am saying is that when that time comes -- and I think they are dilatory in not having presented this Committee with some legal citations and with some legal support for their position -- however late they do present it, we should examine that legal authority

upon which they are basing their position before we arrive at a decision to hold somebody in contempt. That is the only statement I want to make. Albeit it is late -- and I agree that it is late -- let's not jump to a judgment of contempt before we even have the refusal to comply.

CHAIRMAN HAMMOCK: As I have said, we have already decided that this morning.

REPRESENTATIVE FISHER: Well, I am not so sure that this member has decided he will vote for contempt if some legal authority in support of that position is presented.

REPRESENTATIVE RICHARDSON: Gentlemen, if we could proceed on. I understand the issue that is before us, but I certainly feel that we have a responsibility to ask certain folks to come before us. And those things can certainly be aired out in our Committee meetings.

REPRESENTATIVE MILLER: Dave.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Just for the members of the public, I think it should be mentioned that the form we are in today is an actual Committee meeting, and that at any point in time we can take a procedural motion and make a

decision. And I think that you should understand with respect to the interchange that you just heard between the two members of the Committee, that we are in the position to change direction at any time by actual Committee motion. So as well as taking public testimony, we can still function as a committee.

Thank you, Dave.

REPRESENTATIVE RICHARDSON: All right, Mr. Pecheco.

RAUL PECHECO, called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Will you state your name for the record please?

A Raul Pecheco.

Q Are you accompanied by counsel? And if you are, would you have her state her name?

A Yes.

MS. CHOMSKY: Judith Chomsky.

BY REPRESENTATIVE RICHARDSON:

Q Would you pull the microphone closer to you, Raul, and speak up loud and clear.

I will ask you some preliminary questions to try and get you to give us some background information.

Do you know why you were called here this afternoon?

A Yes.

Q Do you understand the seriousness that is involved in this particular hearing?

A Yes.

Q Do you understand that if you don't tell the truth to this Committee, there will certainly be some repercussions held against you?

A Yes.

Q Has there been anyone who has made you come before this Committee today to testify against your will?

A No.

Q Are you here of your own will?

A I am here of my own will.

Q There was an incident that occurred sometime in October at an institution you were presently at, and I would

like you to take your time and cite to us exactly what happened in your own words of what you saw or as a result of what you saw or as a result of something that happened to you, what you did and what happened to you.

A October 15th --

Q Of this year?

A Yes, 1975. We went to a rock concert -- "C" Ward. And after the concert was over, we came back to the ward. I was sitting in my cell, and I seen four or five of the guards going to inmates cells and dragging them out. And later on they came down to my cell, and one of the guards -- I forget his name, but I can point him out.

Q Is he here today?

A Yes.

Q Can you point him out?

A Yes.

Q Would you do so?

A Sergeant Stotelmyer (indicating).

Q Sergeant Stotelmyer?

A Yeah.

Q Go ahead.

A He grabbed me by my hair. I was sitting at my desk. And he put me on the bed face down. He put my arms behind my back. He then handcuffed me. He took me out of my cell down the tier with my stomach and chest towards the cell doors, making marks on my chest and stomach.

When we got into the hall, he hauled me up to "D" Ward, Mohawk Unit. On the way up he was punching me in my face, asking me if I liked to hit people.

Q Asking what?

A Asking me if I liked to hit people.

Q I see.

A We got into "D" Ward, and he pushed my face against the wall about two or three times. He then took the handcuffs off me and escorted me to my room in "D" Ward. About half an hour later I was taken to the hospital. And that's it.

Q You were taken to the hospital?

A Yes.

Q What hospital were you taken to?

A Inside the institution.

Q Inside of the institution?

A Yes.

Q Do you know who examined you?

A No.

Q Are they present in this room today?

A There was a nurse and --

Q Well, answer the question. Is the person who examined you -- are they present here?

A No, I haven't seen them.

Q Okay, go ahead.

A Then I was escorted back to my room, and a few minutes later the major called me out.

Q Hold it. On the point of when you went to the nurse, what happened as a result of your going to the nurse? What did she do?

A She put mercurochrome on my bruises and gave me ice for my nose.

Q Gave you ice for your nose?

A Yeah.

Q Did she give you anything else?

A No.

Q Did she bandage you in any way?

A No.

Q Did they give you any medicine for you to take in your cell?

A No.

Q Go ahead.

A About a few days later, the major wanted to talk to me about this incident.

Q The who?

A About this incident that happened with the guards. And I was supposed to leave that week, but I didn't; I left the week after. And two guys came and talked to me. I don't know where they were from.

Q Did they identify themselves?

A Yeah.

Q Where did they say they were from?

A They said they were from the Commonwealth of Pennsylvania.

Q Do you know what department?

A No.

Q Do you remember their names at all?

A No.

Q Are they present in this room today?

A No.

Q Would you recognize them if you saw them again?

A Yes.

Q Go ahead.

A They talked to me about this, and they said -- they asked me if I would take a lie detector test.

Q They asked you that?

A Yes.

Q Were they lawyers?

A No, I don't think so.

Q Okay.

A And I told them that I would be willing to do it.

Q And what did they say as a result of your saying you would be willing to take a lie detector test?

A They said they would contact me in about two weeks.

Q And did you sign any statements?

A No.

Q Did they write down what you said?

A Yes.

Q Wrote down everything you said?

A Yes.

Q Did you look at it as a result of their writing it down?

A Yes.

Q And was it as you said it?

A Yes.

Q But you don't know who that was?

A No.

Q As a result of that, has there been any other persons in contact with you since that day that you were released from the institution?

A No.

Q Did you receive a letter from myself requesting you to be present here today?

A Yes. I got it Friday. And I didn't know how I was going to get here, so Jonathan Smith came down and picked me up. He said I didn't have to go if I didn't want to, so I told him I would.

Q So you are doing this on your own free will?

A Yes.

Q And you are testifying because you want to testify?

A Yes.

Q When you were in your cell -- and you are making this very clear -- well, are there any other points that you want to bring out as a result of that incident?

A Yeah. I put up no resistance at all.

Q Pardon me.

A I put up no resistance at all.

Q You put up no resistance at all?

A Right.

Q What bruises, other than the ones on your chest, did you receive?

A Just a bloody nose and swelling a little bit. And my left hand is numb because of the handcuffs he put on too tight. I can't feel nothing on my back hand.

Q As a result of them putting the handcuffs on too tight, your left hand is numb?

A Yes.

BY REPRESENTATIVE RHODES:

Q Numb now or numb then?

A Yeah, it's still numb.

Q It's still numb?

A Yeah. And handcuff marks are still on my wrists.

BY REPRESENTATIVE RICHARDSON:

Q As a result of you having numbness in your hand, have you been to a doctor?

A No.

Q Any reason why you haven't?

A Any reason why I haven't?

Q Yes.

A No.

Q With the advice of your counsel, I am sure you should go to the doctor if your hand is numb as a result of those handcuffs. Did you tell that to the nurse that day?

A No. I thought it would, you know, go away after awhile.

Q How long were you handcuffed, do you remember?

A About five or ten minutes.

Q Five or ten minutes?

A Yeah.

Q But you are saying they were extremely tight around your wrists?

A Yeah.

Q Did you ask them to loosen them up?

A No.

Q Why?

A Because I figured they wouldn't anyway.

Q Are you afraid of being here today?

A No, not really.

Q Were your parents notified that you would be here today?

A Excuse me?

Q Were your parents notified that you would be here today?

A Were they notified?

(Mr. Pecheco consulted with his counsel at this point.)

MR. PECHECO: Yeah.

BY REPRESENTATIVE RICHARDSON:

Q Did they want you to come?

A They didn't care if I did or not.

Q They didn't care either way?

A No.

Q Are they present today?

A No.

Q Finally, in winding up, what I want to know from you is whether or not you have had an opportunity to -- at present you are home now, right?

A Yes.

Q I want to know whether or not you have had an opportunity to discuss this matter with anyone else? Other than those two gentlemen you mentioned before from the Commonwealth of Pennsylvania, have you discussed this matter with anyone else?

A No.

Q You have not at all?

A No.

Q Did you discuss it today with your lawyer?

A Yes.

Q That is the only time you discussed this particular matter?

A Yes.

Q Since October 15th?

A Yes.

Q Do you happen to know any of the gentlemen from the Camp Hill Project who are inside the institution?

A Yeah, I know a couple of them.

Q Do you know anything as a result of them working inside of that institution what has happened?

A Well, they are trying to work to get juveniles out quicker, and I think it is a pretty good idea.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: Pass.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: No questions.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: No questions.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q I have just one brief question.

I may have missed this, but were you set to be discharged from Camp Hill? When is your release time?

A Release on court order for October 15th, but something happened and I got released a week later.

Q But you were scheduled for release?

A Yeah.

Q This is a question I don't know if you know the answer to specifically, but even if it is just something you are generally aware of I would like you to try and answer it. Even if it is only rumor among the juveniles at Camp Hill, I would still like to know your answer. Was it your impression that this is a standard thing that happens about the time you are ready to get released, that each student invariably runs into a guard, or did you think this was an unusual thing to happen? Did it surprise you?

A Yeah, it did.

Q Then it wasn't something that was considered a standard thing?

A No.

Q The kids and the guards finally ran into

each other close to release time?

A Yeah.

REPRESENTATIVE MILLER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

BY REPRESENTATIVE RHODES:

Q Following up on Representative Miller's question, would you characterize the mood --how long have you been at the institution?

A Approximately five months.

Q So you were there prior to the Camp Hill Project?

A Yeah.

Q How would you characterize the mood and the relationship between the guards at the institution and the juveniles who are in the Camp Hill Project as the Project proceeds and more kids leave Camp Hill?

(Mr. Pecheco consulted with his counsel
at this point.)

MS. CHOMSKY: I don't think he understands your question.

BY REPRESENTATIVE RHODES:

Q Let me ask the question again.

Its been alleged that -- some people have said that as the Camp Hill Project goes on, guards and kids have been getting at each other more and more, and there has been more trouble and tension between the guards and the kids in the Camp Hill Project as the Project goes along. And I am just asking you, have you personally witnessed any increase in problems between the guards and the kids, aside from this incident we are talking about today? Have you witnessed any increasing or intensifying of the problems between the guards and the kids at Camp Hill since the project started?

(Mr. Pecheco consulted with his counsel
at this point.)

MR. PECHECO: I witnessed one time where some boy named Greg Willery was hollering out his gate, and this sort of thing happened, but it wasn't that rough.

BY REPRESENTATIVE RHODES:

Q The guards went into his cell and there was an altercation -- there was a fight or something?

A The same guard.

Q Which guard?

A Sergeant Stotemyer.

Q Now, were you taken down before or after
Burgh?

A I was the last one after Burgh.

Q So you saw Burgh taken down?

A Yes.

Q Did you hear Burgh's testimony today?

A No.

Q You weren't here?

A No.

Q Did you see any reason for the guards to go
into Burgh's cell?

A No. I wasn't in the ward, whatever he did.

Q You weren't in "C" Ward?

A Whatever he did, you know, I didn't see it.

MS. CHOMSKY: He was at the concert.

BY REPRESENTATIVE RHODES:

Q He was at the concert. But all of the things
that happened -- but all of the kids who were taken off of

"C" Ward were taken after the concert, isn't that right?

A Right.

Q All right.

And they didn't begin to take kids back from "C" Ward to Mohawk until more guards came back after the concert?

A Yeah, correct.

Q Did you see anything that Burgh did that might have caused the guards to go into his cell when you were there?

A No.

Q Could you see into Burgh's cell?

A No. I am on the same side he is.

Q So even looking sideways, you really couldn't see in?

A No.

Q Did you hear anything when they went into Burgh's cell?

A No. Everybody was yelling.

Q Everybody in the ward was yelling?

A Yeah, and rattling their bars.

Q So you really couldn't hear anything?

A No.

Q Did you see them take Burgh out of his cell?

A Yeah.

Q And he was naked?

A Yes, he was.

Q And there was one guard behind and one guard in front of him?

A Yes.

Q Did they bounce him off the gate bars or cell bars as they went down the tier?

A Yes. They did that to me, too.

Q Yes, I know you testified to that. I was wondering if you saw them do that to Burgh.

A Yes.

Q How did they bounce him off the cells? Sort of demonstrate that. Did they push him into the bars, or did they just sort of rack him along them?

A I think they had him by the hair.

Q Had him by the hair?

A Yes. And as they walked down the tier,

they were holding him up against the bars, the door cells.

Q Sort of like those old washboards? Do you know those old washboards that have the corrugations?

A Yeah.

Q And you rub up and down the washboard. Did they sort of wash up and down the bars with Burgh's head and body? Is that right?

A His body.

Q His body, not his head?

A Yes.

Q Did you see him give any outcry? Did he scream or say something or shout when they bounced him against the cell bars? Was he saying anything?

A I don't remember.

Q You don't remember?

A No.

Q When they took you down the steps, did they bounce you off the walls -- not the gate. Burgh testified that they threw him into the wall face first.

A Yeah. They didn't do that to me.

Q They didn't do that?

A. No.

Q You got your bloody nose another way?

A Yeah.

Q How did you get your bloody nose?

A He was pushing my face against the wall.

Q The wall in your cell?

A No, the wall in "D" Ward, in Mohawk.

Q In Mohawk. You got your bloody nose in Mohawk?

A Yeah.

Q Did anybody try to stop -- how shall I say it? -- did any guard try to stop the guards who were beating on you and pushing you along the bars? Did any guard try to stop the guards that were doing that to you?

A No.

Q Did any guards say anything about it?

A No.

Q How about the guard in charge of the tier, Lieutenant Williams, or whatever his name is?

A No. He didn't say nothin'.

Q Did you see him?

A Yeah, he was there.

Q What did he do while they were bouncing you off the bars?

A He was just standing down by the front desk in front of the ward.

Q What was he doing?

A Watching.

Q He didn't say anything?

A No.

Q This is a disappointment to me. In my work with the guards across the Commonwealth, it would indicate that is not the way they would behave. I am surprised that no officer in charge would step forward, because in many cases they do.

When you got back from the concert there were no fires? You didn't see any fires being set, did you?

A Yeah. I seen a fire half way down the block?

Q You did see a fire?

A Yeah.

Q So there was some incident still going on?

A Yeah.

Q What kind of fire was it?

A With paper bags and all that sort of thing.

Q Was it a pile of stuff, or was it just one paper bag or what?

A I think it was about two items -- paper bag and something else, like a cookie box.

Q And it was burning?

A Yeah.

Q Did anybody try to put it out?

A No.

Q No guards or anybody tried to put it out? It just burned?

A Yeah.

Q Okay.

In your five months in Camp Hill prison -- this is kind of an indelicate question -- have you ever known any kid at Camp Hill to throw feces or urine on a guard?

A No.

Q Have you ever heard of that happening at Camp Hill.

A I have heard of it, yeah, but never seen it happen.

Q You have never seen it of your own personal knowledge?

A No.

Q Were you threatened while you were at Mohawk not to testify or tell what happened to you?

A No.

REPRESENTATIVE RHODES: Thank you, Mr. Chairman.

BY REPRESENTATIVE RICHARDSON:

Q Mr. Pecheco, in your five months inside the institution have you seen any other types of treatment of this sort by guards toward other juveniles inside the institution, or have you ever personally been involved with any other guards inside the institution?

A No.

Q No to both questions?

A Yes.

Q You haven't seen any or haven't been involved in any?

A No.

Q When you saw Burgh being brought down you indicated you saw the guards bouncing his body into the cell. You didn't see them bouncing his head into the cell?

A His body I am sure about; his head I'm not sure.

Q You are not sure?

A No.

REPRESENTATIVE RICHARDSON: Any other questions?

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Mr. Pecheco, do you know of any feelings on the part of the guards that is hostile -- do you understand me so far?

A Yes.

Q -- towards young people when you have got certain guards involved? Have you known of any?

A No, I can't answer that.

Q Do you know of any guards that have a reputation of being tough guys, if you know?

A No.

CHAIRMAN HAMMOCK: Thank you.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Mr. Pecheco, when you went to be examined you said you went within half an hour to be examined in the hospital?

A Yes.

Q Did they take a statement off of you?

A No.

Q What is the relationship of your cell with Burgh's? Is he on a higher tier than you?

A No, he is on the same side, a few cells down.

Q Would you say he was banged into your cell on the way downstairs?

A No, I am farther back.

Q Did you see any other inmates being brought downstairs before you?

A Yes.

Q How many?

A Four, including me.

Q Did you see any blood on the guards' uniforms?

A No, I didn't.

Q Did you see any on the cell doors?

A No, I didn't.

Q Were the other inmates clothed at the time?

A Pardon me?

Q We established Burgh was naked at the time.

How about the other inmates? Were they naked or dressed?

A One had underwear on and a pair of shoes, I believe. I don't remember what the other one had on. I had on a pair of pants and shoes.

Q On the tier you were on did you see any fires?

A When I was going down?

Q No, when you were on the tier. Were there any fires on the tier?

A Yes, but it was down towards the end.

Q Was there any water being thrown from your

tier?

A No, I don't believe so.

Q Would you say there was water and fires on the bottom tiers?

A I don't know.

Q Did you ever have any problems with Sergeant Stotelmyer before?

A Not until then.

Q Pardon me?

A No, not until then.

Q Do you have any idea why you were singled out, getting caught up in the tensions at the time? In other words, were you aware of anything that preceded your coming back?

A No.

Q Would you say you got caught up in the tensions of what was going on once you came back?

A No.

Q The Sergeant came into your cell by himself, I believe.

A No. There were two or three other ones

with him.

Q Was there any communication or talk at all? Did he tell you to lay on the bed, or did he just grab you?

A He grabbed me and put me on the bed, and I tried to turn over on my back. And he said, "On your stomach" and he turned me over.

Q But he didn't talk to you?

A No.

REPRESENTATIVE LEDERER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: No thank you, Dave.

REPRESENTATIVE RICHARDSON: Representnative Fisher.

REPRESENTATIVE FISHER: I have no questions.

REPRESENTATIVE RICHARDSON: Representative Hammock has some more questions.

BY CHAIRMAN HAMMOCK:

Q Raul, how old are you?

A Seventeen.

Q And you were at Camp Hill about five months?

A Yes.

Q Before this situation took place of a couple

of weeks ago?

A Yes.

Q Did you ever see anybody else get beat up?

A -- no, not before that.

Q You hesitate. Do you have some doubt in your mind?

A Well, like I said, I seen it one time before, but that was, like, two or three weeks before this happened.

Q Somebody beat up on somebody else?

A No. It was an incident with a guard and an inmate.

Q A guard beat up on an inmate or an inmate beat up on a guard?

A No, it was the other way around.

Q A guard beat up on an inmate?

A Yes.

Q You saw it with your own two eyes?

A Well, I didn't see him beat him up, but I seen this sort of thing with the handcuffs and taking him down the tier and so on.

Q Are you familiar with nicknames? Do you have

a nickname at the institution?

A Yes.

Q What is your nickname?

A "Chico".

Q Do you know Mr. Burgh who was here earlier?

A Yes.

Q Did he have a nickname?

A No. I usually just called him by his last name.

Q Did you know most of the nicknames of the inmates?

A Yes.

Q Did you ever hear the nickname "Stotelmyer and Son"?

A Pardon me?

Q Did you ever hear the nickname "Stotelmyer and Son"?

A Yes.

Q What does that refer to when that is used?

A I have no idea.

Q Is it possible that the name "Stotelmyer and

Son" refers to the gentleman, Sergeant Stotelmyer?

A I don't know.

Q When did you hear this term being used?

A Somebody told me at one time he had a father working there.

Q That who had a father working there?

A Mr. Stotelmyer -- Sergeant.

Q Had a father working in the institution?

A Yes.

Q How did he get that nickname, "Stotelmyer and Son"?

A I don't know.

Q Do you know why he was called that?

A No.

Q Do you know anybody that does know or might know?

A No.

Q How old are you, Raul?

A Seventeen.

Q And you were at the institution five months?

A Yes.

Q But you did hear the term "Stotelmeyer and Son" used?

A Yes.

Q But you don't know what it refers to?

A No.

Q Let me ask you, what do you think it might refer to, in your opinion? And if you don't know -- excuse me if you don't want to answer, just say so, and I understand.

A I would rather not answer that.

Q You would rather not answer the question?

A No.

Q I understand.

Let me just ask one other question.

Are you out of the institution now, all institutions?

A Yes.

Q Are you living at home?

A Yes.

Q Where is your home?

A In Bethlehem, Pennsylvania.

Q Bethlehem?

A Yes.

Q Are you working now, Raul?

A No. I plan to attend day and night school.

Q Are you living with some friends, Raul.

A No, I am living with my mother.

Q Living with your mother?

A Yes.

Q If somebody were to use the term "Chico and the Man", who would they be referring to?

A TV I guess.

Q If they used the term "Stotelmeyer and Son", what do you think they might be referring to?

A "Sanford and Son"?

CHAIRMAN HAMMOCK: Thank you.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q I would just like to ask you this question. It was asked before, but you didn't quite explain it.

I want to speak to you about the people, as far as the Camp Hill Project is concerned. Does it seem to you that when it is just about time for a kid to be re-

leased, he suddenly seems to have a problem with a guard, like getting into a hassle or something like that with him?

A No.

REPRESENTATIVE OLIVER: That's all.

MS. CHOMSKY: Excuse me.

REPRESENTATIVE RICHARDSON: Go ahead.

MS. CHOMSKY: "Chico" mentioned -- and I am not sure it was heard by the Committee -- that he still has the marks on his hands from being handcuffed for five or ten minutes. They are still on his hands.

REPRESENTATIVE RICHARDSON: Would you show them to the Committee, Raul?

MR. PECHECO: Yes.

REPRESENTATIVE RICHARDSON: At this time I would indicate that Raul Pecheco is showing the Committee his left and right arms and the numbness that we can't physically see that is in his left hand.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: I would indicate now at this point that Raul Pecheco has shown the Committee his

physical marks, indicating that they were the result of some handcuffs that were put on him October 15th, and the numbness that still exists in his left hand.

MS. CHOMSKY: I wonder if it is within the power of the Committee to authorize payment for a neurologist to see him? I am not sure that "Chico's" family is able to afford to have a specialist see him.

REPRESENTATIVE RICHARDSON: Let me say this: Under the rules of this Committee as to your particular question, no. But let me say this: As Chairman of this Committee, I will certainly check with the Department of Public Welfare in relationship to the parents' problem as a result of him seeing he got the kind of attention necessary. Before he leaves today, I would hope that Jonathan Cousins would certainly get with him and having that checked out immediately by calling over to the Department of Public Welfare. The Committee itself cannot do this, but certainly it can be looked into.

Is there anything else that you would like to say?

MS. CHOMSKY: No.

REPRESENTATIVE RICHARDSON: We would like to thank

you, Mrs. Chomsky, for presenting Raul today.

And we would also like to thank you, Raul, for coming to this Committee and testifying before this Committee.

If there are no other questions, you are excused now subject to being called again.

CHAIRMAN HAMMOCK: Thank you for coming, Raul.

(Witness excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to give the stenographer a rest, so I will declare that we will take a five minute recess. Upon the time we come back, I would like to have Sergeant Stotelmyer to the stand.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call this Committee back to order.

Just before I call Sergeant Stotelmyer to the stand, I would like to recall Superintendent Patton for two brief questions.

ERNEST S. PATTON, recalled as a witness,

having been previously sworn according
to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q I would like to remind you, Superintendent Patton, that you are still under oath, and you don't have to be sworn again.

A I understand.

Q Mr. Patton, the reason I recalled you is I wanted to know whether or not you at our request, the Committee's request, would submit to us the medical records of, one, James Burgh; two, Michael Kaup; three, Joseph Snyder; four, Raul Pecheco; and five, Kendall Magwood to this Committee for their review -- only for this Committee.

A I would note that my counsel has departed. I have no one here. But on the surface I would say, certainly, I will, once this other matter has been clarified. I am still somewhat in the dark in terms of my legal liability in this particular instance in terms of presenting records and/or the juvenile. And I say that respectfully. I am sorry.

Q Well, what happened? Has counsel -- I really wanted to get this thing settled.

A I think they are very, very concerned with getting this other matter clarified. And my understanding is, we have had the waivers signed by the juveniles. They are very concerned with meeting the deadline that has been set, you know, for tomorrow morning, Mr. Chairman.

Q Okay. As a result of that and you not being represented by counsel, I am certainly not an unfair chairman. And I will ask at that time when they do come back the two questions I am asking now -- one, the medical records of those five juveniles and, two, their folder or file that you may have on them at the institution.

A Well, I will be very happy to check that with them.

REPRESENTATIVE RICHARDSON: All right, thank you very much.

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Let me just say, sir, before you leave, that I hope you don't construe anything that I said this afternoon to the Attorney General in our exchange to be personally directed to yourself, sir. We have several branches

of government here -- the executive and the legislative, and it may yet end up in court. But I hope you don't construe anything that I have said as personally directed against you in this whole matter of the subpoenas.

A No, sir. I understand, and I recognize my responsibilities here. I am just waiting for advice from my counsel.

CHAIRMAN HAMMOCK: All right, sir.

REPRESENTATIVE RICHARDSON: Thank you, Mr. Patton.

(Witness excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to call Sergeant Stotelmyer to the stand with his counsel

ROBERT E. STOTELMYER, JR., called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Would you state your name for the record and your position?

A Robert E. Stotelmyer, Sergeant, State Correctional Institution at Camp Hill.

Q Are you accompanied by counsel?

A Yes, sir.

Q Would you have him state his name for the record?

MR. GOLDSTEIN: Neal Goldstein.

REPRESENTATIVE RICHARDSON: And your address?

MR. GOLDSTEIN: 1500 Walnut Street, Philadelphia, Pennsylvania.

REPRESENTATIVE RICHARDSON: Is that a private law office, sir?

MR. GOLDSTEIN: Yes, it is.

BY REPRESENTATIVE RICHARDSON:

Q Did you receive a letter of request asking that you appear here before this Committee today, Sergeant Stotelmyer?

A Yes, sir.

Q And also did you receive in that same letter some attachments, such as Rule 51 of the House of Representatives?

A Yes, sir.

Q And also the copy of the resolution that we are under today, House Resolution 47?

A Yes, sir.

Q And as a result of that and our conversation that we had on Thursday, you have representation of counsel?

A Yes, sir.

Q Sergeant, were you present here in this room this morning and this afternoon when two juveniles from the institution testified before this Committee concerning a particular incident on October 15th?

A Yes, sir.

Q As a result of you being here and listening and hearing the testimony that was given, are you willing at this time to address this Committee as a result of what you observed and saw as a result of what happened on that particular date?

A No, sir. On advice of my attorney -- Mr. Goldstein has told me not to make a statement at this time.

Q He asked you not to make a statement?

A He told me not to say anything on the grounds of the fifth and fourteenth amendments at this time.

Q Sergeant Stotelmyer, on October 15, 1975, were you on duty at the Camp Hill Institution?

A Yes, sir.

Q And what shift were you on?

A Two to ten shift -- 2:00 p.m. to 10:00 p.m.

Q 2:00 p.m. to 10:00 p.m.?

A Yes, sir.

Q Did you happen to know James Burgh or Raul Pecheco?

A Yes, sir.

Q In what capacity do you know them?

A I am a line sergeant in group one, which is -- there are three groups in the institution, one, two and three. Group one entails "A" Ward, "B" Ward, "C" Ward and "D" Ward and the hospital. Group two entails "E" Ward, "F" Ward and "G" Ward. Group three is "H", "J" and "K".

Q On October 15th, did you have occasion to enter the cell of James Burgh?

A I can't answer, sir, on the grounds of the fifth amendment as advised by my attorney.

Q As a result of you being present on that

particular cell block where James Burgh was, did you take him physically out of his cell?

A Sir, I still cannot answer on the grounds of the fifth amendment as advised by Mr. Goldstein.

Q As a result of that, did you take him down to the BAU of the Camp Hill Institution?

A I'm sorry, sir, I still cannot answer on the advice of my attorney and the grounds of the fifth and the fourteenth amendments.

Q On placing him down in the BAU Unit, did you note any physical damage to his body or his person?

A Sir, I decline to answer that also on the grounds of the fifth and fourteenth amendments.

Q Did you have occasion on that particular day, October 15th, to take Mr. Burgh to the infirmary as a result of any injury that might have occurred?

A Sir, I also decline to answer that question on the same grounds.

Q What grounds?

A The grounds of the fifth and fourteenth amendments.

Q . . . Sergeant Stotelmyer, were you accompanied, along with any other correctional officer at that particular time who were on duty with you, in relationship to any incident that might have occurred between Raul Pecheco and yourself and any other correctional officers?

A Sir, I decline to answer that question also on the grounds of the fifth and fourteenth amendments.

Q Did you punch Raul Pecheco in his nose?

A Sir, I decline to answer that question on the grounds of the fifth and fourteenth amendments.

Q Did you bash James Burgh's head into the wall?

A Sir, I decline to answer that question on the grounds of the fifth and fourteenth amendments.

Q Did you at any time place any handcuffs on any of these two inmates at the institution or any other inmates of that particular institution on that date, October 15th?

A I decline to answer that also on the grounds of the fifth and fourteenth amendments.

Q Sergeant, would you indicate to this Com-

mittee what you feel happened as a result of the two gentlemen who have testified before this Committee meeting -- James Burgh and Raul Pecheco -- the marks that are described and also the physical marks on their bodies shown in the pictures to us and shown in the physical person of Raul Pecheco -- how they obtained those particular marks on their bodies?

A No, sir. I decline to answer that also on the grounds of the fifth and fourteenth amendments.

REPRESENTATIVE RICHARDSON: At this time I think that it is fairly clear for the record, that it should indicate that Sergeant Stotelmyer has refused to answer questions at the advice of his counsel upon the grounds of the fourteenth and fifth amendments. It seems as though he does not want to answer. It seems this is going to be a pattern. I have a series of questions I certainly want to address to Sergeant Stotelmyer concerning that particular day. And not to hold up the proceedings all night, because I have questions that could go on all night, I would move on in the proceedings and ask if Representative Hammock has any questions of Sergeant Stotelmyer.

CHAIRMAN HAMMOCK: I don't have any questions of

Sergeant Stotelmyer, but I do have a question to you, Mr. Goldstein.

Are you representing any other people today?

MR. GOLDSTEIN: All of the guards involved, with the exclusion of Lieutenant Williams, who I do not believe is here to testify.

CHAIRMAN HAMMOCK: And 1500 Walnut Street is in Philadelphia?

MR. GOLDSTEIN: Yes, it is.

CHAIRMAN HAMMOCK: And do you practice out of the city of Philadelphia?

MR. GOLDSTEIN: Yes, I do.

CHAIRMAN HAMMOCK: And has your firm been retained to represent these gentlemen?

MR. GOLDSTEIN: Yes, it has.

CHAIRMAN HAMMOCK: All of them?

MR. GOLDSTEIN: Yes, sir.

CHAIRMAN HAMMOCK: And in that capacity, are there any other -- in terms of that representation -- are there any other attorneys involved in representing these clients?

MR. GOLDSTEIN: Yes, there are.

CHAIRMAN HAMMOCK: And are those attorneys members of your firm?

MR. GOLDSTEIN: Yes.

CHAIRMAN HAMMOCK: And the name of the firm?

MR. GOLDSTEIN: Markowitz and Kirschner.

CHAIRMAN HAMMOCK: And how many other attorneys do you expect to have involved in this matter?

MR. GOLDSTEIN: Involved in this particular matter?

CHAIRMAN HAMMOCK: Yes.

MR. GOLDSTEIN: Mr. Kirschner.

CHAIRMAN HAMMOCK: Mr. Kirschner?

MR. GOLDSTEIN: Yes. He will be here tomorrow.

I believe there will be another session tomorrow, is that correct?

CHAIRMAN HAMMOCK: That's correct.

MR. GOLDSTEIN: He will be here tomorrow.

CHAIRMAN HAMMOCK: And in that relationship, in the attorney-client relationship, is it a fact that you represent these men in their individual capacity, or do you represent any organization that they might belong to?

MR. GOLDSTEIN: We represent the American Federa-

tion of State, County and Municipal Employees, Council Thirteen.

CHAIRMAN HAMMOCK: Which is what?

MR. GOLDSTEIN: Which is the union to which these men are members. Now, we also represent --

CHAIRMAN HAMMOCK: If I might --

MR. GOLDSTEIN: Certainly.

CHAIRMAN HAMMOCK: I just want to be clear on this.

MR. GOLDSTEIN: Certainly.

CHAIRMAN HAMMOCK: Then could we take it -- that is, could the Committee understand that your firm actually represents the union to which these men belong?

MR. GOLDSTEIN: That is correct.

CHAIRMAN HAMMOCK: Thank you.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: Mr. Goldstein, have you or the gentlemen you represent cooperated with the Attorney General's investigation?

MR. GOLDSTEIN: Yes, Mr. Representative.

REPRESENTATIVE LEDERER: They have answered questions put to them by the investigation?

MR. GOLDSTEIN: That is my understanding.

REPRESENTATIVE LEDERER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: No questions.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Just a few brief questions to the Sergeant.

Sergeant, how long have you been a correctional officer?

A Six and a half years -- a little more than 6½ years.

Q Are you a correctional officer? Do you consider yourself a professional?

A Yes, sir.

Q Would it be your intent, if this type of thing weren't going on, to continue as a professional officer as a vocation for the rest of your life?

A Yes, sir.

Q Do you like your job?

A Yes, sir.

Q. . . Do you feel you make a positive contribution to your work and to society in general?

A Yes, sir.

Q Why did you choose to be a correctional officer?

A I got out of the marine corps in October of 1968, and the job market was kind of slim. I enjoy cabinet making. I worked for a cabinet maker for a few months. And I was married at that time. And the only way you could make a dollar in that business is if you owned the business. Other than that the money isn't really good in it. And I put an application in at the institution just to better my salary -- is the main reason I did it.

Q Were you in the marine corps a full tour of duty?

A I was in for twenty-four months; yes, sir.

Q Honorably discharged?

A Yes, sir.

Q Combat?

A No, sir.

Q Vietnam?

A No, sir.

Q Just one final question for the gentleman.

I appreciate counsel's advice that he is giving you today. Indeed, if I were in your position, I would not answer a question before this forum today. As a member of the Committee, I would like to thank you for coming here at our request. I would also like to ask you this in the presence of your attorney -- if you feel you have information that could be informally provided to us that would help us -- because this has been a one sided presentation today. This Committee is interested in the truth. If there is an informal process that you see to provide us with that information, I would appreciate it. As a member of this Committee, I have to make a decision somewhere along the line. And, frankly, I have only heard one side of the story. And to make a decision is just not possible at this time. So I would certainly appreciate that.

Thank you.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

REPRESENTATIVE RHODES: I am not sure whether this question is directed to the Sergeant or maybe to his

counsel -- well, counselor, is there any development in this investigation or in this case that would put the Sergeant in a position to answer questions about matters of fact involving the incident in question?

MR. GOLDSTEIN: It appears that criminal prosecution is a viable if not an actual matter here. It appears from Mrs. Snyder's testimony that she has recently spoken with the District Attorney in Carlisle concerning this matter. Should there be, in fact, no criminal prosecution involved, then I believe the guards involved would, in fact, want to testify freely before this Committee and help them in making their determination. But as long as criminal prosecution is a viable possibility, it would serve -- it would damage them and serve no purpose whatsoever for them to testify, even though it does prevent this Committee from accomplishing its end.

REPRESENTATIVE RHODES: What if the Committee voted to take testimony in executive session?

MR. GOLDSTEIN: At this time, so long as there is a possibility of criminal prosecution, my understanding of the Sunshine Law would be that a report of what transpired

in executive session would have to be made public. And if that is so, or if someone can compel this Committee to bring forth the contents of its executive session, with the possibility of criminal prosecution being viable, the position as stated by Sergeant Stotelmyer would have to remain consistent and he would not testify.

REPRESENTATIVE RHODES: I share Representative Miller's concern about getting however many sides there are to this case on the record, although I am opposed to an informal transmission of information. Whatever procedure we work out should be a formal procedure. And if our Sunshine Law commits us to having an executive session, and if there is criminal prosecution still up in the air, I would hope that you could explore this with our counsel.

MR. GOLDSTEIN: We will. And if it is possible and if there would be no repercussions and no public statement of what transpired in that, perhaps it will be possible.

REPRESENTATIVE RHODES: Of course, the hearsay prohibition would apply to things coming out of any executive session.

MR. GOLDSTEIN: So I understand.

REPRESENTATIVE RHODES: So you would have that protection.

That's all.

REPRESENTATIVE RICHARDSON: Mr. Goldstein, you indicated to this Committee that when Mrs. Snyder and her husband testified here, that it was then your position to advise Sergeant Stotelmyer and other correctional officers not to testify and to take the fifth amendment, is that correct?

MR. GOLDSTEIN: That is essentially correct, yes.

REPRESENTATIVE RICHARDSON: Are you indicating to me that upon our letter that went out advising them to be here before this Committee, that they were going to be willfully testifying before our Committee?

MR. GOLDSTEIN: Yes.

REPRESENTATIVE RICHARDSON: And you feel that since there is a possibility of a criminal prosecution against some of your clients, that you have advised them not to say anything?

MR. GOLDSTEIN: That is correct.

REPRESENTATIVE RICHARDSON: What if I told you,

Mr. Goldstein, that I have received information prior to today which would indicate that even regardless of what the situation was, that the Sergeant and the other correctional officers involved in this matter were not going to testify and were going to take the fifth, would your answer still be the same?

MR. GOLDSTEIN: I have no knowledge of that.

REPRESENTATIVE RICHARDSON: You have no knowledge of that?

MR. GOLDSTEIN: No.

REPRESENTATIVE RICHARDSON: Representative Oliver

BY REPRESENTATIVE OLIVER:

Q Sergeant, have you been asked any questions by anyone from the Attorney General's Office?

A I don't know if the gentleman was from the Attorney General's Office. I went to the Bureau of Corrections and was interviewed by Mr. Rick Emrick. But I don't exactly know his capacity, sir.

Q At that time did you invoke the fifth and fourteenth amendments?

A No, sir, I did not. I answered every one of the gentleman's questions as fully and as completely as I

could.

REPRESENTATIVE OLIVER: That's all.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q I was going to ask the same question that Representative Oliver asked. I will take that question one step further -- did the questions that you were asked by the people of the Bureau of Corrections, or the Attorney General's Office, did they cover the areas where you took the fifth amendment today?

A Yes, sir.

Q Was that an oral statement or a written statement?

A An oral statement.

Q Did you sign the report they prepared?

A No, sir.

Q Do you know the name of the individual who took that report from you?

A Yes, sir; Mr. Rick Emrick.

REPRESENTATIVE FISHER: Thank you.

BY REPRESENTATIVE RICHARDSON:

Q Let me ask you a question, Sergeant Stotelmyer.

Was that done in closed quarters?

A I assume it was. It was Mr. Emrick's office. There was another gentleman present, however, and his name I do not recall.

Q Where was this?

A At the Bureau building at the institution at Camp Hill.

Q When was that done?

A It would have been this past Thursday. I don't recall the date. I am almost sure it was Thursday.

Q This Thursday just past?

A Yes. I am almost sure it was Thursday, although I am not positive.

Q The 23rd?

A That's close.

Q Possibly it would have been the 23rd?

A Yes. I really don't recall what date it was.

Q They would have that on their records.

A I would assume so, yes, sir.

Q Mr. Emrick you say?

A Yes.

Q Sergeant, I would like to let you know that there are very serious things here that have been said. And I, along with the other Representatives who have spoken, are very much concerned about trying to get to the bottom of this matter. These situations occur inside these institutions, and it seems to me somehow they have to be cleaned up. Whatever way we can be of assistance in trying to get to the bottom of this, we would certainly hope from your office, Mr. Goldstein -- now I am directing my question to you -- that it would be done as soon as possible to see if we can help expedite matters, rather than going through the procedure we are having to go through. I am not at all pleased with the result of having the correctional officers here taken away from the time of the institution, but I have to say that I would certainly hope that through advice of yourself to those who you represent, that no imminent danger come to any of the young people who are inside the institution. I know you can't guarantee

me that. I am saying to you that of those correctional officers who are involved who will go back to the correctional institution, we would hope there would be no kind of physical danger or physical threats administered to any of those young people who are coming before this Committee. And I think that is in fair and honest taste to share that with you as the Chairman of this Task Force to get to the bottom of this issue. I just cannot stress it any more clearly than I have now. It strikes me as being a situation where, on the one hand the cooperation of this investigation is being handled with the Department of Justice. And it is my understanding that he works for the Department of Justice. So there probably would be more of a line of communication and cooperation than there is with us, being members of the House of Representatives who just appropriate the money so they can have a job. And I think it is quite clear to me at this present time that it is a situation that must be dealt with in its entirety. I do not feel it is a laughable matter. I have been quite annoyed by some of the things I heard today. And I certainly hope this Committee will get to the bottom of this and that you and your office will cooperate as much as possible.

MR. GOLDSTEIN: I assure you I will.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Mr. Goldstein, let me ask you a question. I was temporarily out of the room when the questioning began. But from one lawyer to another, let me ask you what apprehension you have in light of the fact that your client already gave a statement to somebody who is employed, if not directly, then indirectly by the Department of Justice? What apprehension do you have of having him testify about these same matters before this Committee, which is not a prosecutory body? Or in the alternative, do you have any objection to having a copy of that report being turned over to this Committee for their examination to see his side of the story?

MR. GOLDSTEIN: I have no reservation whatsoever of having his statement or the answers to the questions made by the Attorney General's Office in what I understood was an internal investigation of this matter made available to this Committee. However, I understood from the Attorney General's appearance here that no statements will be released, at least until the internal investigation by his office has been

completed. I understand your position on that. If, however, they do wish to make available to you those statements, we do not have those statements in our possession.

REPRESENTATIVE FISHER: Have you been supplied with a copy of that?

MR. GOLDSTEIN: I have not seen it.

REPRESENTATIVE FISHER: You know, this might turn out to be the crux of the issue between this Committee and the Department of Justice as to whether or not -- well, first of all, if they don't supply the bodies, perhaps the next step we may make is to ask for a copy of the report.

MR. GOLDSTEIN: I understand.

REPRESENTATIVE FISHER: And that would come within the purview of at least what I would like to request -- is what your client had to say. I for one would like to see both sides of the story.

MR. GOLDSTEIN: I understand fully. But for the reasons I stated a couple of times now, I don't feel it would be in my client's best interests to answer those questions at this time. And should the Attorney General's Office make available to you the results of the internal investigation

they made, that is in there -- those reports are in their possession. That is up to them and up to you to resolve.

REPRESENTATIVE FISHER: No further questions.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Without asking the Sergeant to elaborate, do you agree with that? You can just answer yes or no.

A Yes and no. I agree with Mr. Goldstein, but I also agree with this gentleman, because I think my side of it should be heard. But I am going solely on his advice not to say anything at this time.

REPRESENTATIVE MILLER: Thank you.

REPRESENTATIVE RICHARDSON: Mr. Goldstein, although you personally might not have seen his report, has your office been supplied with a copy?

MR. GOLDSTEIN: To my knowledge, no.

REPRESENTATIVE RICHARDSON: Do you know whether Mr. Kirschner has?

MR. GOLDSTEIN: That is my boss, and I don't believe he has seen any part of that statement or copy of the transcript.

REPRESENTATIVE RICHARDSON: You don't believe so?

MR. GOLDSTEIN: I am almost positive that he has not.

REPRESENTATIVE RICHARDSON: He will be here tomorrow?

MR. GOLDSTEIN: I believe he will, yes.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: No questions.

REPRESENTATIVE RICHARDSON: You are excused. I would like to let you know that you are subject to call at any time upon these investigatory hearings, and I would hope you would make yourself available.

MR. GOLDSTEIN: May I approach the bench?

REPRESENTATIVE RICHARDSON: Yes.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: You are dismissed until further notice, subject to call of this Committee. Do you understand that?

MR. STOTELMYER: Yes, sir.

(Witness excused.)

REPRESENTATIVE RICHARDSON: Representative Ham-
mock.

CHAIRMAN HAMMOCK: Someone had suggested earlier today that this Committee is not a court of law and operates under broad procedural process. And having heard some of the testimony, we are always available, Representative Fisher, to discuss in open Committee sessions some of the things that have presented themselves. I would just like to say to my esteemed colleague, Mr. Fisher, that what we have here, Mike, is a recurring pattern, as you well know. Every time we as a subcommittee involve ourselves in an extensive legal proceeding of the House of Representatives where we found something amiss with the Bureau of Corrections, we run into the continuing and recurring pattern of the guards being transferred. I understand this man is no longer in the juvenile section. He has been transferred somewhere else. The guards are transferred. The kids are immediately shuffled off somewhere else. They will come before a committee and refuse to testify. They will say that they have given a statement to the Attorney General's Office in closed hearing. We will

request the materials from the Attorney General's Office expediently. We will receive it anywhere from two to three to four months later. By then we have witnesses no longer willing to testify. We have a Bureau of Corrections that seems to become more recalcitrant, less cooperative as we go along. And I just say, Mike, that somewhere along the line the people of the Commonwealth of Pennsylvania have got to recognize that everything is not kosher with the Bureau of Corrections; nor, nor with the Department of Justice in the way that that Department is being administered. Now, there is something wrong.

Now, we sitting as a Committee cannot force this man to testify. But I think the people of Pennsylvania, and I think the people in this room can walk out of here today saying they can do one of two things: They can dust their hands and say So be it, or they can say that they have heard a pack of lies or they have heard the truth in that Committee room. And there is an obligation on each and every one of us to do what we can about that. Perhaps we can go no further. I don't know. I would hope not. But my experience and yours and the other members of the Committee --

we all know -- our experience has been that we won't receive the Attorney General's report until three months from now. And there will be no incriminating evidence against any guard in that report. You know that as well as I do. And I can only say to you that these are the kinds of things that we go round and round with in the House. And perhaps you can shed some light to your colleague -- namely, myself -- as to what we ought to do, Mike.

REPRESENTATIVE FISHER: I am concerned with that, Representative Hammock. I for one would like to see the full story unraveled before this Committee now or in the near future, as opposed to three or four months down the road. I think we have, and I think the people of the Commonwealth have the right to know just exactly what went on down there. We have a right to hear from the witnesses who are part and parcel of that incident. I respect the advice that Mr. Goldstein has given to his client. I think it is good advice for this stage of the process that he may be involved in. But I am cognizant of the rights he may have at a later time at trial, if that should arise. And I feel that this Committee should get to the information that is available. For that reason, I would

like to make a motion that this Committee authorize you as Chairman of the Subcommittee of Corrections to issue a subpoena to the Attorney General and, if need be, to the Commissioner of the Bureau of Corrections, to subpoena immediately the records that are presently available on the investigation of this incident.

CHAIRMAN HAMMOCK: Well, I think before you put that in the form of a motion, that is certainly something that we ought to discuss in terms of our meeting later on this evening. And Representative Richardson who is chairing this Task Force -- I know that Dave is going to continue to pursue this matter. And we have some other remedies. I hope that the public is not frustrated, because there are some other remedies, and we will pursue them. But I think the overriding question is whether or not the state of Pennsylvania is going to be moving progressively in the area of penal involvement and penal reform, and what is happening in our institutions, and what is happening with the Bureau of Corrections. Listen, we are now in the process of creating a Department of Corrections -- cabinet level office. Someone will be designated as secre-

tary of that department -- a cabinet level position. And that someone will have either a good shop to run -- hopefully, with our help, he will -- or we will continue to involve ourselves into this morass. And it is a sticky, dirty business. I don't like what I heard in here this morning. Kids are being brutalized in the institutions. I will say it openly. Those pictures tell the story. And I think that that story has to be told so we all know. And we will discuss, you know, what the proper remedy is. I just hope that everybody here -- Representative Fisher and I have been involved in these matters all year, and we have been having these conversations very openly all year. So it is not new to us, Mr. Goldstein. It is not new to us, Sergeant Stotelmyer. It is not new to us, Mr. Burgh and the other fellow who testified. We know what is going on in the Bureau of Corrections and what happens in some of these institutions. Mike Fisher over there is a former district attorney from Allegheny County. He knows first hand what happens in these institutions. So we are not playing games. We are not just talking to hear ourselves talk. But somewhere along the line this stuff has got to stop. And it is going to stop when somebody gets hurt. And when some-

body gets killed, the people of Pennsylvania are going to come marching on this capitol asking who is to blame. And when they come marching on this capitol, I hope they don't start with the legislature. I hope they start with the Bureau of Corrections, and I hope they start with the Office of the Attorney General. And if they have to go higher, that is up to the people.

Mike, I would like to ask you to withdraw your motion.

REPRESENTATIVE FISHER: Yes. I think we should discuss the issue. I didn't intend to make it a formal motion, unless other people were interested in so doing at this time. I think that we should consider doing that in the near future, as opposed to having to come back and, under House Resolution 47, subpoena those records some six months hence.

CHAIRMAN HAMMOCK: I certainly concur with you. And, Representative Richardson, we stand ready to do whatever we can. You know where our sentiments lie.

REPRESENTATIVE RICHARDSON: I would just like to say that as I was listening to the comments, it makes it very,

very clear to me that we are dealing with a monster. There is no question about it. And its like putting bandaides on cancer. It seems as though every one gets caught up into their own little bag, so to speak, and use their protection for their own subjectivity. I am concerned that we have young people who have testified before this Committee, as I have seen across this Commonwealth in relationship to juvenile institutions where this is occurring. I just believe we have a very strong Committee, and one that will not camouflage the issue and who will get on both sides of the issue openly and fairly. I would just hope that we would get the cooperation that we have not presently gotten from the Department of Justice -- meaning the Attorney General's Office and also the Bureau of Corrections -- to try and resolve this matter. If they are about what they say they are about, then it seems to me they should have nothing to hide, and these things should be brought to the forefront.

I would like to know at this point whether or not the nurse or doctor of Camp Hill is present in this room.

MRS. SOUDERS: Yes.

REPRESENTATIVE RICHARDSON: Would you please

stand? The reason I am asking you to stand is because I don't know your name.

MRS. SOUDERS: Mrs. Souders.

REPRESENTATIVE RICHARDSON: We are getting ready to adjourn for this afternoon, Mrs. Souders. I would like to ask that you appear here tomorrow morning to be our first witness.

So you are the nurse at the Camp Hill Institution?

MRS. SOUDERS: I am one of the nurses.

REPRESENTATIVE RICHARDSON: Were you on duty on October 15th?

MRS. SOUDERS: I was.

REPRESENTATIVE RICHARDSON: You will be here tomorrow?

MRS. SOUDERS: Yes.

REPRESENTATIVE RICHARDSON: Thank you very much.

If there is no other further business of this Committee --

REPRESENTATIVE MILLER: Dave, I just have a question of the chair.

REPRESENTATIVE FISHER: Representative Miller.

REPRESENTATIVE MILLER: In pursuing our business tomorrow and the next day, are we operating under the theory that our subpoenas will be bringing in the required witnesses? Is that the posture we are in now?

REPRESENTATIVE RICHARDSON: Well, I am in two postures. One, I am in the posture that if there seemingly will not be a move on the part of the Attorney General to have Superintendent Patton bring before us those kids, inmates, that I have asked to be here, then I would proceed to move on to call the nurse, Mrs. Souders, as our first witness. If not, I will proceed and operate under the assumption that those gentlemen will be here tomorrow, and we will proceed in that fashion to deal with those inmates that do show up. But I feel that justification is there. We will make a decision upon our meeting tonight as to what we should do in the event they do not show up and how we will move the Committee after that.

REPRESENTATIVE MILLER: I see a difficulty, Mr. Chairman, developing if we continue to hear one side of the story and continue to hear incriminations against the Sergeant and a number of other people, and thus not being

in a forum in which those types of allegations would formally be aired. I concur with Representative Hammock; it is the whole area of the Department of Corrections that is bothering us that we haven't been getting a response from. And I just have that feeling that maybe the Committee is annoyingly using this issue as one to get back at the Bureau of Corrections; and in doing so, and if not conducted in a proper manner, this Committee may be doing a gentleman such as the Sergeant as grave a disservice and injustice as he is formally being accused of doing to these prisoners. It is a serious posture we should consider.

In view of that posture, I would like to formally request the chair that an agenda be prepared for tomorrow, that we don't fly by the seat of our pants as a Committee, that we begin to follow an orderly procedure and make Committee decisions by Committee vote. Because I feel our real thrust should be toward the Bureau of Corrections' study; get their report, rather than make this appear to be too political or whatever else is involved. It is our direction that concerns me.

REPRESENTATIVE RICHARDSON: Upon that statement,

I would like to note that there was an agenda prepared for this morning. We thought we were going to operate under it. And I had those ten witnesses already to be called. As a result of them not appearing here, we had to alter that particular schedule. But there was a schedule and there was direction. And I would say that upon meeting tonight, there will be an agenda for tomorrow morning. We will proceed and operate under that agenda and pass out that agenda to everyone concerned. If we run into the same problem again, we will have to operate under a substitute agenda as to how we should proceed with this particular hearing. But I do agree that it should be orderly. We have not controlled the one-sidedness thus far indicated in the room. There is a nurse and doctor of Camp Hill -- or, at least, the nurse of Camp Hill. Perhaps that would be an indication to us that we might be able to at least find out -- I don't know what they have been told. And I don't know whether or not there are any medical records involved with these youngsters. I just believe we are caught in a situation, being members of this House, not to be able to get the cooperation from the Bureau as being something that is antiprogressive. And I don't

understand the state of Pennsylvania who is certainly committed to its constituents, to the people of this Commonwealth, that they have to be subjected to this type of treatment. I think it is well said by Representative Fisher and Representative Hammock that we do need to get to the bottom of this. I certainly hope that through the Committee members, that everybody will abide by the rules and operate as a Committee should.

At this point, since there is no other further business --

REPRESENTATIVE FISHER: Mr. Chairman, I would like to make one comment for the record.

REPRESENTATIVE RICHARDSON: Go ahead.

REPRESENTATIVE FISHER: Because of irreconcilable conflict that I have had for some time, I will not be in attendance tomorrow.

REPRESENTATIVE RICHARDSON: All right, noted for the record that Representative Fisher will not be able to be in attendance with us tomorrow morning. But this hearing will proceed tomorrow at 9:30 a.m. in the Majority Caucus Room. And we would hope that at that particular time that all of

the information and the Attorney General's information that he is looking into will have been gotten here, and as a result of that Mr. Patton will be bringing tomorrow the inmates that we requested to be present at the hearing.

MR. PATTON: Will the officers also need to be present tomorrow?

REPRESENTATIVE RICHARDSON: Yes, they will.

This Committee stands recessed until tomorrow morning at 9:30.

(Hearing recessed at 4:30 p.m.)

CERTIFICATE

I hereby certify that the proceedings and evidence taken by me before the Pennsylvania House of Representatives Judiciary Committee Subcommittee on Corrections and Rehabilitation are fully and accurately indicated in my notes and that this is a true and correct transcript of same.


Michael P. Elliott,
Reporter