

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

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

October 29, 1975
9:30 a.m.

* * *

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

Members of the Subcommittee

| | |
|----------------------------|----------------------------|
| Hon. Michael Bishop | Hon. Raymond R. 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 W. Wagner | |

Also Present:

John W. Hartman, Esquire
Counsel for the Subcommittee

Robert Kagan, Esquire
Counsel for the Subcommittee

Staff Members:

Kent Adami, Jonathan Cousins,
Sam McClea

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

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REPRESENTATIVE RICHARDSON: The hour of 9:30 having arrived and past, I would like to call this Committee hearing to order and resume from last night's recess.

I would like to call as our first witness this morning Mr. Kendall Magwood.

KENDALL H. MAGWOOD, called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Would you speak up loudly and clearly and give me your name and your age please?

A My name is Kendall Magwood.

Q And your age?

A My age is eighteen.

Q Mr. Magwood, do you understand the seriousness of these hearings, as a result of which you received a subpoena to be here?

A Yes.

Q Has anyone threatened or intimidated you in anyway not to testify before this Committee?

A A little bit harassed.

Q A little bit of harassment?

A Yes.

Q Would you explain what you mean by that to the Committee?

A Well, I've been going on the main line, right? They've got me on two weeks' confinement to my room. And when I would be, like, going down to main line, like, the guards would be calling me snitch and they would be cussing at me.

Q The guards were calling you snitch?

A Yes.

Q Has anyone physically inflicted any harm upon your person as a result of you talking about going to testify before this Committee?

A No.

Q Are you willing to testify before this Committee, Mr. Magwood?

A I'm here.

Q When you signed your waiver yesterday, were you also told that your mother would have to sign one?

A Yes.

Q Is your mother here today?

A No.

Q She was called. She was contacted, and she did sign the waiver. And she indicated that she would be present this morning as a result of a phone call to our office. So I do anticipate she will be here sometime this morning. When she does come in, would you allow this Committee to know? And we will allow her to sit up there with you.

A Okay.

Q Are you represented by counsel this morning?

A Yes.

MS. CHOMSKY: Judith Chomsky.

REPRESENTATIVE RICHARDSON: We will just take a brief recess at this point until the microphones are taken care of, because the Committee is having a hard time hearing Mr. Magwood.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess

having expired, I would like to call the Committee back to order.

(Mr. Kendall H. Magwood resumed the stand.)

REPRESENTATIVE RICHARDSON: Just before I ask Mr. Magwood to continue on, I would like to ask Mrs. Chomsky some questions.

MS. CHOMSKY: Could I have a moment please?

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

REPRESENTATIVE RICHARDSON: On the first day of hearings, you asked me to check into getting a neurologist for Mr. Raul Pecheco. At that time I indicated to you that we would have persons check with the Department of Public Welfare, since the family was unable to pay for one itself. Since that time, has that been followed through on, and if it has, would you read to us any document that you might have that might be helpful to this Committee.

MS. CHOMSKY: A neurological examination was arranged. The report is by Doctor Bruce Northrup at the Milton

S. Hershey Medical Center.

REPRESENTATIVE RICHARDSON: Is that in the state of Pennsylvania?

MS. CHOMSKY: Yes, it is; Pennsylvania State University.

REPRESENTATIVE RICHARDSON: Continue.

MS. CHOMSKY: It is dated 10-28-75.

"I examined Raul Pecheco today in the Milton S. Hershey Emergency Room. He complained of numbness of the dorsum of his left hand and distal wrist (dorsal). He said this sensory abnormality was first noticed when handcuffs were taken off his wrists October 15, 1975. In addition to numbness, he noticed electric feelings in his hands when pressing the area the cuffs were applied.

"On exam motor function is intact. Trophic changes are not present. Sweating is normal. There is numbness in the distribution of both dorsal ulnar and superficial radial nerves.

"Sharp and dull can be distinguished in the area of numbness. The two point limen is roughly the same in the area of numbness as it is in a corresponding area on the right

hand. Tinel's sign is present.

"Impression: Pressure injury to dorsal ulnar and superficial radial nerves. I cannot say whether this is permanent or temporary, though it is likely to be temporary. It may be followed by the development of causalgia, which would certainly be more disabling.

"Treatment: For the present, supportive care with adequate balanced diet and avoidance of further injury."

And it is signed "Bruce Northrup, M.D."

REPRESENTATIVE RICHARDSON: Thank you very much for reading that into the record. Would you give that please to the stenographer so that he may include that in the record. Then it will be returned to you.

MS. CHOMSKY: Thank you very much.

REPRESENTATIVE RICHARDSON: And Mr. Jonathan Cousins will make copies of that so they will be available for everybody on the Committee.

BY REPRESENTATIVE RICHARDSON:

Q Mr. Magwood, I would like for you to take your time, express to this Committee -- well, let me ask you this first: recognizing that the press is here, there are

members of the public here, are you still willing to testify to that which you know about any incidents that may have occurred at Camp Hill?

A Yes.

Q Are you nervous?

A No.

Q I would hope that you understand that this Committee is very serious about trying to delve into all incidents that occurred at the Camp Hill Institution specifically on dates of October 15th and October 20th and any other information that you might want to share with this Committee that might be helpful as it concludes its investigation.

So at this time I would like you to take your time and describe to us on or about October 20 what, if anything occurred to you and as a result of that, what did you do?

A Well, on October 20th, we was down below "C" room basement having activities.

Q Hold it. Who is we?

A Inmates. So the Camp Hill Project worker told us that they wanted everybody upstairs on account of the riots. They were having a ward shakedown. So when we went

upstairs, they were already shaking down my cell. So this guard told me to wait outside. So I didn't want to stay in the ward, so I started to go out with the Camp Hill Project workers, but the guards called me back. So I was standing by my cell. And they got through shaking it down. Then they told me to lock up. So I started cleaning my room back up. When I got finished, I sat down by my gate, by my bars to light up a cigarette. So I had one match left in the match pack. I lit my cigarette, and I lit the match pack up. This I always do, right? So this guard come by by the name of Mr. Garrell.

Q Garrell?

A Garrell.

Q Is he a correctional officer at the institution?

A Yes.

Q Is he present in this room?

A Yes.

Q Would you indicate where he is sitting and what he has on?

A He has on a blue checkered suit, white tie, blue shirt, gray slacks, black shoes.

Q Thank you. Indicating the second row, fifth seat.

Okay, continue.

A So I was by my bars. Officer Garrell had walked past and said something to me, and I didn't hear what he said. I had lit a cigarette and, like, I had lit the match pack, right? I threw the match pack out onto the tier. Before the match pack hit the floor outside of my bars, it went out. So ten minutes later, I was lighting up another cigarette. Officer Garrell came by and slapped the cigarette out of my mouth. And I said, "Do we have a problem?" And he said, "Yeah". He told them to hit my cell. He came in and pushed me. I pushed him back. Then we started fighting. So, like, he did some more phoney kind of stuff and tripped me, and I fell on my bed. And he put his knee on my chest and started choking me, right? So I pushed him off of me, and he flipped me and I fell on my bed. He put his knee on my chest. I couldn't get him off of me. So, like, I blacked out. So this guard came in by the name of Mr. Himes and grabbed him off me.

Q Is Officer Himes in this room?

A Yes.

Q And where is he sitting?

A Second seat in the third row.

Q Indicating the second seat of the third row, identifying Officer Himes.

What does he have on?

A He has on a blue jacket, polka dot blue tie, light blue shirt, blue slacks.

Q Is that something that happens frequently at the institution where a guard will come into an individual's cell and have a fight with him?

A He had no fight. The rules and regulations say he ain't supposed to come into my cell without a white hat or a lieutenant or sergeant escorting. He came on his own free will.

Q This is something that you are saying to this Committee that it has happened on other occasions at the institution?

A Yes.

Q Have you seen it happen?

A Yes.

Q Would you continue on with your recitation?

A After Mr. Himes grabbed him off me, he said, "Do you have anything to say?" And I said yes. I called him a bitch. So Mr. Garrell -- he tried to grab me again, and Mr. Himes grabbed him and pushed him out of my cell. So he tried to come back at me, right? And so I grabbed the wooden toilet seat. But Mr. Himes had pushed me out of the way and pushed him out of my cell and slammed the door. Then Lieutenant Winters came by my cell, right? He acted like he was talking to the person next door, but he wasn't. He told them to hit my cell. Then there were about eleven guards outside my cell.

Q Is Lieutenant Winters here?

A He's in the back.

Q Back where?

A Way in the back.

Q Would you describe him for us?

A He has on a green jump suit and a flowered shirt.

Q Indicating all the way at the back door here in the Majority Caucus Room, identifying Lieutenant Winters.

Go ahead. You said eleven guards were standing

outside of your cell?

A It was eleven or more. And he told them to hit my cell. So I threw my bed up by my gate to block them off. A couple of them came in trying to get through to me. I knew what they were going to do. That's why I threw my bed up against my gate. So about seven got in, right? I was wrestling then. They were punching my head and choking me. So I felt something on my neck, right? So I knocked the hand away. The guard was trying to cut me, cut my neck with a little piece of razor blade.

Q Would you indicate to this Committee who tried to cut you on your neck?

A Mr. Moose.

Q Is Mr. Moose here?

A I don't think so.

REPRESENTATIVE RICHARDSON: I would like to do one thing. Is counselor here, Mr. Kirschner or Mr. Goldstein?

(No response.)

REPRESENTATIVE RICHARDSON: Neither one are present. If they are not in the room, when they do come in I

would ask them to approach this Committee. I would like to find out whether or not they represent Officer Moose.

Mr. Patton, I would like to know whether or not the medical records of Mr. Kendall Magwood are present in the room?

MR. PATTON: They are.

REPRESENTATIVE RICHARDSON: Is it possible to --

MR. MAGWOOD: They wouldn't let me go up to the hospital. It ain't that they didn't let me, I was scared after they brought me out of the hole. I didn't want to ask them.

BY REPRESENTATIVE RICHARDSON:

Q You never did go to a doctor?

A No.

Q Go ahead.

A So after that, I grabbed the guard's necktie, and I flung his clip thing on the tie on the floor.

Q Indicating a tie clip?

A Yes. So after that they had grabbed me, had my arms right almost in back of my head. Somebody was choking me, right? Only one guard -- a guard named Mr. Stewart and Lieutenant Williams -- they was the only two guards trying to

get the other guards off me.

Q Is Mr. Stewart in this room?

A Yes.

Q And where is he sitting?

A Back by the telephone.

Q Can you describe what he has on?

A He has on a brown checkered suit.

Q Indicating by the telephone in the Majority
Caucus Room, Officer Stewart.

A Yes.

Q Thank you very much. Go ahead.

A So they were the only two guards to keep
them off of me. Guards were choking me and punching me. After
they had took me to Mohawk, they had left. It was Lieutenant
Williams and Officer Stewart and Mr. Smith here. After they
had brought me to Mohawk, they left, and Mr. Smith was the
only one who stayed.

Q Is Mr. Smith here?

A Yes.

Q Where is he sitting?

A Second row, second seat; brown suit on.

Q Indicating the second row, second seat;
Officer Smith.

All right, go ahead.

A So when I got in Mohawk, like, they told me to take off my clothes. But before I could take them off, they started to rip them off.

Q They ripped your clothes off?

A Yes; Mr. Garrell, Mr. Green and Mr. Smith.

Q Would you indicate to this Committee what you mean by ripping off your clothes?

A They ripped them off.

Q Torn them off, literally torn them off?

A Yes.

Q Your pants and your shirt?

A Yes.

Q So after that I was completely naked. So I told them I would take the rest of my clothes off, which was my shoes and socks. Then they asked me what was my number. Before I could tell them, they had grabbed me by my neck.

Q Who grabbed you?

A Mr. Smith and Mr. Green.

Q Is Mr. Green here?

A Yes.

Q Where is he sitting?

A In the last seat on the third row, smoking a pipe.

Q Indicating the gentleman on the third row, last seat close to the telephone?

A Yeah.

Q Thank you. Continue on.

A So after they did that, they had choked my number out of me, right? So after that, they let me stand up. They told me to turn around. I had no clothes on, right? I told them to get the hell out of my face. So Lieutenant Winters told them to take me down to the hole. They started to grab me and dragged me down to the hole. Two of them had my arms behind my head. One of them had me by my neck. So they dragged me down to the hole. I was down there about five or six hours before they brought me up. When they had took me down, they dragged me down the hall naked.

Q You had no clothes on?

A No.

Q You went down under the BAU then, right?

A Yeah.

Q Could you describe the hole to us?

A It's about ten cells; no lights; bunch of rats; dark hole.

Q Do you get fed there?

A You get fed, but once you are down in the hole, you can't, like, trust the guards. No telling what they would do. So when they brought my tray down, I told them I didn't want to eat.

Q Had you ever been in the hole before?

A No.

Q How long have you been at Camp Hill?

A Twenty months.

Q Twenty months?

A Yes.

Q Have you ever been in Mohawk before?

A Yes.

Q To your knowledge, does everyone get sent to Mohawk at least once while they are there?

A Pardon me?

Q Does every inmate get sent to Mohawk at least once while they are there?

A Most of them, yeah.

Q Most of them?

A Yeah.

Q What do people get sent to Mohawk for?

A Well, like, guards will be taking them there for little stuff. Sometimes they just take them so they can beat them up.

Q Did you have a hearing that day, Mr. Magwood, before they sent you to Mohawk?

A I went to Mohawk, and then I went to court on a Tuesday.

Q But you went to Mohawk then to the hole?

A Yes.

Q But you never had a hearing before you went there?

A No.

Q Do you have any knowledge of what happens in these court proceedings they have? Do inmates get a chance to win?

A The only reason they let me out was because a riot was going to be kicked off. The inmates were mad. And the Camp Hill Project was putting pressure on. That's the only reason they let me out.

Q That's the only reason they let you out?

A Yes.

Q Do you feel that if the Camp Hill Project had not been inside of the institution they would have left you down there?

A Yes; most likely because when they had took me down in the hole, they thought the Camp Hill workers left, and they didn't. When they found out I was down in the hole, they knew I was down there.

Q Do you know how long the average stay is in the hole for an inmate, if you know?

A You know they take you down there, right? Then, you know, no telling how long they keep you down there.

Q Are you talking about hours or days?

A Days.

Q What is the longest you have heard someone say they were in there?

A You can ask Mr. Goodwin that. I don't know.

Q Did you receive any injury to your body as a result of that fight on that date?

A On the 20th?

Q Yes.

A Yes.

Q Where?

A My neck and my shoulder.

Q Your neck and your shoulder.

A Yes.

Q Could you visibly show us any scars you might have there now? Would you approach the bench please?

(Mr. Magwood complied with Representative Richardson's request.)

REPRESENTATIVE RICHARDSON: Thank you very much. You can fasten up your shirt now.

What I would like to do at this point is to call upon any representative who may have questions of Mr. Magwood. And what I would like to do this morning is to ask each representative to limit their questions to four questions starting

off. If they have any other questions after that first round, then we will proceed on.

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Mr. Magwood, you were in the institution over at Camp Hill on the 15th of October, weren't you?

A Yes.

Q And did you hear about or see anything that happened to anybody else on that date?

A Yes.

Q You did see some things?

A Yes.

Q And then a couple of days later something happened to you apparently, presumably, on the 20th?

A Yes.

Q Between the first incident that happened to somebody else that you saw and the second incident, namely on the 20th when something happened to you, what kind of atmosphere was there around the institution? What was the talk among the inmates, and what was the talk among the correctional officers, if you know?

A Well, what the kids were mostly saying on the 15th was about Sergeant Stotelmyer beating up four inmates.

Q Who was saying that?

A All the inmates around there. You know, like, word gets around jail quick.

Q Was there any talk among the guards that you know about or heard about?

A No.

Q You didn't hear anything about what the guards might have been talking about?

A No.

Q Was the atmosphere the usual atmosphere of any institution, or were things a little tight?

A They were tight.

Q Now, on the 20th when something happened involving the book of matches, did you feel that when the guards came in to get you, when they told them to hit your cell, did you feel that the correctional officers were using a little more force than they normally use because of hostilities or uptightness of the institution?

A Yeah. The Lieutenant told me he was going to

come into my cell to talk to me, but I knowed he was lying once I seen the eleven guards outside my cell. They tried to kill me. There wasn't no witnesses there. And if Mr. Himes didn't grab Garrell off me, that man would have killed me.

Q Is that why you were fighting back?

A Yes.

Q Do you believe that somebody might have killed you?

A Yes.

Q Who do you think might have done that to you?

A Mr. Garrell.

Q And what do you think prevented that from happening?

A Mr. Himes came in and grabbed him off me.

Q Would you describe what Mr. Garrell is wearing for the Committee?

A A blue checkered suit, blue shirt, white tie, gray slacks, black shoes.

Q And would you describe what Officer Himes is wearing?

A Dark blue jacket, light blue shirt, blue polka dot tie, light blue slacks.

Q Did you ever thank Mr. Himes for stopping you from getting hurt more seriously?

A No. There was quite a few guards outside my cell. They must have thought he was playing when he told them to hit my cell.

Q When the guard told them to hit your cell and they came in, the other guards thought he was playing?

A Yeah, I think so.

Q Did you ever have an opportunity or an occasion to thank the guards that helped you in that situation? Did you ever tell them that you appreciated what they did?

A Me?

Q Yes, you.

A No.

Q Why not?

A Because I'm doing time. That's what they're supposed to do.

Q Is that what they are supposed to do?

A Yes.

Q What are they supposed to do?

A We're only here doing our time at that place. They're supposed to tell us what to do, help us, but they don't do that. Some of them do.

Q Well, they are certainly not supposed to beat you up.

A No, they're not.

Q And if one correctional officer sees another correctional officer doing something that is out of bounds, then, in your opinion, you think that the one correctional officer who is not hurting you should try and stop the one that is trying to hurt you?

A Yeah. But if a guard -- if Stotelmyer was there, they would have come in and helped him beat on me.

Q Why do you say that?

A Because he beat on me before.

Q Who?

A Sergeant Stotelmyer.

CHAIRMAN HAMMOCK: Perhaps we can have Mr. Magwood available for some questions later on dealing with his confinement down in the hole. There seems to be some question

about what the administrative regulations are about confinement in the hole in terms of days and hours, as you raised before, Mr. Chairman.

That's all I have for now. And I am afraid I went well beyond my four questions.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Mr. Magwood, what time of day was this?

A It was about 3 in the afternoon.

Q Three in the afternoon when this incident occurred?

A Yes.

Q How did Officer Garrell enter your cell, by key or master lock?

A Well, he had told somebody to hit my cell. When they hit it, he came in.

Q Do you know who had the control of the cell doors?

A It's like a switch box. I don't know who was running the switch. It could have been a guard or an inmate.

Q It could have been an inmate?

A Yes.

Q When Officer Garrell was in the room, did he ever try to punch you?

A Yes.

Q Did he, in fact, punch you?

A Yes.

Q You say that you were taken over to the hole. When you were taken to the hole and you were dragged over to the hole, did I detect you say there were rats there?

A Yes.

Q Did you ever see any?

A Yes.

Q More than one?

A Yes. They're running around like crazy. There are no lights. It's, like, double locked. And then you be in a cell with a little steel bed, you know?

Q But now, getting back to the rats you claim you saw -- you have been in the hole once. This was your first experience in the hole?

A Yes.

Q And you saw more than one rat?

A Yes.

Q Was anyone else down in the hole at the time,
any inmates?

A I don't think so.

Q You didn't communicate with anyone?

A No.

Q How long were you there?

A About five or six hours. Lieutenant Williams
and Stotelmeyer came up there and brang me back up to BAU temp.

Q Now, I --

A Could I say this?

Q Yes, go ahead.

A When they had brang me down to the hole,
Mr. Green, Mr. Smith and Mr. Garrell -- they were ready to
beat me up, right? They were coming -- all three were on each
side. They was ready to jump me. And Lieutenant Williams
told them that was enough. That is when Mr. Green threatened
me.

Q How did he threaten you?

A He said "You got a big mouth. That mouth

will get you hurt."

Q I have one more question, Mr. Magwood.

Does an inmate get a reputation if he struggles when he is being taken to Mohawk? Let me give you an example. Two different inmates -- one struggles when he is being taken to Mohawk, and the other one goes along passively. Do the other inmates kind of look down on him?

A What do you mean?

(Mr. Magwood consulted with his counsel at this time.)

MR. MAGWOOD: They don't let you go quiet.

BY REPRESENTATIVE LEDERER:

Q Have you ever seen anyone go quietly?

A No.

REPRESENTATIVE LEDERER: Thank you, Mr. Magwood.

Thank you, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Just one piece of your testimony has me

curious, Mr. Magwood. You say that when the four officers were holding you down in your cell, there were a total of seven in your cell?

A There was four guards wrestling me, right? The other three guards couldn't get to me. They just stood there and watched.

Q You say that at that point in time somebody took a piece of razor blade to your neck?

A Yes.

Q Where do you think they got that?

A They being in the ward, they being on the streets, razor blades be everywhere.

Q We are talking about razor blades in the possession of the guards on duty. Is it your belief that they carry a piece of razor blade?

A They keep them up front for the inmates. It's easy for them to get one.

Q So somebody went back up front and got the razor blade?

A No. When he came in my cell, he already had it. I didn't see it. I got his tie clip and the razor

blade.

Q You got the tie clip and the razor blade?

A Yes.

Q Explain what you mean please?

A Well, when I felt it on my neck, I knocked it out of his hand before he could go any farther. At that time I couldn't see him, because I was, like, dazed up. Well, I had to grab something, so I grabbed his tie. And I knocked his tie clip on the floor.

Q Do you know what became of them?

A I got both of them. When I come back the next day, I was cleaning my cell, and I looked under my bed. The tie clip was there, and the razor blade was there.

Q Where are these items, the razor blade and the tie clip?

A Somebody on the Camp Hill Project is holding them.

REPRESENTATIVE MILLER: Might I ask counsel -- are these items available?

MS. CHOMSKY: This is the first I've heard of this. If they are still around, I will try to find them.

BY REPRESENTATIVE MILLER:

Q Mr. Magwood, where are you from?

A Pittsburgh.

Q Before you came to Camp Hill -- just a minute. I have one question for the Chairman.

(Discussion off the record.)

BY REPRESENTATIVE MILLER:

Q Thank you for the brief time out, Mr. Magwood.

While you were in civilian life or growing up in Pittsburgh, did you ever get into any razor blade fights?

MS. CHOMSKY: Just a moment please.

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

MS. CHOMSKY: Excuse me, I don't think that is relevant.

REPRESENTATIVE MILLER: Well, the gentleman has presented evidence on his person that he says was inflicted by these men, and I would like to establish whether or not these scars are recent or old.

MR. MAGWOOD: No, I wasn't in any razor blade fights.

BY REPRESENTATIVE MILLER:

Q So that to the best of your knowledge, you have never been in an incident where you were attacked by someone with a razor blade? You wouldn't have had a razor blade scar prior to this incident?

A This razor scar I got on my neck came on October 20th.

Q It came on October 20th?

A Yes.

Q Were you ever in a razor fight prior to that, that you can remember?

A No.

Q You have never been in any altercation where a razor was used on your person?

A No, no, no.

Q Was it a whole razor blade or half of a razor blade?

A About three-quarters.

Q About three-quarters. Was it --

A It was about that big (indicating).

Q It's not a single blade issue, but a double military type issue, standard double edge razor blade?

MS. CHOMSKY: Just a moment please.

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

MR. MAGWOOD: Sharp on both sides.

BY REPRESENTATIVE MILLER:

Q Did you ever hold a razor blade in your hand like this?

A What do you mean?

Q Well, have you ever used a razor blade to cut anything with, paper, cloth?

A Yes, I've cut paper with one before.

Q Did you ever cut your finger when you held a double edge razor in your hand?

A No.

Q Did you ever use one --

A I was using one on October 20th.

Q No, I'm asking you if you ever used a double

edge razor blade and cut anything like a piece of paper or a piece of material?

A Yes.

Q Yes, I have, too. And many times I find it very easy to cut myself. Do you suspect that the officer who used that razor blade on you, do you think while he was holding it he could have cut himself.

A Possibly.

Q Did you check to see if he did?

A No.

Q And you feel that that piece of razor blade and the officer's tie clip may be available?

A Yes.

Q Where is it now? Who has them?

A I ain't going to say.

Q Why will you not say? Did you, in fact, give those items to someone?

MS. CHOMSKY: Could you wait a minute please?

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

MS. CHOMSKY: Can I approach the bench for a minute?

REPRESENTATIVE RICHARDSON: Yes.

(Discussion off the record.)

BY REPRESENTATIVE MILLER:

Q Mr. Magwood, I will ask two more questions. Please answer them to the best of your ability.

When did you give these two objects to an individual?

A It was on October 21st.

Q The day after the incident?

A Yes.

Q You physically gave these two items to an individual?

A One was a tie clip.

Q And the other was a piece of razor blade?

A Yes.

Q Can you identify who that individual was?

A Who did I give it to?

Q Yes.

A Jim Jennings.

Q Do you know who he was?

A He is a Camp Hill worker.

REPRESENTATIVE MILLER: Mr. Chairman, I would like to ask that if the issue of Mr. Magwood's attack is pursued any further by this Committee, that Mr. Jennings be made available at the chair's request to verify these articles. And I thank the gentleman for his cooperation.

REPRESENTATIVE RICHARDSON: It will be done.

Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Mr. Magwood, I walked in a few minutes after you began your testimony. I'm not sure who you said was using that razor blade or tie clip on your person. Could you re-identify that person for me?

A The tie clip was on his tie.

Q The tie clip was on his tie?

A It dropped.

Q Who was using that razor blade?

A Mr. Moose.

Q He is in the room? Would you identify him

again for me?

A He was never in the room.

Q He is the one you attempted to identify and was not here. Okay.

Let's go back to the 15th of October. Were you in Camp Hill at that time?

A Yes.

Q Were you anywhere near where the other alleged beatings took place?

A Yes.

Q Did you see them?

A Yes.

Q Now, between the 15th and the 20th, which would be from Wednesday night until Monday afternoon when the incident that you have testified took place, were you aware of any investigation going on within the institution by any group concerning the incidents of the 15th?

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

MR. MAGWOOD: No.

BY REPRESENTATIVE FISHER:

Q No one then had interviewed you, at least as to what you knew about the October 15th incident?

A No.

Q Was there any talk among your fellow inmates or between the guards that you might have overheard concerning any impending investigation -- well, concerning any investigation?

A No.

Q Now, this incident that you have testified to happened in the afternoon, did it not?

A Yes.

Q What time is the shift? In other words, what time do the afternoon guards get off work?

A See, a riot had started. The morning guards and the second shift guards were there. None of them could go home yet.

Q What time did the second shift guards come in?

A Two o'clock.

Q Now, were Officers Stotemyer and Williams and

those men who were on the night shift -- were they there during the day of the 20th?

A Yes.

Q Did you see any of these guards prior to being dragged down into the hole?

A Pardon me?

Q Did you see either Stotelmyer or Williams before you were dragged down to the hole by the people you have identified?

A Yes.

Q Where were they?

A Stotelmyer was the one who called me back to the ward when I was standing by the door. Lieutenant Williams is the one that took me up to the hole.

REPRESENTATIVE RICHARDSON: Excuse me, I want to get a clarification.

BY REPRESENTATIVE RICHARDSON:

Q Is it Lieutenant Williams or Lieutenant Winters?

A Williams, Lieutenant Williams. And Mr. Stewart and Mr. Smith and a couple other guards took me to

Mohawk.

REPRESENTATIVE RICHARDSON: Go ahead, Representative Fisher.

BY REPRESENTATIVE FISHER:

Q You say they took you to Mohawk?

A Pardon me?

Q You say they were the ones that took you to Mohawk?

A Yes.

Q And who took you out of Mohawk?

A Who? Myself. I mean, the Camp Hill -- myself. I went to Mohawk, right? I was placed on first level. Then the same day I was returned to BAU temp. Then the next day I went to court.

Q Let's back up then.

How long did you remain in the hole that day?

A About five or six hours.

Q Who took you out of the hole?

A Lieutenant Williams and Sergeant Stotelmyer.

Q Where did they take you to?

A BAU temp.

Q How long did you remain there?

A The rest of that day til the next day.

Q That would be the 21st then?

A Yes.

Q Who did you first report this incident to?

A About what happened?

Q Yes.

A They already knew.

Q How did they know?

A The Camp Hill workers -- when they came by, Mr. Sutton, he seen everything that happened and told the Camp Hill workers, right? So, like, they knew. So when I went to court, like, they came to court with me. And that's how I got off.

Q You say that some people -- the Camp Hill workers knew what had taken place?

A Yes.

Q Are you saying these workers were physically present when these meetings --

A No, they knew, right? They were upstairs

when I was down in the hole. And when they took me to Mohawk, they came down to the ward to see if anything was going on. Then they found out they took me to Mohawk.

Q Did you tell them yourself?

A No.

Q I am asking you then, who did you first tell about this incident?

MS. CHOMSKY: Maybe I can explain.

REPRESENTATIVE FISHER: Well, I would like Mr. Magwood to answer that question.

BY REPRESENTATIVE FISHER:

Q Who did you first tell about this incident that you have testified about?

A Jose.

Q Jose?

A Yes.

Q Is he a Camp Hill worker?

A Yes.

Q Is he here?

A No.

Q When did you first tell Jose about the

incidents that you have testified today about?

A When I was going to court. He came into the court room. Then after that, when they told me -- I was going to come back to court. So when they took me back to Mohawk, he came up there. They let him in, and I was talking to him.

Q Now, when was this?

A October 21st.

Q That was the next day?

A Yes.

Q And what were you going to court for that day?

A What they said I did. They said throwing fire on the tier, cursing the officer, disturbing ward shake-down, throwing fire on the tier.

Q Now, did you ever give anybody from the Camp Hill Project a written statement about what happened?

A Yes.

Q Who did you give that to?

A Jim Jennings.

Q And Mr. Jennings is the one you previously identified as the person to whom you gave the razor blade and

tie clip?

A Yes.

Q Is that right?

A Yes.

Q Are you still at Camp Hill?

A Yes.

Q And do you know how much longer you will be there? Has anybody told you?

A I was up at Camp Hill -- I'll be there for life.

Q So you are not scheduled to be transferred to the Camp Hill Project in the near future?

A I don't know really.

REPRESENTATIVE FISHER: Mr. Chairman, I would request that you, as head of this Task Force, in addition to making Mr. Jennings available, request him to supply this Committee with a copy of the statement that was previously given by Mr. Magwood to him.

REPRESENTATIVE RICHARDSON: Yes, I will so do that.

REPRESENTATIVE FISHER: Thank you. That's all the questions I have.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Mr. Kendall, first of all, I want to commend you for having the courage to be here this morning and speak out. But I also would like to point out to you that it would be advisable to confer with your counsel before answering some questions. The reason I want to point this out to you -- you as an inmate are here speaking out. We had before this Committee Sergeant Stotelmyer who refused to speak out. He invoked the fifth and the fourteenth amendments. So I would say to you that you have the same right. Before you answer any questions, you should confer with your counsel here.

Kendall, what I would like to ask you is when did this harassment start?

A What?

Q You said that guards started to harass you?

A After I got out of Mohawk.

Q After you got out of Mohawk?

A No. It happened, like, when the representatives came to see us -- from that day on.

Q Now, as far as the harassment is concerned,

those guards that were harassing you, are they here this morning?

A No.

Q If they are not, for the record, do you know their names?

A Yes.

Q Would you be so inclined as to name them?

A Mr. Gallagher, Mr. Kennedy. I can't remember the rest of the names.

Q All right, let me point out one other thing to you. I am sort of disturbed myself personally when I can see adults, especially -- and I am speaking of the guards now -- smiling about certain testimony. And you no doubt have noticed this. But let me point this out to you. This is no laughing matter. Before this is over with, they might be laughing on the other side of their faces. So I don't want you to be disturbed thinking this is just a show and that's all. We are going to look into this very thoroughly. Whatever action has to be taken, it is going to be taken. Do you understand?

A Yes.

REPRESENTATIVE OLIVER: That's all I have.

BY REPRESENTATIVE RICHARDSON:

Q Kendall, I have before me a book of matches. Are these similar to the book of matches you had on the 20th of October?

A Yes.

Q How many matches did you have in your pack?

A One.

Q Will you take out all of the matches in this pack except one? Would you demonstrate to this Committee exactly on that day, October 20th when you had this book of matches in your possession, how you lit and dropped it?

A I was leaning against my wall. I had lit my cigarette, and I took and lit the match pack like this (indicating). And when I did that, it burned a little bit. Then I dropped it like this (indicating) outside of my gate.

Q Did it go out?

A It went out before it hit the ground. Mr. Garrell tried to say there was paper on the tier and that it would have caught fire, but they had already swept it up.

Q Are you indicating to this Committee that

you had one match that you lit, then you lit the match pack and let it burn down, and it went out before it hit the ground?

A Yes.

Q And as a result of that, do you think that is the reason why the guards came into your cell?

A No.

Q No?

A No.

Q What was the main reason why they came into your cell that day?

A Mr. Garrell came in just trying to be smart.

Q Was it as a result of you striking a match?

A No. He had put on my write up that he figured I was endangering the lives of all of the officers and inmates in the ward.

Q What did he say?

A He was claiming there was paper on the tier, but it had already been swept up. And, like, I can't endanger no cement and steel, no big ward in a prison.

Q Have there been any fires at the institution?

A There have been fires, but the fires can't

do nothing.

Q You are saying that because of the steel and cement, that the fires haven't burned any steel and cement in the past?

A No.

Q When they throw these fires out on to the cell block area, is there any flammable or any other material that might catch on fire?

A Only thing the paper do is burn. It just burns. They get out tier runners and sweep it up. They either write the inmate up or take him to Mohawk for it.

Q In your 20 months at Camp Hill, did you go to school?

A Academics.

Q What do they teach you?

A Math, science, social studies, reading, English.

Q Did you go every day?

A Yes, before I got on -- I was going to night school.

Q Are you going now?

A No. I'm on two weeks' confinement.

Q That would take you away from school?

A Yes.

Q That means you don't go to school?

A Only place I go is main line and the showers.

Q So therefore, you aren't getting any education?

A No.

Q How do you make up the work?

A Read books.

Q Do you have recreation when you are on confinement?

A No.

Q Do you have any recreation at all now?

A No.

Q What activities are there at the center, at the institution?

A Just day room, you know. They let you come outside of your bars. You talk to your friends, gamble, play cards, whatever.

Q But you don't get an opportunity really to

have any other exercise or other kinds of activities or program there at the institution?

A No. It's prison.

Q Would you say that Camp Hill is a rehabilitation center?

A No.

Q Do you feel that in the 20 months you have been there that you have advanced any in relationship to preparing you to come back into society?

A Yes. Only thing Camp Hill do is make the inmate worsen (sic), but since the Camp Hill Project came in, it's added to changes a lot.

Q Added to a lot of changes there?

A Yes.

REPRESENTATIVE RICHARDSON: All right, I will go back around again if there are any other questions.

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q I have several lines I would like to pursue. Perhaps in the spirit of making certain that I don't take too

long, I will forego some of my other questions with other witnesses.

First of all, going back to what Representative Fisher was talking about in terms of investigations, let me ask you, have you since the incident on the 20th talked with anybody from the State Police at all?

A On the 20th?

Q Since the 20th.

A Yes. I talked to an investigator.

Q An investigator came and talked to you?

A Right when the representatives got to Camp Hill. I talked to him in Marks' office.

Q And do you know that investigator's name?

A He came from the commissioner's -- the commissioner sent him.

Q The commissioner of what?

A Camp Hill, I guess.

Q And did he identify himself as being from the State Police or the commissioner's office?

A Private investigator.

Q How long after -- when was that, or what day,

if you know? How long after the incident on the 20th, if you know?

A I don't remember the date.

What day did you come?

REPRESENTATIVE RICHARDSON: Thursday.

MR. MAGWOOD: It was on the 23rd.

REPRESENTATIVE RICHARDSON: It was on Thursday when I went to the institution.

BY CHAIRMAN HAMMOCK:

Q Was it about four or five days after something happened to you?

A Yes.

Q About four or five days later this man came, identified himself as being from the commissioner's office and talked to you? Did you make a statement?

A Yes.

Q Did he write your statement down?

A Yes.

Q Did he ask you to sign the statement?

A No.

Q He has then in his possession, presumably, a written report of some kind, because he wrote down what you told him?

A Yes.

Q If you know, did this investigator talk to any of the other young people who were involved on the 15th or say, anything that happened to you on the 20th, if you know?

A I think -- I don't know. Ask them. I don't know.

Q If you know, did they talk to anybody else?

A I don't think so.

Q Mr. Magwood, when you gave the statement, were you asked to sign the statement?

A No. But I did sign a statement. Lieutenant Stover called me. After I got -- I think it was a day or two, or it may have been the same day -- after I got through talking to the representatives, Lieutenant Stover asked me what happened, and I asked him, "Who told you to send for me?" And he didn't say nothing. And I said, "If you don't tell me, I'm going to walk out of the room." And he told me if I did, I would get a misconduct report.

Q Have you ever signed any statement at all?

A Yes, when I went to Lieutenant Stover's office. He said if I didn't write down no statement, like, he was going to give me a misconduct report or put me back in Mohawk. He made me after he got the written statement -- I signed it.

Q And that person that told you to sign the statement or you were going to go back to Mohawk --

A He didn't say Mohawk. He said if I walked out of his office without giving him a statement, he was going to give me a misconduct report.

Q Who was that? What was his name?

A Lieutenant Stover. I had to tell him, because if I walked out of his office, he would have given me a misconduct report.

Q Did you read that statement?

A Yes. And at the end of the thing he didn't put down that this statement that I was giving was given of my own free will, because it wasn't.

Q So you signed a statement where it said at the bottom of it that it was written of your own free will?

But you didn't do it actually of your own free will, because you were told that you would be given a misconduct report if you didn't sign the statement?

A Yes.

Q Did you read that statement?

A Yes, I read it.

Q What was in that statement, to the best of your recollection?

A What I told you today. I don't think he added nothing more. But they might have added some more. I don't know.

Q All right, this statement was given how many days after the 20th?

A I think round about two or -- two days.

Q Was this statement given before the representatives came over to see you or after?

A After.

Q So this was signed after the representatives had been to see you?

A Yes.

CHAIRMAN HAMMOCK: At this time, before I go

further, I think that we might consider again having the request that we made yesterday at some point considered, perhaps before we break this morning -- the request made to the Attorney General's Office in terms of having these young people removed from the institution. And I think the other request regarding the suspension of the correctional officers should be answered by the Attorney General in terms of what they are going to do. I think it is becoming clearer to this Committee that we need to find out, pursuant to what Representative Fisher and Representative Miller were saying, what is in those reports from the Attorney General's Office.

REPRESENTATIVE RICHARDSON: I agree.

BY CHAIRMAN HAMMOCK:

Q Now, Mr. Magwood, you said that you believe that in order to be transferred to Mohawk, that a white hat or lieutenant -- is that right? -- has to escort you? Did you say that?

A Yes.

Q What makes you believe that?

A Because that's the rules and regulations.

Q Did you ever read those rules and regulations?

A Like, I read them. Every time I seen somebody going to Mohawk -- they can't go unless the Lieutenant is there.

Q And was the Lieutenant -- let me back up. Somebody told them to hit your cell, and then somebody came into your cell on the 20th, is that right?

A Yes.

Q As a result of that match incident, is that right?

A I don't think that's the reason.

Q This happened after the matches?

A (No audible response).

Q You were in your cell on the 20th? At some point you were in your cell, right?

A Yes.

Q And somebody came into your cell?

A Yes.

Q Now, when that person came into your cell, what did that person say to you?

A When he came in, he didn't say nothing.
What he did was pushed me.

Q And he asked you to come out of the cell?

A No.

Q Did he say that you had done something
wrong and he wanted to take you over to the BAU?

A No.

Q Did he tell you why he was in the cell talk-
ing to you?

A No, he wasn't talking to me. He just told
them to hit my cell after he had knocked my cigarette out of
my mouth.

Q You are in your cell now and somebody came
into your cell?

A Yes.

Q Did he say anything to you at all?

A No.

Q Just came in and pushed you?

A Yes.

Q Now, that happened after the match incident
happened, is that right?

A Yes.

Q Did he say to you, "I'm going to take you down to the BAU because you lit a match"?

A No.

Q Did he ask you to come out of the cell, that you were being taken to the BAU because you lit a match?

A No.

Q This person just came into your cell and pushed you?

A Yes.

Q And that is when you had this pushing and shoving and you were knocked on the bed?

A Yes.

Q And you said you read a rule and regulation that said that should not occur, is that right?

A Yes.

Q Are these rules and regulations distributed to the inmates?

A Yes.

Q You have access to them?

A When you first come in, they give you a

little orange brochure of rules and regulations.

Q Telling you what you can do?

A Yes.

Q And what you can't do?

A Yes.

Q And what the rules and regulations are?

A Yes. And, I mean, the guards know the rules and regulations. And he ain't supposed to come to my cell without the Lieutenant there.

CHAIRMAN HAMMOCK: Thank you, Mr. Chairman. I have no further questions.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q I have a few questions.

First of all, one thing we didn't establish -- were you handcuffed when you were taken to Mohawk and subsequently to the hole?

A No.

Q One of the other questions I have is, when you gave the razor blade and tie pin to Jennings, was this before you went to court?

A After I went to court. He went to court with me, and went back to the ward.

Q You were released from the court and went back to the ward?

A Yes.

Q How long did he stay with you?

A He had came at night. We started talking. I gave him my statement, and that's when I slipped him the tie clip and razor blade.

Q Did you show him the scar on your neck?

A Yes.

Q You say an investigator from the commissioner's office came to see you. Did you talk to him about the incident on the 15th or the incident on the 20th?

A The 20th.

Q Did you show him the scar at that time?

A Yes.

REPRESENTATIVE LEDERER: Thank you, Mr. Magwood.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Mr. Magwood, you went to court on the 21st?

A Yes.

Q And is that when you were given the two weeks' confinement as a result of what the guards alleged you did on the 20th?

A Yes.

Q Were you allowed at that hearing to give your version of what transpired or happened?

A Yes. They had written on the report what I did. They said I was throwing fire on the tier and cursing the officer. But they didn't put it down when he had come to my cell or the other guard came to my cell. They didn't put that down.

Q My question is, at your hearing on the 21st, did you tell them anything about what you told us today?

A Yes, a little bit.

Q A little bit?

A Yes.

Q Did you attempt to tell them the full story?

A No.

Q Why not?

A Because I was mad, right?

Q You were what?

A I was mad, from being there, right. And they said that this was a serious misconduct. And they were talking, you know, about giving me BAU perm, right? So when the guard, Mr. Garrell, hopped in my cell -- the Lieutenant being there, they told me they would adjourn the court and bring me back later on. They sent me back to the ward to be confined.

Q You said you told them a little bit of what you told us today. Why didn't you tell them -- or did you attempt to tell them -- the full story that you said you had told us today?

A Did I attempt to tell them?

Q Yes.

A The only part I told them was when the guard hopped into my cell.

Q Why didn't you tell them the rest?

A I didn't want to. It didn't make no difference to them.

Q When did you decide then you should tell the rest of the story?

A When I was talking to the Camp Hill worker.

Q This was on your way back from court?

A Yes.

Q Were you upset that you were given two weeks confinement?

A Yes.

Q Now, on the 23rd when you gave this statement to Lieutenant Stover, did you tell him basically the same story that you told us here today?

A Yes.

Q Now, let's go to another area.

Can you tell this Committee, Mr. Magwood, going back to the 15th -- think about this a moment -- you were on "C" tier on the 15th, is that right?

A Yes.

Q Can you tell us who the guards were who were on duty that night?

A Sergeant Stotelmeyer, Sergeant Benner.

Q Who?

A Benner, Mr. Forker, Mr. Ross (sic), Mr. Strock. That's all I can remember.

Q There was no one else you can remember?

A No.

Q Lieutenant Williams?

A Yes, he was there.

REPRESENTATIVE FISHER: Okay, that's all. Thank you.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q I just have one brief question for you, Mr. Magwood.

Do you remember when Representative Hammock was questioning you about the statement --

A Yes.

Q -- when they were asking you to sign it, and whether or not they coerced you. Did they give you a chance to read it and study it?

A No. He read it off himself.

Q You say he read it?

A Yes, he read it to me.

Q How long would you say it was?

A Couple of pages.

Q It would take me a little while to read a

couple of pages, especially of work material. And you didn't have a chance to read it, but he read it to you?

A I told him what happened. He wrote it down. I don't know what he wrote down on the paper.

Q So you actually didn't have a chance to take it in your own hands and read it?

A No. He read it to me.

REPRESENTATIVE MILLER: All right, thank you, Mr. Magwood.

Thank you, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

MR. HARTMAN: No questions.

REPRESENTATIVE RICHARDSON: All right, I would like to thank you very much this morning for your testimony on behalf of myself and also on behalf of this Committee. I would also like to say to you that presently we are working on trying very hard -- and I think that everyone should know, including you, Mrs. Chomsky, that at this present time we are working on trying to resolve some transfers of the juveniles who have testified before this Committee.

Now, as I have stated to all who have testified,

if there are any harassments or personal injuries or intimidations to you, Mr. Magwood, I would request that you immediately notify this Committee, myself or Mrs. Chomsky in relationship to that as quickly as possible. I don't want to see any kind of incidents that have been described here recurring. I am concerned with the lives and safety of all of those individuals who are involved in this particular matter, and I don't want to see anybody injured, harmed or killed.

The other things I would like to bring to the attention of this Committee is the fact that all of the young people who are here today are dressed in suits, and I just want the Committee to also take notice of that, and also the public who is present. Yesterday I was upset that they were all in institution clothing. And I felt that as far as the proceeding that is being run today by this Committee, that they all should be in civilian clothes, and they should be dressed accordingly.

I would like to again thank you, Mrs. Chomsky, on behalf of the law center in the city of Philadelphia to also take your time to represent Mr. Kendall Magwood.

You are excused now but subject to being called

later on.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to break through my agenda and call to the stand Officer Himes.

REPRESENTATIVE FISHER: Mr. Chairman, while we are waiting for Officer Himes to come in, may I ask Mr. Hammock a question concerning the letter he directed to the Attorney General?

REPRESENTATIVE RICHARDSON: You may proceed.

REPRESENTATIVE FISHER: My question concerns two requests that were made as a result of yesterday's testimony.

Was there a Committee vote taken on that action, Mr. Hammock?

CHAIRMAN HAMMOCK: No, sir, there was not, Mr. Fisher. It was a request that was made of the Attorney General through the Deputy, Mr. Gilman, in open hearing here. In the spirit of trying to be able to do something about continuing incidents that were occurring which had come to the attention of several members of this Committee during the course of the hearing -- that is why we made such a request. I think that

albeit there was no vote taken, there certainly was agreement by every member of this Committee at that time. At least there was no disagreement in terms of that.

REPRESENTATIVE FISHER: I would just request, in light of your request to Representative Richardson, to include the information received from Mr. Magwood in that request; that before we adjourn, maybe we could make it a formal recommendation of the Subcommittee.

CHAIRMAN HAMMOCK: I certainly concur in that opinion and would recommend also to the chair that we do so.

REPRESENTATIVE RICHARDSON: All right, we will do that at some point in the proceedings.

All right, we will hear now from Officer Himes. Officer Himes, is your counsel here?

MR. HIMES: I believe so, sir. But he has stepped out of the room. I would like to request the Committee to wait until he returns so I can take the stand.

REPRESENTATIVE RICHARDSON: We can recess for five minutes then.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call this Committee back to order.

Would Officer Himes with his counsel please approach the bench?

HAROLD E. HIMES, recalled as a witness, having been previously sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Officer Himes, if I remember correctly, you were sworn in yesterday, so you are still under oath.

Would you please state your name and position again for the record, sir?

A My name is Harold E. Himes. I am a Correctional Officer I employed at the State Correctional Institution at Camp Hill.

Q Would you indicate to me if you are represented by counsel?

A Yes.

Q Would you ask him to identify himself please?

MR. KIRSCHNER: Richard Kirschner representing Mr. Himes.

BY REPRESENTATIVE RICHARDSON:

Q I would like to ask you a few brief questions
Officer Himes.

Number one, I would like to know if you were
on duty on October 20, 1975?

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

MR. HIMES: On advice of counsel, I refuse to
answer this question on the grounds that my answer may tend
to incriminate me and I, therefore, invoke my right under the
fifth and fourteenth amendments of the United States Constitu-
tion and my right against self-incrimination as contained in
the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Would you please tell me what is incriminat-
ing about you answering my question as to whether or not you
were on duty the night of October 20th?

MR. KIRSCHNER: I object to the question period, sir. I believe it calls for a legal conclusion. I don't think this witness is competent to answer that question.

REPRESENTATIVE RICHARDSON: He is not competent to answer the question?

MR. KIRSCHNER: He is not an attorney.

REPRESENTATIVE RICHARDSON: Pardon me?

MR. KIRSCHNER: He is not an attorney. I don't think he is qualified or competent to answer that kind of question.

REPRESENTATIVE RICHARDSON: Okay then, what I would like to ask you, Mr. Kirschner, is whether you know whether or not he was on duty on October 20th?

MR. KIRSCHNER: I have had conferences with my client. To indicate that answer to you, sir, would require me to breach my client-attorney relationship.

BY REPRESENTATIVE RICHARDSON:

Q There was earlier testimony here this morning, Mr. Himes, indicating that you were on duty that day, and as a result of that you pulled an Officer Garrell off a Mr. Kendall Magwood. Would that be true?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Mr. Himes, do you know Officer Garrell?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q On October 20th, sir, did you observe any type of conflict between Kendall Magwood and Officer Garrell?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Let me ask you this then, Officer Himes: Is it a fact or is it not a fact that you have made a report on the date of October 20th as to what you saw and observed on that day?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend

to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Do you know any officer in this room at all, sir?

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

MR. HIMES: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Do you know Officer Garrell?

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

MR. HIMES: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Do you know whether or not Officer Garrell was on duty on October 20th?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q How many years have you worked at the State Correctional Institution at Camp Hill?

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

MR. HIMES: Sir, I have worked there approximately 3½ years.

BY REPRESENTATIVE RICHARDSON:

Q What is your background?

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

MR. KIRSCHNER: Does the Chairman mean by that, what is his training and experience prior to the time he was appointed as a correctional officer at Camp Hill?

REPRESENTATIVE RICHARDSON: That is correct.

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

MR. HIMES: I don't thoroughly understand the question, sir.

BY REPRESENTATIVE RICHARDSON:

Q Well, you can consult with counsel then.

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

MR. HIMES: My answer to this question, sir, is that I completed twelfth grade in school. Upon graduating, I entered the military service, the United States Air Force. In the United States Air Force I was a security policeman. Upon completing my service time, I -- a short time after completion of my service, I put application in for my job as a correctional officer, and approximately ten months later I was hired under

employment as a correctional officer.

BY REPRESENTATIVE RICHARDSON:

Q Do you know Officer Moose?

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

MR. HIMES: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Was he on duty on October 20, 1975, the date of this incident?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

REPRESENTATIVE RICHARDSON: At this time I would like to call on Mr. Kagan.

MR. KAGAN: Mr. Kirschner, is it your intention to have your client take the fifth amendment on any question pertaining to any incidents involved around the 20th of October?

MR. KIRSCHNER: Yes, sir, I will so advise him to that effect.

MR. KAGAN: Thank you.

REPRESENTATIVE RICHARDSON: All right then, you are excused --

CHAIRMAN HAMMOCK: Mr. Chairman, I have just a brief question.

REPRESENTATIVE RICHARDSON: Oh, excuse me.

Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Mr. Himes, subsequent to your appointment -- after your appointment as a Correctional Officer I, what kind of training did you receive?

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

MR. HIMES: Sir, I attended a three week course

at the Central Academy of the Bureau of Corrections.

BY CHAIRMAN HAMMOCK:

Q And in that course, were you ever given any instructions regarding operations, how inmates are to be transferred, procedures regarding the Behavioral Adjustment Units, and the removal of inmates to and from Behavioral Adjustment Units?

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

MR. HIMES: Sir, I don't really clearly recall of what training I received as far as the details of what your question was.

BY CHAIRMAN HAMMOCK:

Q Did you ever receive any procedures, manuals, code of operations, regarding use of force in terms of removal of inmates to and from Behavioral Adjustment Units?

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

MR. HIMES: I don't know that, sir.

BY CHAIRMAN HAMMOCK:

Q You don't know whether or not you received that kind of training?

MR. KIRSCHNER: May I have the previous question back please? (The following question was read back by the reporter:

Question: Did you ever receive any procedures, manuals, code of operations, regarding use of force in terms of removal of inmates to and from Behavioral Adjustment Units?)

MR. KIRSCHNER: I thought my recollection was correct and, in fact, it is. The second question did not relate to training but rather to procedural documents and manuals and the like. And that was the question to which the witness was responding.

BY CHAIRMAN HAMMOCK:

Q Well, let me ask you a two part question:
Did you ever receive any documents regarding the use of force?

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: I received a typed paper on the procedures of the use of force. Any other manuals or documents I do not know of.

BY CHAIRMAN HAMMOCK:

Q You received a typed paper, you say?

A Yes, sir.

Q One page, two pages, more?

A I believe it was two pages, sir, if I can remember.

Q Two page typed written paper on the use of force, is that what you are saying?

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

MR. HIMES: That is my recollection, sir.

BY CHAIRMAN HAMMOCK:

Q And did you have an opportunity to read this two page document?

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

MR. HIMES: Yes, I did.

BY CHAIRMAN HAMMOCK:

Q And do you still maintain that document in your possession or in your files or in your home?

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

MR. HIMES: No, sir.

BY CHAIRMAN HAMMOCK:

Q You read it and you have since discarded it? Is that what is happening?

MR. KIRSCHNER: That's not what the witness said. The witness was asked whether or not he had the document, and the answer to that question was no.

CHAIRMAN HAMMOCK: Well, let me ask the witness this --

MR. KIRSCHNER: If you want to ask the witness where the document is --

REPRESENTATIVE RICHARDSON: Excuse me, Mr. Kirschner. He will ask the questions, and the witness will respond. He said he was going to ask another question. And we will try to keep this in the line of good spirit, and he will ask another question and we will proceed on.

MR. KIRSCHNER: I think it would be helpful when a witness that I represent responds, that none of the Committee members attempt to recharacterize or recast the answer in a different light or a different frame. The witness did not say he discarded it. He simply said he no longer had it in his possession.

REPRESENTATIVE RICHARDSON: All right, the chair now decides that the Representative certainly has the right to ask another question. Go ahead, Mr. Hammock.

BY CHAIRMAN HAMMOCK:

Q Mr. Himes, you were given this two page document, two page paper, typewritten, you say, okay? Let's not characterize it as anything. You were given two pages with some typewritten material on it, is that correct, sir?

(Mr. Himes consulted with his counsel at

this point.)

MR. HIMES: Yes, that's correct, sir.

BY CHAIRMAN HAMMOCK:

Q And did you read it, sir?

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

MR. HIMES: Yes, I did.

BY CHAIRMAN HAMMOCK:

Q And when were you given this two page type-
written sheet?

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

MR. HIMES: At this time, sir, I cannot recollect.

It was in the past, possibly a year ago. The date or the
time I do not know of. I cannot recall at this time.

BY CHAIRMAN HAMMOCK:

Q Have you had occasion to refer to this two
page document, typewritten, over these past several years or
the last six months?

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

MR. HIMES: Sir, the answer to this question is that I have from time to time referred to this document.

BY CHAIRMAN HAMMOCK:

Q Thank you, Mr. Himes.

Now, let me ask you this, sir. What did you consider this document to be or to represent?

MR. KIRSCHNER: I would object to the question. The document speaks for itself. It's part of the official records of the Bureau.

REPRESENTATIVE RICHARDSON: I direct the witness to answer the question please.

CHAIRMAN HAMMOCK: Mr. Chairman, in the spirit of cooperation, I will be willing to rephrase that question.

REPRESENTATIVE RICHARDSON: Go ahead.

BY CHAIRMAN HAMMOCK:

Q In your opinion, what did you think the document said to you? Was that a method of conduct to you, in your opinion?

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

MR. HIMES: The document related to the use of force.

BY CHAIRMAN HAMMOCK:

Q It did relate to the use of force?

A Yes.

Q And did you consider it to be the rules and regulations of the institution, the Bureau of Corrections?

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

MR. HIMES: It was a document given to me. I don't know of the legal connotation that it had.

BY CHAIRMAN HAMMOCK:

Q Well, I am not referring -- trying to characterize any legal connotation or administrative connotation. I am simply trying to determine what you thought the document represented.

(Mr. Himes consulted with his counsel at

this point.)

MR. HIMES: It represented -- it represented --
excuse me, it represented --

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

MR. HIMES: It represented a statement regarding
the use of force.

BY CHAIRMAN HAMMOCK:

Q Now, was that statement, Mr. Himes, issued
to you by the institution or your superiors or your super-
visors?

MR. KIRSCHNER: Is that a one part or three part
question?

CHAIRMAN HAMMOCK: Three parts.

MR. KIRSCHNER: Institutions, superiors or super-
visors?

CHAIRMAN HAMMOCK: That's right.

MR. KIRSCHNER: We will answer it in three parts.

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: I do not recall how I received this document.

CHAIRMAN HAMMOCK: I didn't ask you that.

REPRESENTATIVE RICHARDSON: Ask the witness please to answer the question. Counselor asked if it was in three parts, and Representative Hammock said it was in three parts. You have it written down. I would ask that you direct the witness to answer the question please as it was stated. If he did not understand the question, I will have the stenographer read it back.

MR. KIRSCHNER: The witness, upon reflection, has advised the Committee that he did not recall how he received it. He, therefore, cannot answer the question in three parts or even one part, because he does not recall the source of its dissemination.

CHAIRMAN HAMMOCK: That's all I have.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

BY MR. KAGAN:

Q Mr. Himes, did you feel, regardless of the

source of this document -- did you feel this document had some binding effect on your conduct in the institution?

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

MR. HIMES: I consider it to be an official document of the department.

BY MR. KAGAN:

Q And thereafter any directives contained therein would apply to you, and you would be bound by any directives contained therein?

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

MR. HIMES: Yes, to the extent that they applied to me.

MR. KAGAN: Thank you.

CHAIRMAN HAMMOCK: Mr. Himes, was anybody's name signed at the end of this document, if you recall?

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: There was none.

BY CHAIRMAN HAMMOCK:

Q But it was issued to you after you went to work as a correctional officer, is that correct?

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

MR. HIMES: The document was issued to me following my employment with the Bureau of Corrections.

BY CHAIRMAN HAMMOCK:

Q Issued to you by whom?

MR. KIRSCHNER: I believe the witness has already answered that question. He said he did not know.

BY CHAIRMAN HAMMOCK:

Q But issued to you after you went to work?

MR. KIRSCHNER: That was his response.

BY CHAIRMAN HAMMOCK:

Q And at what point was it issued?

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

MR. HIMES: I received this document after I was
employed by the Commonwealth of Pennsylvania.

BY CHAIRMAN HAMMOCK:

Q On another subject area, Mr. Himes, you said
you received a three week course of training at the academy,
is that correct?

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

MR. HIMES: Yes.

BY CHAIRMAN HAMMOCK:

Q And did you receive some classroom in-
struction?

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

MR. HIMES: Yes.

BY CHAIRMAN HAMMOCK:

Q How many hours of classroom instruction, if you recall?

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

MR. HIMES: I do not know.

BY CHAIRMAN HAMMOCK:

Q Did you receive any hours of classroom instruction?

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

MR. HIMES: Yes.

BY CHAIRMAN HAMMOCK:

Q And during the course of the three weeks, did you go five days a week?

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

MR. HIMES: Yes.

BY CHAIRMAN HAMMOCK:

Q And how many hours a day did you stay in class, if you remember?

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

MR.HIMES: I do not recall.

BY CHAIRMAN HAMMOCK:

Q Were you in the classroom at least one hour every day?

A Yes.

Q Now, did you receive any training in terms of how to handle yourself or other people in terms of activity in the institution? In other words, did you receive any training regarding how you should escort people or what you should ask people to do that are inmates in the institution? Did you receive anything, for example -- and, I would say, Mr. Kirschner, since we don't want to -- well, just forget the question I asked. What I am trying to establish here is whether or not you received any training other than the classroom training.

MR. KIRSCHNER: I think given some time, I think the witness can probably respond to that question. I might suggest to you, however, that in the interest of accuracy, it might be desirable to obtain from the Bureau the manual that was utilized by the Bureau as they process prospective employees through the academy. I believe there is a manual to that effect, and that manual sets out in rather specific detail the nature of the training and the classroom instruction received by all correctional employees.

CHAIRMAN HAMMOCK: I understand what you are saying, Mr. Kirschner.

REPRESENTATIVE RICHARDSON: Excuse me. Mr. Kirschner, we are attempting to ask this witness -- and the Committee members have a right to ask any witness who comes before this Committee, sir, as to whether or not they have received it. And that does not go out of the scope of that. So I would hope that we could conduct this hearing and get on to the business we have. Now, we just asked Mr. Himes questions where he chose to take the fifth amendment. And Representative Hammock has a series of questions he is winding up now before we go on to other members. And I would just hope

that he would answer that. That's all, sir.

MR. KIRSCHNER: I certainly recognize and respect the right of the Committee to ask questions. And I assume, sir, that the Committee wanted a fairly accurate recitation from the witness.

REPRESENTATIVE RICHARDSON: I am not asking for any suggestions from you, sir.

MR. KIRSCHNER: No. I wasn't saying --

REPRESENTATIVE RICHARDSON: I am just saying that if I wanted to get it from the Office of Administration, I could do that and I would ask Representative Hammock to go on if he has any other questions.

CHAIRMAN HAMMOCK: Thank you, Mr. Chairman.

BY CHAIRMAN HAMMOCK:

Q Mr. Himes, I am simply asking you, sir, did you receive any training other than the classroom instruction in the use of how you should conduct yourself in regard to residents? Did you receive any training whatsoever other than the classroom training? And I am not so much concerned about the accuracy of hours and what have you. Did you or didn't you?

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

MR. HIMES: To the best of my recollection, I did.

BY CHAIRMAN HAMMOCK:

Q You did. During the course of the three weeks, you had some classroom training and you had some other kind of training, is that correct?

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

MR. HIMES: Yes.

BY CHAIRMAN HAMMOCK:

Q I just have one last question of Mr. Himes.

Prior to the time that you were hired as a correctional officer, I believe you stated you spent some time in the air force, is that correct?

A Yes, sir.

Q And your capacity was as a security officer you stated, is that correct?

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: No, sir. I was a security policeman.

BY CHAIRMAN HAMMOCK:

Q All right, let me make certain I understand what you are saying for the sake of accuracy.

You were a security policeman. Will you describe the class? What was your classification when you were in the air force?

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

MR. KIRSCHNER: I am advised that the witness doesn't understand the question.

REPRESENTATIVE MILLER: As an old air force man myself, I would advise that the security police is the official name of the air force police force. It is not security in the connotation that you would think of it as a security police officer. They are the policemen of the air force. So the term security police refers to the official police officer of the air force.

BY CHAIRMAN HAMMOCK:

Q And what was your rank, Mr. Himes, the rank that you left the service from your active duty?

A I was a sergeant.

Q When you left active duty you were a sergeant?

A Yes.

Q And during the time you served in the air force, I would imagine that you had various types of experiences dealing with people. And I say I imagine. Let me ask you directly. Did you have any occasion to deal with other men in uniform, or out of uniform for that matter, in terms of altercations or fights or anything like that?

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

MR. HIMES: No, sir, I didn't.

BY CHAIRMAN HAMMOCK:

Q Was most of your activity confined to indoor work as opposed to being on a patrol or something of that nature? I am simply trying to find out what you did when you

were in the service.

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

MR. HIMES: My duties entailed various fields
under the security police classification. I worked with
security around nuclear weapons, aircraft with nuclear weapons.
I worked as a sentry dog handler. I also worked in the law
enforcement field in the security police.

BY CHAIRMAN HAMMOCK:

Q How long were you in the air force, Mr. Himes,
active duty?

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

MR. HIMES: Approximately four years.

CHAIRMAN HAMMOCK: Thank you, I have nothing else.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: I will pass.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Mr. Himes, were you here in the room this morning during the course of the testimony by our previous witness, Mr. Magwood?

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

MR. HIMES: Yes.

BY REPRESENTATIVE FISHER:

Q Did you hear any testimony by Mr. Magwood in the nature of an allegation or accusation that in any way would tend to incriminate you in any prosecution?

MR. KIRSCHNER: I will object to the question. I really don't think the witness is competent or qualified to answer that question. I respectfully request that the question be withdrawn.

REPRESENTATIVE FISHER: I will withdraw the question and rephrase it.

BY REPRESENTATIVE FISHER:

Q Mr. Himes, did you hear any testimony from Mr. Magwood directed towards you, other than the statement

that Mr. Himes was the man who pulled Mr. Garrell off of him?

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

MR. KIRSCHNER: I respectfully submit to the
representative that the record speaks for itself. The record
would be the best evidence of that.

REPRESENTATIVE FISHER: I request that the witness
answer the question.

REPRESENTATIVE RICHARDSON: I would like to have
the witness answer the question. He is directing his question
to the witness, and if you want to advise him, you can, as
to how he should answer.

MR. HIMES: On advice of counsel, I refuse to
answer this question on the grounds that my answer may tend
to incriminate me and I, therefore, invoke my right under
the fifth and fourteenth amendments of the United States
Constitution and my right against self-incrimination as con-
tained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE FISHER:

Q Mr. Himes, are you invoking your rights

under the fifth amendment of the Constitution on the grounds that your testimony would tend to incriminate you or would tend to incriminate others?

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

REPRESENTATIVE RICHARDSON: Counselor, I will direct the witness to answer the question. If you have something to say, please direct it to him to answer it.

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

REPRESENTATIVE FISHER: Mr. Kirschner, I will direct this statement to you and to your client. I think,

first of all, the answer was not a responsive answer to my question.

MR. KIRSCHNER: I don't think --

REPRESENTATIVE FISHER: Secondly, I believe that --

MR. KIRSCHNER: If I may respond.

REPRESENTATIVE RICHARDSON: The Representative is not finished. You will have to wait until he finishes.

MR. KIRSCHNER: Very well.

REPRESENTATIVE FISHER: Secondly, I believe that the manner in which this witness is answering questions that have been submitted to him by the Committee is opposite to what the intent, not only of this Committee, but also of the people interested in this investigation are interested in; that is, to get the truth of this incident brought before the public. And I think that I am aware of what rights your client has in answering the questions that he has. I am also aware of what the law is on the grounds of the fifth amendment. I would be more than willing to challenge the position of counsel at a later time in so advising a witness not subject to investigation or one who an investigation is not

focusing on in taking the fifth amendment to questions before a tribunal, whether it be this tribunal or a court of law. But I think that for the benefit of the other cohorts of Mr. Himes who are here in the room, that as an individual member of the Subcommittee, I don't believe that the testimony and the responses of Mr. Himes are in any way helping them or helping this Subcommittee of the House of Representatives get to the truth of this issue.

REPRESENTATIVE RICHARDSON: Thank you, Representative Fisher.

Representative Miller.

REPRESENTATIVE MILLER: No questions.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Sir, as of this moment, do you remember what instructions you were given as far as removing inmates to the BAU's?

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

MR. HIMES: I do not recall.

REPRESENTATIVE OLIVER: That's all.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

BY MR. KAGAN:

Q Just a few brief questions, Mr. Himes.

Exclusive of the incidents that occurred on the 15th of October and the 20th of October, have you in the course of your duties observed fights between inmates and guards?

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

MR. HIMES: I have observed other officers fulfilling their responsibilities.

BY MR. KAGAN:

Q I don't consider that answer to be responsive. Let me ask you the question again.

Exclusive of the incidents of the 15th and the 20th of October, have you observed fights between inmates and guards?

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: No, sir.

BY MR. KAGAN:

Q How long have you been employed with Camp Hill? I'm sorry, I missed that before.

MR. KIRSCHNER: I don't believe he was asked that question before.

REPRESENTATIVE RICHARDSON: Yes, he was.

MR. KAGAN: Well, whatever.

MR. KIRSCHNER: I think he may have been asked how long he was employed. I don't believe he was asked how long he was employed at Camp Hill.

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

MR. HIMES: Sir, the 31st of this month, it will be three years and three months.

BY MR. KAGAN:

Q Has it been your experience at the institution that more than one guard is needed to take a prisoner

out of his cell when he is being brought up for trial for any violation that he might have had on any administrative rule within the prison.

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

MR. HIMES: It depends on the facts of each case.

BY MR. KAGAN:

Q In cases in which you have been involved, has it been your experience that more than two guards would be necessary to remove one inmate -- maybe three, maybe four, maybe five guards would be necessary to remove an inmate from his cell?

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

MR. HIMES: It depends on the facts of each particular case.

BY MR. KAGAN:

Q Exclusive of the incidents of the 15th and

the 20th of October of this year, have you ever had occasion to restrain a guard from beating a juvenile inmate?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY MR. KAGAN:

Q Exclusive of the incidents of the 15th and the 20th of October, have you ever had occasion to see a guard beat a juvenile inmate?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under

the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

MR. KAGAN: I have no further questions.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

BY MR. HARTMAN:

Q Officer Himes, in performing your function as a correctional officer, have you ever been given an assignment to take an inmate to the Behavioral Adjustment Unit? You did testify you did not recall the type of instructions. If that were to happen to you tomorrow, what procedure would you follow?

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

MR. HIMES: Sir, the procedure would depend on the facts of each case.

MR. HARTMAN: No further questions.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

BY MR. KAGAN:

Q One more question, Mr. Himes.

Repeated inquiries by the Committee have asked you questions pertaining to procedures you might use, and the answers that we seem to be receiving is that it is subjective, depending on the situation. Are you telling the Committee that the institution does not have any guidelines to assist an officer in removing an inmate for any reason whatsoever, and it is always a question of the officer's subjective judgment as to each situation?

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

MR. HIMES: No...

BY MR. KAGAN:

Q Well then, would you explain the procedure to this Committee? That was the question just propounded to you by Mr. Hartman. Would procedure do you use? Are there situations in which you are required to get a superior officer? Are there situations in which you are required to call for additional aid? Would you explain those types of situations to this Committee?

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

MR. HIMES: Sir, it all depends on the circum-
stances.

BY MR. KAGAN:

Q I find the answer to be quite unresponsive.
I wish that perhaps the officer can search his memory a little
further and be a little more specific. Are there instances,
to your knowledge, where you have to call the Lieutenant onto
the cell block?

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

MR. HIMES: The procedure is based upon all of the
facts of each particular case.

BY MR. KAGAN:

Q I understand that. I asked you whether
there are instances where you are required to go bring a
lieutenant, for instance, into the cell with you or onto the
cell block area?

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

MR. HIMES: What do you mean by require?

BY MR. KAGAN:

Q Where the regulations require -- must --
they are compelling that you must bring a lieutenant with you.

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

MR. HIMES: I do not recall what the written regu-
lations say with regard to this matter.

BY MR. KAGAN:

Q Well, how would you perform your duties
should such a situation arise?

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

MR. HIMES: I perform my duties in the manner of
the case, and also in the way that I have been instructed.

BY MR. KAGAN:

Q Under what situations would you ask for the Lieutenant to come? Give me an example.

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

MR. HIMES: Sir, it would depend on all of the facts of the case.

BY MR. KAGAN:

Q I would ask you to give me an example.

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

MR. HIMES: I really can't cite you an example, sir.

BY MR. KAGAN:

Q All right, let me ask you this. Are you allowed to enter an inmate's cell alone?

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

MR. HIMES: Yes.

BY MR. KAGAN:

Q Under what conditions?

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

MR. HIMES: It depends on the facts of the case.

BY MR. KAGAN:

Q Give me one condition where you can enter
on your own.

Mr. Himes, I might note parenthetically that
it seems to me you must be having a great deal of difficulty
in going about the business of your job.

A No, sir.

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

MR. HIMES: I may enter an inmate's cell on
inspection of the cell block with the cell block officer by
myself.

BY MR. KAGAN:

Q When aren't you allowed to enter an inmate's

cell?

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

MR. HIMES: Never.

BY MR. KAGAN:

Q You are always allowed to enter -- when
aren't you allowed to go in by yourself?

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

MR. HIMES: I know of no such regulation.

BY MR. KAGAN:

Q There is no regulation -- meaning to say
there is no regulation that would require you under any
specific set of circumstances to call someone else into that
cell?

MR. KIRSCHNER: May I have the question read back
please?

(The last question was read back by the

reporter.)

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

REPRESENTATIVE RICHARDSON: I direct the witness
to answer the question.

MR. KIRSCHNER: I would request for my own benefit
clarification of the question. The previous question was, are
there any circumstances in which you are not permitted to go
in alone. The following question was, do you mean to say that
there are no situations in which you should have someone with
you. Those are two entirely, separate and distinct issues
and problems. I would like to get clarification on the ques-
tion.

MR. KAGAN: I think the question speaks for itself.

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

MR. HIMES: I don't understand the question.

BY MR. KAGAN:

Q You stated -- and if I am wrong, please stop

me -- that you can enter an inmate's cell at any time alone under any set of circumstances, is that correct?

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

MR. HIMES: Yes.

BY MR. KAGAN:

Q To the best of your knowledge, there is no regulation which would prescribe any specific or general set of circumstances which would require you to enter that cell with another correctional officer, is that correct?

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

MR. HIMES: I do not know.

BY MR. KAGAN:

Q Well, I will ask you the question again.

If you don't know under what circumstances you may be required to bring another correctional officer into that cell with you, how do you perform your duties?

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

MR. HIMES: To the best of my ability. And it
depends on the circumstances.

BY MR. KAGAN:

Q To the best of your knowledge, are the other
guards at the institution as unaware of the administrative
regulations concerning their job as you?

MR. KIRSCHNER: Sir, I --

REPRESENTATIVE RICHARDSON: I am asking the witness
to answer the question.

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

MR. HIMES: Sir, I can answer for myself and no
other officer. I cannot answer for them.

MR. KAGAN: I have no further questions of this
witness.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

MR. HARTMAN: No questions.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Officer Himes, do correctional officers take an oath of office?

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

MR. HIMES: No, sir.

BY REPRESENTATIVE LEDERER:

Q Are there any guidelines put out for correctional officers either by the Department of Justice, the particular institution they work in, or the Bureau of Corrections?

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

MR. HIMES: Yes.

BY REPRESENTATIVE LEDERER:

Q Who puts them out?

(Mr. Himes consulted with his counsel

at this point.)

MR. HIMES: The Bureau of Corrections and the Department of Justice.

BY REPRESENTATIVE LEDERER:

Q Are you familiar with a packet of papers called Inmates Legal Action Against Correctional Personnel?

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

MR. HIMES: No.

BY REPRESENTATIVE LEDERER:

Q You are not.

Okay, you know of any officer in the State correctional system who has ever been disciplined?

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

MR. HIMES: I have heard of cases, yes.

BY REPRESENTATIVE LEDERER:

Q Do you know of any isolated cases?

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

MR. HIMES: No, sir.

BY REPRESENTATIVE LEDERER:

Q One last question.

Is it an unwritten law possibly among cor-
rectional officers that a show of force is good to save bodily
injury of both correctional officers and inmates?

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

MR. HIMES: I carry on my duties as told to me
by the Bureau of Corrections as my training.

BY REPRESENTATIVE LEDERER:

Q I will try and repeat that question again.

I don't know if we are communicating on the question.

The question is, do you know of any unwritten
rule or hearsay where a show of force by guards is good for
both inmates or officers?

(Mr. Himes consulted with his counsel

at this point.)

MR.HIMES: No, sir. I am not qualified to answer this question.

BY REPRESENTATIVE LEDERER:

Q Then I could take that answer to mean you never heard hearsay to that effect?

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

MR. HIMES: No, sir.

BY REPRESENTATIVE LEDERER:

Q And again -- and I don't want to belabor the point -- you have never been furnished with any kind of papers under the title of Inmates Legal Action Against Correctional Personnel?

This would have to do, counsel, with civil suits and criminal cases against correctional officers.

You are not familiar with that at all?

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

MR. HIMES: At this time, I cannot recall.

REPRESENTATIVE LEDERER: That's all I have. Thank you.

REPRESENTATIVE RICHARDSON: Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Mr. Himes, subsequent to the occasions of the 15th and the 20th at Camp Hill, have you submitted any written report to your superiors?

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

MR. HIMES: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY CHAIRMAN HAMMOCK:

Q Mr. Himes, subsequent to the incidents of the 15th and the 20th, have you had occasion to be interviewed

by any member of the Department of Justice or the Bureau of Corrections regarding the incidents occasioned therein?

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

MR. HIMES: No.

BY CHAIRMAN HAMMOCK:

Q You have not? Is that your answer?

A Yes.

Q Mr. Himes, are you still working, currently employed at Camp Hill Institution?

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

MR. HIMES: Yes, sir.

BY CHAIRMAN HAMMOCK:

Q You are still working, is that correct?

A Yes, sir.

CHAIRMAN HAMMOCK: Thank you.

Mr. Chairman, in light of the lengthy interrogation and questioning of Mr. Himes, who I believe very

often times has been unresponsive, but nonetheless, has invoked his constitutional privilege and certainly is entitled to do so, and in light of the fact that we still have no refutation and no rebuttal to the allegations that have been made by the youth over the last several days, and in light of the fact that we still do not know at what posture the Attorney General's investigation is in at this present moment, and in light of the fact also that Mr. Himes, and apparently several other guards, correctional officers if you will, are still currently serving in their capacities at the Camp Hill Institution, I am again renewing my request that at some point today, hopefully before we recess, we will hear from the Attorney General or his designee regarding the request that was made yesterday by myself and the letter that was delivered upon the Attorney General's Office.

I see here, Mr. Chairman, again a situation -- although Mr. Himes is entitled to his constitutional protections, is certainly entitled to take the fifth amendment -- I see here a situation that seems to be festering, perhaps to the point where some other incidents may occur. And that is why I again renew my request upon the Attorney General.

Thank you, Mr. Chairman, for your indulgence.

REPRESENTATIVE RICHARDSON: Mr. Himes, you are excused until further notice until such time as you may be called to the stand again.

MR. KIRSCHNER: Excuse me, Mr. Chairman. You say excused until further notice. Does that mean we can put him on telephone alert?

REPRESENTATIVE RICHARDSON: No, because he might be called this afternoon.

MR. KIRSCHNER: Very well.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to call Superintendent Patton.

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

BY REPRESENTATIVE RICHARDSON:

Q Superintendent Patton, you are still under
oath.

Would you state your name for the record and

your position, and would you state whether or not you have counsel?

A Ernest S. Patton. I am Superintendent of the State Correctional Institution at Camp Hill. I have counsel, yes.

REPRESENTATIVE RICHARDSON: State your name for the record please.

MR. GILMAN: My name is Glenn Gilman.

REPRESENTATIVE RICHARDSON: I will call on Representative Fisher who has some questions.

BY REPRESENTATIVE FISHER:

Q Superintendent Patton, I understand from Chairman Richardson that you will be called later on this afternoon to testify about certain matters involved in the issue before this Subcommittee. I would like to request that you voluntarily bring with you at that time and have in your possession any written statements or reports that are presently in the possession of the Bureau of Corrections or in the possession of the Department of Justice or in your possession concerning any written statements or oral reports that have been reduced to writing given by any of the guards who have

appeared before this Subcommittee to testify.

MR. GILMAN: If I may, Representative Fisher, I believe your question should not be directed to Mr. Patton, who is the Superintendent of Camp Hill. If it concerns the investigation by the Department of Justice, I believe that I will convey your request to the Attorney General.

REPRESENTATIVE FISHER: Mr. Gilman, I am asking Superintendent Patton to have those reports in his possession this afternoon when he returns to testify. Now, if he chooses not to bring them, that is another matter. I am aware of what your position is. That was my request to the Superintendent.

MR. GILMAN: Are there any further questions?

MR. HARTMAN: May I ask a few clarifying questions?

REPRESENTATIVE RICHARDSON: Mr. Hartman.

MR. HARTMAN: Is it your intention to specifically have reports made to the institution prior to the Attorney General's investigation?

REPRESENTATIVE FISHER: Yes.

MR. HARTMAN: Do you understand the distinction?

REPRESENTATIVE RICHARDSON: Does Mr. Patton under-

stand the distinction?

MR. PATTON: I am not certain that I do.

REPRESENTATIVE FISHER: Well, we have heard certain testimony that there has been various statements given by some of the witnesses who are at the Camp Hill facility. We have heard there have been both statements given that may be reduced to writing by some investigator from either your Bureau or the Department of Justice, but no one has really pinpointed who these investigators have been. And we have also heard testimony that some of the witnesses may have given written statements that I am directing my inquiry towards. And those are the ones that I am requesting that you bring with you and have with you when you return this afternoon for further questioning.

MR. PATTON: May I clarify your request, Mr. Fisher? You are asking me for the preliminary reports that I received prior to the time that the Bureau of Corrections and Department of Justice entered the investigation?

REPRESENTATIVE FISHER: I am asking for any report that was either signed by one of the correction officers or any report of an oral statement that was reduced to writing

by someone with the Bureau of Corrections. If this is what you would refer to as a preliminary report prior to the Attorney General's official investigation, then, yes, that is what I am referring to.

(Mr. Patton conferred with his counsel
at this point.)

MR. PATTON: If we have possession of those reports, yes, sir, they will be considered.

REPRESENTATIVE FISHER: This is strictly voluntary on your part. Like I say, I am not asking the Subcommittee to take any official position and order you to bring them. I just request that you make every effort to have such reports available, and you can act accordingly within the powers of your office.

MR. PATTON: All right.

REPRESENTATIVE RICHARDSON: Any further questions of the witness?

(No response.)

REPRESENTATIVE RICHARDSON: Thank you, Mr. Patton.

(Witness excused.)

REPRESENTATIVE RICHARDSON: This House stands recessed until 1:30.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call this meeting back to order.

Before I call Mr. Michael Kaup to the stand, I would like to know if counsel for the Attorney General, Mr. Gilman, is in the room?

MR. GILMAN: Yes.

REPRESENTATIVE RICHARDSON: Would you please approach the bench?

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: The House will be at ease for five minutes.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess

having expired, I will call the hearing back to order and ask that Superintendent Patton and his counsel please approach the bench.

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

BY REPRESENTATIVE RICHARDSON:

Q Superintendent Patton, what I would like to ask you is -- as you know, I have been quite concerned about the inmates and their safety over at Camp Hill, and I would like to know, if you know, has there been any progress about trying to get them released as soon as possible and as expeditiously as possible away from there to some other alternate sites until such time as we can work out the logistics and problems we are going through at this present time?

A Mr. Chairman, our position, as it has always been, is that we want to get all of the juveniles moved at the earliest possible time. And I have discussed this with staff and members of the Camp Hill Project. And my understanding is that they are working not just on these individ-

uals but on all juveniles at the present time.

Q Specifically though, Mr. Patton, I am relating now to the ten inmates who are sitting here in this room. And as a result of their testifying, the problems that have been brought to the attention of this Committee, I am wondering if you have any progress report at all on any of the juveniles in relationship to their release?

A My understanding, sir, is that there has been some progress, yes, sir. I have not talked with, you know, the members of the Project. Mr. Bell, who is the Deputy Superintendent for Treatment at the Institution indicates that a court order has been approved for one of the individuals.

Q Would you tell us who that is?

A Mr. Tyler.

Q Would you want him to be released so he might be able to go and take care of his release proceedings?

A This would be very fine if you could release him, Mr. Chairman, from his subpoena. We will be very happy to take care of the necessary action.

Q Yes, I will release Mr. Tyler at the request

of Mr. Patton to be taken immediately back over to Camp Hill to proceed on whatever he has to do to be released today to wherever he is going.

Can you assign a guard to take care of that?

A I will take care of that, yes, sir.

REPRESENTATIVE RICHARDSON: Mr. Gilman, do you know if your office is working in relationship to trying to do whatever they can to try and get these young people released from the institution as soon as possible in relationship to them testifying before this Committee?

MR. GILMAN: We have asked the Camp Hill Project to take care of that matter. And the Camp Hill Project is under negotiations right now to facilitate as much as can be done.

REPRESENTATIVE RICHARDSON: Can you somehow check with the Attorney General and get back to me this afternoon as to where we stand on the young people?

MR. GILMAN: Yes.

REPRESENTATIVE RICHARDSON: We want to thank you very much for your cooperation in helping get these matters resolved as expeditiously as possible.

I will excuse you now, Mr. Patton, to take care of that matter.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I now call to the stand Mr. Michael Kaup and his attorney.

MICHAEL KAUP, called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Would you please speak up very loudly and clearly and give me your name and your age?

A Michael Kaup, 18.

Q Are you represented by counsel?

A Yes, I am.

REPRESENTATIVE RICHARDSON: Please state your name for the record.

MS. CHOMSKY: Judith Chomsky.

BY REPRESENTATIVE RICHARDSON:

Q Mr. Kaup, are you aware of the seriousness

of these hearings?

A Yes, I am.

Q Do you understand how important it is to tell the truth?

A Yes.

Q As a result of you receiving a subpoena, is that why you are here?

A Yes.

Q Has anyone in any manner intimidated, threatened or inflicted any kind of bodily injury against you for coming before this Committee?

A No.

Q Any questions that you do not understand at any time, you have the right to confer with your counsel. If you don't understand anything that has been said, you have the right to say to this Committee that you do not understand, and they will rephrase the question and ask you another. At no time are you to answer any questions you don't understand.

Are you nervous?

A Yes.

Q Understandably so.

Are you willing to testify before this Committee knowing that there are people from the press here, that there are other guards here, other people from the public here? Are you still willing to testify before this Committee?

A Yes, I am.

Q You have no fear of telling the truth to this Committee?

A No.

Q What I would like for you to do now is to speak into the microphone and describe to this Committee on or about October 15th of this year what, in fact, you saw, and as a result of what you saw, what did you do?

A On October 15th at approximately 7:30 there was a rock concert or dance concert, whichever. And I was on medical lane, because I had sprained my ankle the day before out at the stockade playing football. So I could not attend the concert because I was on medical lane.

I took it the best I could. I wasn't mad or upset about it. So while they went to the concert, several inmates that were locked in their cells for doing wrong or had some kind of restriction didn't like it very well, so they

started lighting fires or doing whatever they said they done. I seen this myself. The inmate below me asked me for some newspapers for him to read. So I sent the inmate below me some newspapers.

Q Repeat that again, Mr. Kaup, and take your time.

A The inmate below me asked me for some newspapers.

Q Newspapers?

A Yes. So I gave him some.

Q How did you give him some?

A Through the tier, down through the grates.

Q You passed it through the tier?

A Down through the steel grates.

Q In other words, indicating that these grates you can see through and stick objects down through?

A Yes.

Q Go ahead.

A After that I was trying to get some sleep. I was getting that over with, and he asked me for some toilet paper. So I gave the inmate some toilet paper. And once I

had handed it down to him, he lit it on fire while I was still holding the other end in my hand. So the guard obviously thought I had lit the fire, which I didn't. So the inmate started cutting himself up with razor blades and screaming and hollering and carrying on and burning this paper inside his cell, which obviously the guards must have thought I did it. And the guard simply said -- Mr. Wolfe was his name -- said he seen me lighting the fires.

Q Mr. Wolfe?

A Yes.

Q Is Mr. Wolfe here?

A No.

Q Indicating that Mr. Wolfe is not present in this room.

Please continue.

A Well, he put some -- like, Mr. Wolfe was making his rounds, and obviously he wrote our names down -- thought we were making the commotion. So the concert had ended, and the inmates were locked up, and they were ready to take showers. And Mr. Wolfe had notified other guards what was happening during the concert. And the guards proceeded to

come up to my tier, which is tier three. And they went down to the inmates' cells. I'm not sure which one they took first, but I think it was Burgh. And I seen him go past my cell stark naked, no clothes on. And officers pushed him up against my gate. They have a handle on the gate, and the gate went into his ribs, and he went down, like, you know, to get some air. And they smashed his head off my gate. Then they proceeded to push him down the steps from what I heard.

Q What did you see?

A I seen the officer push his head up against my bars.

Q Only talk about what you saw at that point.

A Then they took about five minutes, then they went to get another inmate, which was Joe Snyder.

Q When you say they, would you describe to us who you mean by they?

A Sergeant Stotelmyer, Sergeant Benner, Mr. Ross (sic). And I can't remember all of the other names. Those specifically I do remember.

Q Could you describe Sergeant Stotelmyer?

Is he in this room today?

A Yes, he is.

Q Where is he sitting?

A In the third row, fifth person from the right.

Q Describe what he has on.

A He has on a gray pin striped suit, white tie, brown shirt and white shoes.

Q Is Officer Benner here?

A Yes.

Q Would you describe him?

A He is sitting on the right hand side of Sergeant Stotelmyer.

Q What does he have on?

A He also has a pin striped suit on with a colored tie and a light blue shirt. He's wearing glasses.

Q Is Mr. O'Ross here?

A Mr. Ross (sic). Yes, he's here. He's wearing a greenish suit top, blue pants, red tie, red and white shirt. He wears glasses also.

Q Indicating he is sitting on the second row all of the way --

A to the end.

Q Proceed.

A Then he proceeded to get Joe Snyder. And I'm not sure, but I think he was fully dressed. And they were in his cell for a couple of minutes, and a little scramble took place which I didn't see. And then they -- meaning Sergeant Stotelmyer, Benner -- had him by his hair and handcuffs. And they were beating him while they passed my cell, which they done to the inmate before him also -- Burgh.

Q How were they beating him? Would you describe how they were doing that?

A With their fists, closed hand. And it took a couple of minutes, and then they came back. And someone yelled up to my cell -- I don't know who it was -- "Get your stuff ready, Kaup, you're next." So I got my towel, my soap, my comb, and I wrapped them up in the towel, and I was ready to go. Sergeant Stotelmyer, Sergeant Benner, Mr. Ross and some other guard, which I can't recall at this time --

Q Would you hold it right there? Who yelled up to you to get your stuff ready?

A I don't know.

Q Inmate or guard?

A Could have been either.

Q Could have been either?

A Yes.

Q But you knew what they meant when they said get your stuff ready?

A Yes.

Q Does that mean automatically get your stuff ready?

A Yes. Well, when I seen these inmates go by, I figured they went to Mohawk from the beating they were getting, so I got my stuff ready. I didn't want to get a beating. I was going to go easily, right? Just handcuffs and go easily. Plus Mr. Wolfe wrote my name down.

Q Did you have any reason to suspect they were coming to get you?

A Yes.

Q Why?

A Well, I had given newspaper to the other inmate, which he seen. He lit it on fire.

(Mr. Kaup consulted with his counsel at

this point.)

MR. KAUP: It was a newspaper he lit on fire.

BY REPRESENTATIVE RICHARDSON:

Q So for that reason you felt he was coming to get you?

A Yes.

Q Proceed on.

A So my gate was hit, and Sergeant Stotelmyer stepped in my cell, and he hit me.

Q Where?

A In my face.

Q Where?

A Around my jaw. And I fell on the bed from the hit. And once on the bed, Sergeant Benner, Mr. Ross (sic) and other guards, which I don't their names, came to my cell. And they were repeatedly hitting me in my face, all over my body. And they made it look like I was fighting back, which I wasn't.

MR. KAGAN: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

MR. KAGAN: May I interrupt and ask Superintendent Patton -- do you happen to have this gentleman's medical records available here today?

MR. PATTON: Yes.

BY REPRESENTATIVE RICHARDSON:

Q All right, you may proceed.

A Okay, they got the handcuffs on me and put the handcuffs on tighter than necessary, which was cutting my circulation off and cutting into my hands. The marks have disappeared. The marks are gone. And then Sergeant Stotelmyer grabbed me by my hair, and Benner had my cuffs -- or Mr. Ross (sic) -- and they took me out of my cell. And as they were taking me out of my cell, I bumped my side on the door, which was deliberate. I was pushed down the steps. And if the guard hadn't had a hold of my handcuffs, I would have smashed my head into the wall, which I did anyway.

Q Did you have handcuffs on?

A Yes, behind my back.

Q Behind your back?

A Yes.

Q Proceed.

A So they proceeded to take me to the Behavioral Adjustment Unit, which is Mohawk. And outside the door, Sergeant Stotelmyer asked me a question. He asked me "Do you like starting fires?" Before I could answer him, he punched me in my face. He asked me this question, I would say, twenty or thirty times. Before I could answer this question, he punched me again and again and again. So we got inside of "D" ward, and I was so scared my legs were shaking. And Stotelmyer got me by my hair and put my face up to the wall. My face was bloody already. I thought he had busted my nose. And they smashed my face up against the wall -- they, meaning Stotelmyer and Benner. And my legs were shaking, like I said. And he told me to stop shaking my legs. He was afraid I was going to try and kick him, which I had no intention of doing. So I was hit from the back, which I take was Mr. Stotelmyer, due to the fact that he was the one doing all of the beating. So I proceeded to undress. I was undressing slowly, which I was nervous. So he told me to speed up, so I tried to go as fast as I could. Then I dressed, and they put me on the AC side. Sergeant Stotelmyer and Benner brought me up to the

AC side and put me in a cell.

Mr. Gavigand walked by, and I asked him if I could see the doctor, because I was hurt all over my body. And he says -- well, I asked him if I could see the doctor, and he said, "If we think you need a doctor, we will get you one." So I just backed up, because I was scared. I asked him numerous times. Then finally, an hour later, after they had checked all of the other inmates out -- meaning Burgh, Snyder and Pecheco, from what I heard. And I didn't see nothing on Pecheco. But they checked us out. And they came and got me and brought me up to the nurse's office and set me in a chair. I was sitting in a chair, and the nurse took my jump suit -- I had it down to my waist. She proceeded to run her fingers through my hair looking for cuts and bumps. And I don't know what she found. My eyes were both closed. I could barely see. I couldn't see out of my right eye at all, which was closed from all of the hitting. And my left eye was closed enough that I could barely see what was going on. And I was in a daze all this time. I didn't know what was happening to me. I was knocked unconscious several times going to the Behavioral Adjustment Unit when they brought me there the

first time they came from "C" ward to get me. I was knocked unconscious several times and knocked back to consciousness by another hit.

So they checked me down at the nurse's office for marks, bruises, cuts, whatever. Then I went back to the Behavioral Adjustment Unit. I was in the same cell. The nurse gave me a bag of ice to put over my eyes.

REPRESENTATIVE RICHARDSON: At this time I would like Bob Kagan to read now into the record the medical report.

MR. KAGAN: I have the medical report for Mr. Kaup.

"Date reporting to dispensary -- 10-15-75.

"Date of incident --10-15-75.

"Time reported to dispensary -- 9:30 p.m.

"Time of incident -- 8:00 p.m.

"Location of incident -- "C" ward.

"Other residents involved -- None.

"Officer accompanying resident -- Mr. Forker, CO I.

"Type and location of injury -- OS - contusion.

Injury to nose. Minor cut inside nostril. Contusion on forehead.

"Disposition of resident ..." -- it is marked "conscious" out of a choice of "conscious" and "unconscious".

"Treatment -- merthiolate. Ice pack to nose and eye.

"Disposition after treatment ..." -- it is noted as "conscious" out of a choice of "conscious" or "unconscious".

"Placed in BAU -- yes."

It is signed "Warren Ulsh, AS I."

I would like to have copies of this made for the Committee.

REPRESENTATIVE RICHARDSON: Yes.

MR. KAGAN: I would also like to note for the record that we examined the medical records of Mr. Magwood and found no indication of any treatment given to or received by Mr. Magwood on the 20th of October.

BY REPRESENTATIVE RICHARDSON:

Q Are you finished, Mr. Kaup?

A Yes.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: I have no questions.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Mr. Kaup, you claimed you past newspaper down through the grate?

A Yes.

Q And did you see that newspaper set afire?

A Yes.

Q And then when you were asked for toilet paper, you could almost assume that was going to be put on fire?

A No. Excuse me. I gave the man toilet paper before I gave him newspaper.

Q Toilet paper first?

A Yes.

Q And you saw that put aflame?

A Yes.

Q So would you say you could assume that the newspaper was going to go in flames also?

A No. I figured it was a practical joke, so I just backed up. And five or ten minutes later he asked me about some newspaper, which I dropped down to him, which was about ten or eleven newspapers. It was the Harrisburg paper.

And he pulled them in his cell. And then after he pulled them into his cell, he called me again and said "Watch this". So I watched him. And he put all of the newspaper back out on the tier, just threw it everywhere, and proceeded to light it. So I just backed up and tried to mind my own business, you know.

Q How long have you been at Camp Hill?

A Approximately 13 months, 13½ months.

Q All right, being a resident for 13½ months, could you assume there was going to be some kind of punishment after you saw the fire?

A I didn't think there was any punishment necessary for myself, seeing that I didn't think I did anything wrong. But I will say that I was wrong in giving him the newspaper, which I didn't know he was going to burn.

Q But I mean, did you have a general feeling that officers would be around to take --

A No.

Q You didn't think that?

A No. I figured they would take the inmate below me.

Q No, you are getting me wrong. There were a series of fires, right?

A Yes.

Q Could you assume that there would be officers around to discipline X number of inmates?

A Yes.

Q Had you ever seen fires in a general ward before?

A Yes. I have been in two wards, "G" ward, and "C" ward. And "G" ward is known for pranks like that. They light fires, throw their clothes out on fire and various things like that.

Q So it is common. I had heard testimony that it was uncommon to see fires on "C" ward.

A That's in "C" ward itself. "C" ward is -- like, I guess they have more privileges in "C" ward than they do in other wards.

Q Well, we had heard testimony yesterday that it might be common to see fires over in the BAU.

A Yes.

Q But in the general wards, it was most un-

common.

A Well, in "G" ward it is common.

Q Is "G" ward a general population ward?

A Yes. You see, there are four wards. This is in a different building, but there are four wards inside and, I think, six wards outside -- or eight wards outside, excuse me.

Q According to your recollection, did anyone else punch you around once you were outside of the cell, once you were handcuffed and taken out? Did anyone else punch you besides Sergeant Stotelmyer?

A I was being punched from each side, and a sergeant was on each side of me, so it had to be --

Q All of the way?

A Yes.

Q As you recall in the tension of the moment, was any of Burgh's blood left on your cell? You said his face crossed your bar's.

A Yes, I believe there was.

Q How long did you stay in Mohawk?

A I have been there ever since this incident

happened, which was on October 15th. I am in there presently right now.

Q Has the doctor been to see you every day?

A I have been taking medication for my nerves. So he has to come up to give it to me. Yes, I see a doctor frequently.

Q Has your counselor been there once a week?

A No. I haven't seen my counselor once.

Q Have you been given a court hearing yet?

A Yes. The next day, I would say the 16th, I went to court, and they charged me with arson, saying that I lit fires. And I told my version, which I believe I told the truth. I told them I had given that man the paper, so they figured I was an accessory because I gave the man the paper. So they gave me two weeks BAU perm.

Q Have you asked to see your counselor?

A Yes.

Q What has been the reply?

A There is none. I asked the guards and other counselors and other inmates if they would contact my counselor, that I would like to see him. But there has been

no reply.

Q Have you seen the chaplain?

A No.

Q Have you been able to write to the outside world?

A Yes, I have.

Q Have you received correspondence from the outside world?

A Yes.

Q Has the superintendent been down to see you?

A No.

REPRESENTATIVE LEDERER: That's all.

REPRESENTATIVE RICHARDSON: Excuse me, would the stenographer please read back the last question of Representative Lederer?

(The last question was read back by the reporter.)

REPRESENTATIVE LEDERER: I have no further questions.

BY REPRESENTATIVE RICHARDSON:

Q The reason I asked that the last question be read back is because I would like ~~the gentleman~~ to reflect back on his memory. The day I was at the institution Superintendent Patton was there with me. Do you recall that?

A Well, excuse me. I didn't talk to him. He asked me if I had seen Patton, which I took for corresponding with Mr. Patton. In other words, I have seen him, but I haven't talked to him.

REPRESENTATIVE RICHARDSON: All right.

Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Mr. Kaup, who was the person who you handed the papers down to?

A Harris.

Q When you were given your administrative hearing in court the next day on the 16th, did you give the testimony that you have given here today?

A Yes, I did.

Q In its entirety?

A Yes.

Q You told them the same thing you have told us here today?

A Yes.

Q Was that the first time you told anybody about what you observed on the night of the 15th?

A No.

Q Okay, who was the first person you reported the incident of the 15th to that you were involved in and that you observed others involved in?

A I can't remember the names. There were two private detectives from the Harrisburg Juvenile Division.

Q Now, when was that?

A On or about the 18th.

Q Okay, so it was after -- when was your court hearing?

A The 16th, the day after the incident happened.

Q So you first gave the -- you told the story here today that you told at the court hearing, right?

A Yes.

Q And I had asked was that the first time you

had told the story, meaning at the court hearing, and you said no, you had told it before.

A No then.

Q So that was the first time?

A Yes.

Q Okay. Then you gave another statement to some investigators on the 18th, is that right?

A Yes.

Q And where was that?

A Up at the hospital, the hospital kitchen.

Q The hospital kitchen?

A Yes.

Q The people that you gave that statement to, are they here today?

A No, they are not.

Q Have any investigators from the Bureau of Corrections or from the Attorney General's Office been around to interview you?

A No, not to my recollection.

MS. CHOMSKY: One minute please.

(Mr. Kaup consulted with his counsel

at this point.)

MR. KAUP: What was the question?

BY REPRESENTATIVE FISHER:

Q You stated when I asked you whether anybody from the Bureau of Corrections or the Attorney General's Office has been around to interview you, and you said not to your knowledge. Does that remain your answer?

A Yes.

REPRESENTATIVE FISHER: That's all I have.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Upon entering Camp Hill, were you provided with any instructions as far as rules and regulations are concerned that you as an inmate must abide by?

A Yes. Every inmate that comes to Camp Hill is given regulations -- a little orange handbook. And if you want to look into it a little deeper, they give you a typewriter written copy of rules going deeper into one main subject or rule or regulation.

Q Have you been harassed in any way since this

incident?

A No.

REPRESENTATIVE OLIVER: That's all. Thank you.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Just one brief question for the gentleman.

When Representative Fisher was questioning you about giving other statements, I find it curious that the Committee has been told that the Bureau of Corrections is running an investigation through the Attorney General's Office; but it is to your best recollection that the people you spoke to identified themselves as private detectives?

A Yes. They showed me a badge, and they had their picture on them.

Q Do you know -- are you sure they were Bureau of Corrections' personnel? I am just curious. The other student from the Camp Hill Project mentioned the same thing and used the word private detective. He wasn't sure what their status was.

A To the best of my knowledge, I think they were private detectives.

MS. CHOMSKY: Excuse me a moment please.

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

BY REPRESENTATIVE MILLER:

Q If I were to tell you now that the people who took the statements were gentlemen from the Office of the Attorney General, does that jibe with what you were aware of at the time you talked to them?

A Well, I'm --

Q You seem like an articulate young man that would have remembered if they had said they were from the Attorney General's Office.

A From the best of my knowledge, they showed me a badge, and they told me they were private investigators.

Q They said they were private investigators?

A Yes.

Q They didn't say who they were representing?

A Not that I remember.

REPRESENTATIVE MILLER: Thank you. It's a curious point, and I would like to know more about it.

REPRESENTATIVE RICHARDSON: Bob Kagan.

BY MR. KAGAN:

Q You said when you first came to the Camp Hill Correctional Institution, they gave you a little orange book that had rules and regulations.

A Yes.

Q And you said if you wanted to know more, they would give you other information?

A Yes.

Q To the best of your knowledge, in that little book did they say anything about when guards could come into your cell?

A No.

Q Were you aware of any rules concerning when a guard might be allowed to come into your cell alone, or when he would have to call another guard?

A Oh, excuse me. From what I understand, a guard is allowed to come in your cell any time he feels it is necessary, which he may have in his mind that you have contraband -- meaning a knife or something you are not supposed to have. So he can come in anytime he wants, to the best of my

knowledge.

Q To the best of your knowledge, does the guard ever have to call the Lieutenant to come in for any reason?

A I'm pretty sure they have to call the Sergeant or Lieutenant. But the Lieutenant was standing down there when all this happened.

Q Do you know who was on duty the night of the 15th?

A Mr. Strock. All I can really remember is Mr. Strock.

Q Were there any guards on duty who weren't involved in taking you out of your cell?

A What do you mean?

Q Were there any guards on duty in "C" ward that night that weren't involved in taking you out of your cell?

A Yes.

Q Who were they?

A Mr. Strock.

Q Mr. Strock wasn't involved in taking you out

of your cell? I mean, he wasn't one of the guards that came into your cell?

A He did not come into my cell.

Q Any one else?

A Not that I can remember.

Q Was there a Lieutenant there?

A Yes, the Lieutenant was standing there. He didn't come into my cell either.

Q Did he know what was going on?

A Yes. He was laughing.

Q What was his name?

A C. I. Williams.

Q Is he here today?

A No, he is not.

Q Did you see him in this room earlier today?

A No, I don't think he was.

MR. KAGAN: Okay, I have no further questions.

REPRESENTATIVE MILLER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q I don't mean to prolong this, but do you, by

any chance, remember the names of the two gentlemen who identified themselves as private investigators to you?

A No.

Q Would they be Mr. Emrick or a Mr. Faust?

Does that ring a bell?

A No.

Q If you can remember at any time, shoot us a note if you think you might remember. I would appreciate it.

A Okay.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

BY MR. HARTMAN:

Q Two short questions.

Mike, did you see any fires started on your tier?

A On my tier, no, I didn't. I've seen fires --

Q No, I mean on October 15th?

A On my tier, no.

Q Then the second question is, you testified, I believe, that there were four officers who took you to the BAU, is that right?

A There were more than four. As far as I can

remember, there were seven. I can only recollect three names.

Q And a little later when you were taken to the infirmary, how many officers took you there?

A I believe one.

Q Just one?

A Yes.

Q So there were seven that took you to the BAU, but only one needed to take you to the infirmary?

A Yes.

MR. HARTMAN: That's all I have.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Was Sergeant Strock on duty?

A Excuse me, Sergeant Strock?

Q Mr. Strock?

A Mr. Strock.

Q Was he on duty during the rock concert?

A Yes, I believe he was.

Q Did you see him making any rounds?

A No. I'm pretty sure he went to the rock concert.

Q Do you know who the guard was who was on duty that night?

A Who was making his rounds?

Q Yes.

A Mr. Wolfe.

Q Did you see him making his rounds?

A Yes, I did.

Q How many times?

A I presume he went around six to eight times.

Q Six to eight times?

A Yes.

Q Would you say he was in good advantage to see anything going on?

A Oh, definitely.

Q Would you also say that if he could see you start fires, he could also be in a good vantage point to see inmates being beaten by guards?

A Well, a tier is so long -- I don't know exactly how long they are. But if he is at one end, he can look all of the way to the other end. He can't be absolutely positive who is doing it.

Q But would you say there is a strong possibility?

A There's a strong possibility, yes.

Q A strong possibility that he could see who originated the fires and also if guards were beating on inmates?

A Yes.

Q He would be able to see that?

A Yes.

Q Is he in this room?

A No, I can't see him.

Q Were you handcuffed when you went to the infirmary from Mohawk?

A Yes, I was.

Q From Mohawk?

A Yes. The handcuffs were in front of me.

Q When the guards entered your cell, was there any communication with you? Did you talk at all?

A I asked Sergeant Stotelmyer what it was all about. That's all the communication there was before they started beating me.

Q There was no answer?

A No.

Q Could you communicate with the other inmates when you got over to Mohawk?

A Yes. My mouth, my face -- I wasn't recognizable. My eyes were both closed. My lips were all puffed out, and I was hurt all over. So I didn't talk to nobody, not that day.

REPRESENTATIVE LEDERER: Thank you very much.

BY REPRESENTATIVE RICHARDSON:

Q I have a question.

When you went to your hearing the next day, were your eyes still swollen?

A Yes, they were.

Q Were your lips still puffed?

A Yes.

Q Did any of the persons who are at the hearing, did they notice this, do you think?

A Well, they should have noticed it, but they didn't go into any details. They were worried about the JVC, which said I was an accessory to arson, or that I was

lighting fires. I denied that.

Q Do you feel that you got a fair hearing when you had that hearing?

A No, I don't. I've been in the Behavioral Adjustment Unit since October 15th.

Q Did you have counsel? Did you have a lawyer?

A No, they don't have one. They just judge you. You tell them your version, that's all.

Q Do the inmates win all of the time when they go there?

A Yes.

Q I asked you if the inmates win.

A I've never won yet. I'll speak for myself. I've never heard of anyone beating them. But I will speak for myself in general.

Q It is clear that you did not have a hearing before you went to Mohawk, that you had it after.

A Yes. Everyone has it after they are there.

Q Not before?

A After.

Q So in other words, you are judged guilty

even before you have a hearing?

A Right.

Q Noting for the record, it has been brought to my attention that this report of October 15th indicated that all of these injuries were certainly on Mr. Kaup's person. And it was signed by Mr. Ulsh. And it would certainly indicate to me that there were some problems physically wrong with Mr. Kaup and that at that point something should be done.

At that point, did Superintendent Patton attend that hearing?

A No. It was a captain's court. There is only three people in the court besides the officer who took me down there, which I don't remember who it was. And you sit at the end of the table, and they said I was lighting fires, and that the officer positively seen me lighting these fires, which was Mr. Wolfe. I denied it. But they said to me, "But you did give newspaper to the inmate below you?", and I said I did. And that inmate -- he's still walking around. They didn't even notify him or nothing.

Q Did Mr. Patton -- let me ask you this way:
Is it a custom that Superintendent Patton

attends these hearings, to your knowledge?

A Not Mr. Patton. I have heard Mr. Marks does the Deputy Superintendent.

Q I was just asking that for the record. I would like to indicate that Mr. Patton has no -- I guess he has no responsibility necessarily to be there.

A Well, I guess they figure he has more important things to do than sit in hearings for five minutes.

Q How long do the hearings take?

A About five minutes. It's very short and brief. They tell you what you done, and they ask you if it is true or false. I said false. And they asked me to give me my version. I told them. He said, "Well, you did give newspapers to the inmate below you". I said, "Yes, I did".
"Two weeks perm".

Q Just like that?

A Just like that.

REPRESENTATIVE RICHARDSON: Are there any other questions?

Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q You have a counselor assigned to you while you are inmate at Camp Hill?

A Yes, I do.

Q Now, when an inmate goes to BAU, do you keep the same counselor?

A Yes, we keep the same counselor for our whole period there. Now, if you don't want your counselor, you can get a counselor change. You can ask for one or request one.

Q Will you tell me the name of your counselor?

A Mr. Shunk.

Q Do you know if Mr. Shunk has been sick the last two or three weeks?

A No. I haven't seen him for the last two weeks.

REPRESENTATIVE LEDERER: Mr. Chairman, I request that the Committee invite Mr. Shunk, the Counselor, and Correctional Officer Wolfe to attend these hearings.

REPRESENTATIVE RICHARDSON: It has been the request of Representative Lederer, Mr. Patton, that Mr. Shunk, a Counselor at the institution, and Officer Wolfe be present at

the hearing. I so request that at this present time.

MR. PATTON: Okay.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q Mr. Kaup, are you permitted to have witnesses there at these hearings?

A I never had one. No, I don't believe you are.

REPRESENTATIVE OLIVER: That's all.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: Mr. Chairman, I don't have any questions of Mr. Kaup. The only thing is I would again renew my request, since we are hearing more and more from the young people who are testifying about various correctional officers. I want to renew my request that we hear from the Attorney General regarding the suspension of these officers. And I would hope we could get that done prior to the time of the recess.

REPRESENTATIVE RICHARDSON: Representative Oliver.

BY REPRESENTATIVE OLIVER:

Q One other question.

I asked you earlier about the rules and regulations.

A Yes.

Q I would just like to ask you this question:

How well do you remember the rules and regulations that pertain to inmates?

A I remember them fairly well.

REPRESENTATIVE OLIVER: All right, thank you.

REPRESENTATIVE RICHARDSON: I would like to thank you, Mr. Kaup, for coming before this Committee personally and giving your testimony as to what you observed and saw. I would also like to thank Mrs. Chomsky again for her cooperation as counselor. I would like to thank you on behalf of this Committee who is investigating these particular proceedings. And I would like to say to you that at any time there is any personal injury, any intimidation or any threats upon you concerning your testimony here today, that you would get in contact with me immediately, and also get in contact with any member of this Committee and your counselor sitting next to you, Mrs. Chomsky. I believe it is important that

you understand the serious nature of these hearings, and there not be any repercussions on account of you appearing here today. I will excuse you at this time, but you may be called back at a later date.

(Witness excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to indicate to Mrs. Chomsky that we just got a call from the Attorney General's Office indicating that the Camp Hill Project is working now trying to get all of these juveniles you have represented out of the institution as soon as possible. We are hoping that these matters can be expedited, with some information being handed down to us later on this afternoon.

MS. CHOMSKY: With regard to that, it has come to my attention that the records of Joseph Snyder are missing.

REPRESENTATIVE RICHARDSON: Excuse me, would you repeat that?

MS. CHOMSKY: His records are missing -- or his papers.

REPRESENTATIVE RICHARDSON: Missing from where?

MS. CHOMSKY: If you will call Mrs. Snyder, she is the one who told me.

REPRESENTATIVE RICHARDSON: Will Mrs. Snyder please take the stand?

PATRICIA A. SNYDER, recalled as a witness, having been previously sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: Would you consult with Mrs. Chomsky first?

(Mrs. Snyder consulted with Ms. Chomsky at this point.)

BY REPRESENTATIVE RICHARDSON:

Q You know that you are still under oath?

A Yes.

Q What I would like to ask you, Mrs. Snyder -- it has just been brought to my attention by counselor that the records of Mr. Joseph Snyder are missing.

A Yes. I was informed of this at lunch time.

Q Do you know what records are missing?

A No, sir, I don't. But I would just like to know where they are at.

Q Who informed you of this?

A One of the representatives -- Mr. Cousins.

MS. CHOMSKY: Mr. Smith.

MRS. SNYDER: Mr. Cousins.

CHAIRMAN HAMMOCK: Just for a correction on the record, Mr. Cousins is my administrative assistant.

BY REPRESENTATIVE RICHARDSON:

Q And as a result, they told you they would not be able to transfer him?

A That's what I understand. And I am very anxious to get my son out of there and get him elsewhere.

REPRESENTATIVE RICHARDSON: Mr. Patton, would you come forward please?

(Discussion off the record.)

BY REPRESENTATIVE RICHARDSON:

Q Mrs. Snyder, I have just been informed that the records of your son are presently here at our request.

That seems to be the only reason why there is a delay. What

will happen is, as soon as I get word from the Camp Hill Project as to whether or not they need the records in order to release him, I will make sure they are sent back over there, as I will in the case of all of the juveniles, to make sure they are available. So you can be at ease. And I assure you that he is certainly being worked on. And I will do everything I can to get that done.

A Thank you.

(Witness excused.)

REPRESENTATIVE RICHARDSON: To try and move along as rapidly as possible, I would like at this time to call to the stand Mr. Gary Misko.

GARY Q. MISKO, called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Would you state your name and your age please?

A My name is Gary Quinn Misko, eighteen years of age.

Q Would you let me know if you are represented by counsel, sir?

A Yes, I am.

MS. CHOMSKY: Judith Chomsky.

BY REPRESENTATIVE RICHARDSON:

Q I would like to know, Mr. Misko, whether or not you recognize and understand the seriousness of these hearings?

A Yes, I do.

Q As a result of that, Mr. Misko, I would also like to ask you if you received a subpoena to be here?

A Yes, I did.

Q Knowing that the press is here and other correctional officers are here and other members of the public are you still willing to testify to this Committee on any information that you might know about as regards incidents that occurred at the Camp Hill Institution?

A Yes, I am.

Q Would you go forward now, in your own words -- well, first of all, are you willing to testify?

A Yes.

Q Are you afraid to testify?

A No, I'm not.

Q Would you go on now and explain to this Committee, in your own words, any incidents that occurred that you either saw or were a part of, and as a result of that, what you did on or about October 15th?

A On returning from the rock concert on October 15th, Raul Pecheco was saying he was going to be placed in the BAU because of striking another inmate.

Q Who said this to you?

A Mr. Pecheco, the inmate. He said he was leaving. He got his towel ready, sat down at his desk while the officers were moving other inmates. They came to his cell. They hit his gate. And Sergeant Stotelmyer proceeded to the back of his room. And before Pecheco could stand up and offer any kind of resistance, he smashed him in the back of the head and pulled him onto his bed. Sergeant Stotelmyer jumped on him, holding his legs, putting the handcuffs on him, putting his arms back very far to inflict much pain. And Mr. Forker and O'Ross went in and assisted him in dragging him out of his cell. They was walking him up the tier. Stotelmyer

had him by the hair, Sergeant Benner around the neck, and Mr. O'Ross had his handcuffs, pulling them really far up behind his back. And he had six or seven cells in front of him, and they was banging him, his left side, against the gates all the way up. And they hurt him very bad. And when I seen him go to court, I seen he had some marks on his face.

Q Is that all you saw?

A Yes, sir.

Q Did you see any other inmates being taken out?

A Mr. Magwood. I saw him, too.

Q On August 20th (sic)?

A Yes.

Q Can you describe what happened on August 20th (sic)?

A Yes, I can.

I seen Mr. Grawl (sic) --

Q Mr. who? Will you indicate who you are referring to?

A The guy in the plaid jacket in the second row.

Q Mr. Garrell?

A Yes.

-- entering Magwood's cell. Like, I didn't see him involved with the matches or anything else. I seen him enter his cell and throw Magwood around his cell for awhile. And Officer Himes entered behind him, pulling him out of the cell -- the other officer, Officer Garrell.

Q Describe to this Committee how Officer Himes pulled Officer Garrell off of Magwood.

A Mr. Garrell, the guard who was on Magwood, had his knee on his chest. Mr. Himes came in to, I guess, save the other officer some trouble and pulled him physically away from him to leave the cell. He left, and Magwood came to the gate, and Mr. Himes pushed him back from the gate and slammed the gate.

Q Sir, would you describe to this Committee how he grabbed Mr. Garrell off of Mr. Magwood?

A Mr. Garrell had him in a position -- he was lying on his back on his bed. Mr. Himes walked in and grabbed him with his hands from behind -- because he was bent over -- like this.

Q Indicating around his waist.

A Yes. And he pushed him out of the cell. He left the cell, and then pushed Magwood out of the way so he could shut the gate.

Q Were you here earlier when Mr. Himes indicated that he refused to answer on the grounds that he felt that it might be incriminating to him?

A Yes, I was.

Q Will you identify Mr. Himes for us?

A Yes, sir. He has on a dark jacket. He is in the third row, first seat -- dark jacket, light shirt and light slacks.

Q But you actually saw this on October the 20th?

A Yes, I did.

Q What else did you see?

A Well, I thought that Lieutenant Williams was taking care of some other business involving another inmate close to Magwood's cell. He hit Magwood's cell and entered his cell, which Magwood said he had his bed up there because he assumed what was going to happen. He went in there.

I couldn't see then that Magwood was showing any resistance at all. And the other officers, trying to get into his cell, were hurting each other, actually, banging each other off the wall and off the gate trying to get in there -- they were so anxious to get in there.

Q Did you see them take Mr. Magwood out?

A Yes, I did.

Q Would you describe that scene to us?

A Well, they were removing Magwood from his cell. They were bringing him up the wall. One guy had him by the hair. His arms were pulled back. He was trying to say something. One of the guards smashed him right here (indicating).

Q Indicating his neck?

A Yes. And he told him to shut up, but he couldn't say nothing at all.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: I have no questions.

REPRESENTATIVE RICHARDSON: Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q What time of day? Do you recall what time

of day that was?

A It was approximately between 2 and 3 o'clock.

REPRESENTATIVE LEDERER: No further questions.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q You didn't see Mr. Himes do anything wrong that he would be hesitant to talk about here today, did you?

A The only thing that I thought about from my point of view was him shoving Mr. Magwood back into his cell, because he was not attempting to leave his cell going after Mr. Garrell.

Q Basically, he took Garrell off of Magwood and got him out of there?

A Yes, sir.

REPRESENTATIVE FISHER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Oliver.

REPRESENTATIVE OLIVER: No questions.

BY REPRESENTATIVE RICHARDSON:

Q How long have you been at Camp Hill?

A Approximately 10 months.

Q Do you know whether or not this is a normal type of treatment that was inflicted upon inmates at the institution by Sergeant Stotelmyer or any other officers that you named today?

A No, this is not the usual procedure when removing them to BAU.

Q What is the procedure that you know of?

A For a write up, they are permitted one copy so they know what is going on. And when they are removed to the BAU, usually the guard tells them to stick their hand out of the gate so they can put the handcuffs on before entering the cell. And the Lieutenant is present the majority of the time. I have never seen anyone taken to Mohawk without him being there, unless he was needed somewhere else very badly -- like, if two inmates were fighting or something. But when there is an incident like this, I have always seen the Lieutenant there.

Q Indicating that the handcuffs are placed in front of them, not behind them?

A Right, like this (indicating). And they are permitted to have their toilet articles and soap and things

to take with them.

Q Was that what Mr. Kaup was referring to when he said he was getting his belongings together?

A Yes, sir.

Q He thought he was going to be taken out like that?

A Yes.

Q Mr. Misko, I would like to thank you on behalf of this Committee for your testimony. I would like to thank your counselor, Mrs. Chomsky, for taking up her time in representing you.

Is there any thing else you would like to tell this Committee?

A No, there isn't.

Q I would also like to tell you that because of any of the information you have shared with this Committee you feel intimidated, threatened or have any bodily injury inflicted upon you, that you let me know personally and let your counselor know.

Let me just ask you one more question. Did you give your testimony that you gave here today to anyone

else?

A The people from the Camp Hill Project, that's all. And I didn't sign nothing. They wrote down what I said to them, what I am saying to you right now. They wrote that down, but I didn't sign nothing.

Q You didn't talk to any private investigators or anybody?

A No.

REPRESENTATIVE RICHARDSON: Thank you very much.
You are excused until such time as we call you back.

(Witness excused.)

REPRESENTATIVE RICHARDSON: Mr. Jim English.

JAMES ENGLISH, 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 and
give us your age also please?

A James English, 18.

Q Are you represented by counsel?

A Yes.

MS. CHOMSKY: Judith Chomsky.

BY REPRESENTATIVE RICHARDSON:

Q Before I get into any testimony, will you please let this Committee know at any point or at any time whether or not you were pressured by anybody, threatened or intimidated by anybody at all?

A Well, I don't know if it was a pressure or not, but upstairs in the clinic -- I think it was Mr. Bell's office. The other night I went up, and they made me sign some papers in the back room.

Q A waiver?

A A piece of paper. And before I signed it, he said that he had been talking to my counselor, and my counselor notified my judge. My judge said that it would be best for me not to go out and testify.

Q He said what?

A He said he would suggest that I not testify, to stay out of it.

Q Did he say why?

A No, he didn't say why. I just took for granted I might get myself into a little trouble.

Q What do you think he meant by that? What kind of trouble?

A Well, it might mess up my release.

Q It might mess up your release?

A Yes.

Q When are you due to be released?

A About the next two weeks.

Q Who is Mr. Bell?

A He's up in the clinic, up above the control desk.

Q In the Camp Hill Institution?

A Yes.

Q Did anybody else make any other threatening remarks to you?

A Just that.

Q Do you feel fearful of testifying this afternoon before this Committee, sir?

A I feel a little -- you know, I don't want to mess up my release, you know?

REPRESENTATIVE RICHARDSON: Excuse me a moment.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: I have been informed that this Committee certainly will do everything in its power to insure that will not happen to you, Mr. English. But I do not want to pressure you in any way. I don't want you to feel as though you have to say anything against your will. I will also inform you, as I have informed everyone else, that the press is here, the guards that are at Camp Hill are present, and there are other public people from around the State present in this room. If you still understand that and if you want to consult with your counselor -- if you refuse not to testify, you don't have to testify.

MR. GILMAN: Mr. Chairman, may we approach the bench on this matter?

REPRESENTATIVE RICHARDSON: Yes, you may.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: Would counsel and Mr. English please approach the bench?

(Discussion off the record.)

BY REPRESENTATIVE RICHARDSON:

Q Let me ask you this, Mr. English. You are here as a result of a subpoena that you received, is that correct?

A Yes.

REPRESENTATIVE RICHARDSON: At this point can I ask the Attorney General's Deputy, Mr. Filipi -- when you approached the bench, you gave us some information indicating that there was in no way any pressure put on him; that you were just indicating to him that the judge that committed Mr. English was not in favor of allowing him to come testify? Would you repeat that to this Committee for the record? And would you also give us your full name for the record?

MR. FILIPI: My name is Francis Filipi.

REPRESENTATIVE RICHARDSON: And your title?

MR. FILIPI: I am an Assistant Attorney General assigned to the Bureau of Corrections.

In perfecting the waiver process that the Attorney General's Office felt was necessary in this procedure, we contacted the judge for Mr. English, who I believe was Judge

Myers. And it was his position that he would not formally approve of the presence of Mr. English unless a petition and brief in support of the petition were presented in his court. He was made aware of the fact of our time restraint, that they were under subpoena for 9:30 Tuesday morning. That was approximately -- excuse me, the subpoena was for 9:30 Tuesday morning. I called him sometime around 11:00 on Tuesday morning and the ultimate position was that he would not give us approval but would not take any action on his own regarding the presence of Mr. English. And we left it at that.

REPRESENTATIVE RICHARDSON: At this time I would call on Representative Fisher.

REPRESENTATIVE FISHER: Mr. Filipi, can you lend any light on the confusion that might have existed on Monday night when somebody by the name of Mr. Bell apparently made a statement to this witness, Mr. English, about the judge's feelings concerning his appearance here?

MR. FILIPI: I have only hearsay on that, but I believe that Judge Myers had been called previously on Friday afternoon, not on Monday, and that that was in the original process of attempting to get permission of the various judges

to make the juveniles present. Now, I believe that was probably related to something that Judge Myers said at that time. I don't know firsthand.

REPRESENTATIVE FISHER: Would it be your opinion that if Mr. Bell, whoever he may be, had told Mr. English on Monday night that the judge was somehow opposed to his coming here, would it be your opinion that that would have been a true and accurate statement of the judge's posture at that particular moment?

MR. FILIPI: Yes, I would.

REPRESENTATIVE FISHER: Thank you.

REPRESENTATIVE RICHARDSON: At this time I would like to excuse Mr. English so that he will not prejudice his case, recognizing for the record that he did appear at our request pursuant to the subpoena that was issued; that he should be excused and not jeopardize in any way his rights to be released from the Camp Hill Institution which have already been set in motion. Thank you very much, Mr. English. You are excused.

And I would also like to thank the Deputy Attorney General.

(Witness excused.)

REPRESENTATIVE RICHARDSON: At this time I would like to call Mr. Bob Gilliland.

ROBERT GILLIAND, called as a witness, being first duly sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q State your name and your age for the record please?

A Robert Gilliland, age 16.

Q Are you represented by counsel?

A Yes.

MS. CHOMSKY: Judith Chomsky.

BY REPRESENTATIVE RICHARDSON:

Q I will ask you the same question I asked Mr. English. Before I go into any proceedings with you, have you in any way been intimidated, threatened that any physical harm would be inflicted upon you as a result of you being asked to come here before this Committee to testify?

A Yes.

Q Would you explain to me what happened?

A Mr. Bell called me up to his office yesterday and told me that I shouldn't come to court, because this is an open hearing and that my files would be closed and nobody could be in them and nobody could look at my files if I didn't show up.

Q He told you that?

A Yes.

Q You received a subpoena to be here today, is that right?

A Yes.

Q Do you want to testify before this Committee?

A Yes.

Q Based on the information that you received from Mr. Bell -- what your judge said -- are you still willing to testify?

A Yes, sir.

Q You know that the press is here?

A Yes, sir.

Q You know that the guards and inmates are also

present and other members of the public?

A Yes, sir.

Q Let me be very clear. I want you to consult with your counsel before I would ask you any questions concerning anything that happened on any of those dates. I want you to understand the very serious nature of the problems. If in any way you feel it would jeopardize your release from Camp Hill or anything else over at the institution, you should collaborate with your counsel now and let me know if you want to proceed.

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

MS. CHOMSKY: May I approach the bench?

REPRESENTATIVE RICHARDSON: Yes, you may.

(Discussion off the record.)

MR. KAGAN: Will the attorneys for the Department of Justice and the Bureau of Corrections please approach the bench?

(Discussion off the record.)

BY REPRESENTATIVE RICHARDSON:

Q I am sorry to delay the hearings.

I would now ask that Mr. Gilliland -- if you would begin to testify before this Committee as to what you saw or observed on or about October 15th in relationship to any incident that happened at the State Correctional Institution at Camp Hill.

A After we come back from the rock concert, there was fire on the tier, and there was water on the tier. Lieutenant Williams came in with some guys -- Mr. Ross (sic), Mr. Forker, Sergeant Stotelmyer, Sergeant Benner -- and had a list up at the front desk saying who they were going to walk in on and take to Mohawk. He went back and got Burgh first. Burgh was naked when he come out of his cell. Sergeant Stotelmyer had him by the hair and the throat, and his hands was handcuffed behind his back. And Sergeant Benner had him by his arms. They banged him into the cell by Michael Kaup's cell, and they hit his head against the metal between the two cells on the way down the tier. And they threw him down the steps to go down to the bottom tier.

Q Hold it right there. Where is your cell?

A 204, right across from Mike Kaup's.

Q How far down the cell block can you see?

A I can see all the way down.

Q Can you see all the way to the steps?

A Yes, sir.

Q So you seen them throw him down the steps?

A Yes, sir.

Q Who threw him down the steps?

A Sergeant Stotelmyer let go of his throat and gave him a push, and he fell down the steps. And they picked him up, and he hit his head against the wall again.

Q Go ahead.

A They went back and got Snyder and brought him down the tier in the same manner and threw him down the steps, the same as they did with Pecheco.

Q You saw that also?

A Yes, sir.

Q Go ahead.

A Then they went to Michael Kaup's cell. He had his back turned toward them. Two minutes before that he said, "I'm not going to get my ass whipped. I'm going to go

peacefully." And he had his back turned toward them. They come into his cell. He turned around and stuck his hands out to be handcuffed. Sergeant Stotemyer was the first one in his cell. He hit him alongside the face, pushed his head into the wall, threw him on the bed, banged his head on the wall. And by that time, Sergeant Benner, Forker and Mr. Ross (sic) was there. They hit him several more times about the face. And Mr. Ross (sic) was standing by, and Mr. Benner was beating him in the ribs and in the back while Forker was putting handcuffs on him. They led him out on the tier. They hit his head on the door thing on the way out, and they threw him down the steps. They had him in the same manner -- by the throat and by the hair.

Q Did any of the men offer any resistance at all?

A No, sir.

Q Would you say that the guards were heavier, bigger than the four men that you spoke of just now?

A I don't understand what you mean.

Q In other words, the inmates that were taken down and thrown down the steps, were the guards bigger than they were?

A Yes, sir.

Q Were they heavier than they were?

A Yes, sir.

Q Could you describe the guards to me?

A Sergeant Stotelmyer is about 6'5" and maybe about 160, 165 pounds. Sergeant Benner is about my heighth. Mr. Forker is medium built, and so is Mr. Ross (sic). All of them are heavier and bigger than the inmates.

REPRESENTATIVE RICHARDSON: Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Robert, did you see any other inmates -- namely, Burgh, Snyder, Kaup or any of the other inmates -- Pecheco -- resisting and fighting and struggling with any of the guards at any time?

A No, sir.

Q In your opinion -- this is an opinion question -- in your opinion, did the guards exercise more force than was necessary to get each one of them out of their cells individually?

A Yes, sir. They used unnecessary brutality. And the guards are supposed to ask them if they wanted to go

peacefully, and to stick their hands out to be handcuffed, which they didn't do this time.

Q Were you close enough to hear them? If they had asked them that, would you have heard it?

A Yes, sir. The only thing I heard anybody say -- I believe it was Snyder -- asked them what they were doing when they were leaving down the tier. Sergeant Stotelmyer told him to shut the hell up and keep moving.

CHAIRMAN HAMMOCK: That's all the questions I have.

REPRESENTATIVE RICHARDSON: Representative Lederer.

REPRESENTATIVE LEDERER: I pass.

REPRESENTATIVE RICHARDSON: Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Have you ever been interviewed by anybody from the Attorney General's Office or from the Bureau of Corrections concerning what you have told us here today?

A Two investigators came, and they wrote a statement down which I told them. And I wrote a statement for the man from the Camp Hill Project, which I signed.

Q Okay, the two investigators who came, do you

know where they were from?

A One was a State policeman. He said so. He showed me his badge. The other was a private investigator.

Q You were here when Mike Kaup testified, is that right?

A Yes, sir.

Q Do you think those are the same two people he was referring to when he was talking about a statement?

A There were four or five of us sitting up on the bench waiting to see them.

Q So those were the same people that Mr. Kaup was talking about --

A Yes, sir.

Q -- whose identity he was not sure of?

A Yes, sir.

Q And that was around the 18th of October, is that correct?

A Yes, sir.

REPRESENTATIVE FISHER: No further questions.

REPRESENTATIVE RICHARDSON: Representative Oliver

REPRESENTATIVE OLIVER: No questions.

REPRESENTATIVE RICHARDSON: Bob Kagan.

BY MR. KAGAN:

Q Just one question.

Why do you think this incident happened?

Why do you think the guards came and took out the four inmates that we have heard testimony from today?

A Well, the guards, in a way, were a little bit mad about the Camp Hill Project coming in and helping the inmates out.

Q Do you think that's what caused them to come in and beat on -- or allegedly beat on the inmates?

A Yes, sir.

MR. KAGAN: That's all I have.

BY REPRESENTATIVE RICHARDSON:

Q How many months have you been at Camp Hill?

A Nine months today.

Q Nine months today?

A Yes.

Q Mr. Gilliland, I would like to thank you very much for your testimony. As I said before to all of the others

who have come before this Committee to testify, at any time you are threatened, intimidated, inflicted with any bodily injury, we wish for you to contact us immediately.

Also, Mrs. Chomsky, I would like to thank you for taking your time from the law center in Philadelphia to work with all of the juveniles who have testified before the Committee, and acknowledge your cooperation and say to you that if you need us, please do not hesitate to contact us.

You are excused, Mr. Gilliland, subject to being recalled at any other time during these proceedings.

(Witness excused.)

REPRESENTATIVE RICHARDSON: We will take a five minute recess now.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call this hearing back into order.

I would like to call to the stand now Sergeant Stotelmyer. And while Sergeant Stotelmyer and his counsel are

approaching the bench, Representative Wagner has a statement to make.

REPRESENTATIVE WAGNER: I just spoke with Judge Myers who was mentioned here earlier concerning the English boy, and he indicated to me that there would be no problem, as far as he was concerned, in considering anything during these proceedings that are going to take place in the next several weeks. He indicated that his major concern was one of procedure in bringing the court in in first instance. And he indicated that whatever he testified to would in no way effect the outcome of his hearing.

REPRESENTATIVE RICHARDSON: Thank you very much, Representative Wagner. If we need Mr. English's testimony, we will certainly call him back. However, his counsel has left the room at this time. But we thank you for bringing it to our attention.

ROBERT E. STOTELMYER, JR., recalled as a witness, having been previously sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, I would remind you that you are still under oath. I would like you to state your name for the record, sir.

A Robert E. Stotelmyer.

Q And your position?

A Sergeant at the State Correctional Institution at Camp Hill.

Q Are you represented by counsel?

A Yes, sir.

REPRESENTATIVE RICHARDSON: Would counsel please state his name for the record?

MR. KIRSCHNER: Richard Kirschner.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, I would like to bring your attention to the October 28, 1975 Patriot News heading which reads "White Hill Incident Probed; Ex-Inmates Testify on Beating Claims".

Are you familiar with that newspaper article?

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

MR. KAGAN: Would counsel like to be furnished with a copy of the article?

MR. KIRSCHNER: Yes, positively.

(Document handed to Mr. Kirschner.)

REPRESENTATIVE RICHARDSON: We will make available to all members of the Committee a copy of the article.

(Discussion off the record.)

BY REPRESENTATIVE RICHARDSON:

Q Are you now familiar with the article?

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

MR. STOTELMYER: I've seen the article, yes.

BY REPRESENTATIVE RICHARDSON:

Q Did you talk to any newspaper people on October 27th or the 28th?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q In the first column, Mr. Stotelmyer -- is your name Robert Stotelmyer? It says, "Burgh pointed to Sergeants Robert Stotelmyer and John Benner...."

Is your name Sergeant Robert Stotelmyer?

A Yes, sir.

Q Do you remember on that date, whether it be October 27th or October 28th, the Patriot News people stopping you anywhere in the House of Representatives or outside of the House of Representatives or at your home or at Camp Hill Institution asking you any questions concerning this particular hearing here?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q You are an educated man, aren't you, Mr. Stotelmyer?

MR. KIRSCHNER: At least for my benefit, would you explain to me what that means?

REPRESENTATIVE RICHARDSON: As far as his education; how far has he gone in his educational background. Is he an educated man?

MR. KIRSCHNER: I'm not sure that the two are necessarily synonymous.

REPRESENTATIVE RICHARDSON: They might not be.

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

MR. STOTELMYER: I don't have a formal education,

sir. I graduated from high school. I have a twelfth grade education.

BY REPRESENTATIVE RICHARDSON:

Q And you are telling this Committee, sir, that -- asking you to look at a newspaper article, the Patriot News here, the city of Harrisburg, where your name appears in this article -- and that you cannot tell me whether or not you spoke to a newspaper man concerning this particular article or not? You are telling me you cannot?

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

MR. STOTELMYER: I stand on my previous response.

BY REPRESENTATIVE RICHARDSON:

Q What was that?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the

fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Have you been sitting here in these hearings for the last three days, Sergeant Stotelmyer?

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

MR. STOTELMYER: Yes.

BY REPRESENTATIVE RICHARDSON:

Q And you heard testimony in this hearing room concerning incidents that were related directly to you?

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

MR. STOTELMYER: Yes, sir, I have heard the testimony.

BY REPRESENTATIVE RICHARDSON:

Q And as a result of you hearing that testimony,

do you have any remarks to make concerning those particular remarks that you might have heard?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

BY MR. KAGAN:

Q I have another newspaper article here, a copy of which I would like to furnish to counselor.

(Document handed to Mr. Kirschner.)

MR. KIRSCHNER: Would you indulge us for just a minute please?

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

MR. KIRSCHNER: At least for my own edification, what newspaper is this article from?

MR. KAGAN: The Allentown Morning Call.

MR. KIRSCHNER: Thank you.

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

BY MR. KAGAN:

Q Have you and your counsel had an opportunity to familiarize yourself with the article?

A Yes, sir.

Q I would like to read now from the article.

MR. KIRSCHNER: Mr. Kagan, it would be helpful to us if you would invite my attention to that particular portion that you are reading from.

MR. KAGAN: Yes. It is on the second page. In fact, I think on the copy I gave to you it is probably circled.

MR. KIRSCHNER: Thank you.

BY MR. KAGAN:

Q I would like to read from that paper now.

This is the Allentown Morning Call dated 10-29-75. In that

article it says, "Earlier that day Stotelmyer spoke with reporters about the incident saying, 'We used the minimum amount of force necessary to get the job done'. He and Benner said the incident had been 'blown out of proportion'. They also claimed the juveniles' injuries could not be fairly labeled 'wounds' but were only 'minor' injuries. Stotelmyer said the investigation was a 'publicity attempt on the part of the Camp Hill Project.' The project was established by the State Public Welfare Department to place juveniles in community treatment facilities instead of prisons."

Sergeant Stotelmyer, is that an accurate reflection of the remarks you may have made to reporters during the course of these hearings?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in

the Constitution of the Commonwealth of Pennsylvania.

BY MR. KAGAN:

Q Have you made any comments concerning the incidents relating to October 15th or October 20th to any official investigative body from the Department of Corrections or the Attorney General's Office?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY MR. KAGAN:

Q I have been reminded by Representative Fisher that when this question was posed to the witness on the previous day, that the witness answered the question. Might I ask why you now refuse to answer for the record, when on a

previous occasion you had answered for the record?

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

MR. STOTELMYER: I am invoking the fifth amend-
ment on the advice of counsel, sir.

MR. KAGAN: Would counsel advise us as to why your
client answered the question previously and at this time now
is changing posture with regard to that question?

MR. KIRSCHNER: There are several reasons.

First of all, upon reflection --

REPRESENTATIVE RICHARDSON: Excuse me. I am only
going to entertain any direct comments from --

MR. KAGAN: Mr. Chairman, he is responding to my
question.

REPRESENTATIVE RICHARDSON: Excuse me.

MR. KIRSCHNER: May I respond?

REPRESENTATIVE RICHARDSON: Go ahead.

MR. KIRSCHNER: Upon reflection, we think that the
circumstances warrant and, in effect, justify an invocation
of the fifth amendment by Sergeant Stotelmyer.

Secondly, if the question was previously asked and answered, then you have it as a matter of record, and I don't really think very much purpose can be served by a repetition.

BY MR. KAGAN:

Q Thank you, counselor.

Sergeant, are you familiar with Administrative Directive -- I think it would be BCADM 801?

MR. KIRSCHNER: May we see a copy of it?

MR. KAGAN: Yes, sir.

(Document handed to Mr. Kirschner.)

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

MR. KIRSCHNER: Mr. Reporter, do either of these microphones belong to you?

MR. ELLIOTT: No.

(Mr. Kirschner removed the microphones from the witness table at this point.)

CHAIRMAN HAMMOCK: I want to ask the question that by removing of the microphones would thereby be denying

access to the press of the formal statement that might be made by counsel?

MR. KIRSCHNER: Then I will adjourn to the ante-room in order to confer with my client, because I --

CHAIRMAN HAMMOCK: Counselor, that's not --

MR. KIRSCHNER: Excuse me please.

CHAIRMAN HAMMOCK: Excuse me, sir.

MR. KIRSCHNER: I think I am entitled to make a comment without being interrupted.

CHAIRMAN HAMMOCK: I did not interrupt you, sir. I was not addressing myself to you, but to the Chairman of the Committee.

MR. KIRSCHNER: I understand. But I was still being interrupted. I think in fairness to the Committee I have --

REPRESENTATIVE RICHARDSON: He is addressing the chair. He has a right to address the chair. And at that time he is finished addressing the chair, if you want to make a comment --

MR. KIRSCHNER: Even though I am being interrupted, sir?

REPRESENTATIVE RICHARDSON: You aren't being interrupted, sir.

MR. KIRSCHNER: I was being interrupted. I was explaining to the Committee that I have to consult with my client. I understand this microphone is live, and I can shut it off. I don't know about those other microphones. If those microphones are going to be placed in front of me, I must be given an opportunity to consult with my client away from the microphones.

REPRESENTATIVE RICHARDSON: Well, when you are finished, you can place them back on the table.

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

MR. KIRSCHNER: We are ready, Mr. Kagan.

REPRESENTATIVE RICHARDSON: Would you put the microphones back please?

(Mr. Kirschner returned the microphones to the witness table.)

MR. KAGAN: Just to clarify, I have been informed by representatives of the media that the microphones are only

turned on when the Sergeant is being responsive to a question asked by a member of the Committee or a counsel of the Committee, and they are not turned on at any other time. I hope that is satisfactory. And I understand your concern.

MR. KIRSCHNER: No, it is not satisfactory, sir. I have no way of telling that that is, in fact, the case. I can tell with this mike, but I cannot tell with those mikes.

BY MR. KAGAN:

Q Sir, are you familiar with this document?

A I've seen the document before, yes, sir.

Q Are the procedures outlined in this document procedures which must be followed by correctional officers?

(Mr. Kirschner removed the microphones from the witness table at this point.)

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

REPRESENTATIVE FISHER: Mr. Chairman, perhaps we could come to some compromise about the location of the microphones that would be mutually satisfactory to all concerned.

UNIDENTIFIED SPEAKER: At the moment they are not even plugged in.

MR. KIRSCHNER: Well then, there is no need for them to be on the table.

CHAIRMAN HAMMOCK: Mr. Chairman, Representative Fisher has made a request. It seems as if we are going to be at loggerheads all throughout the proceedings with Mr. Kirschner. Representative Fisher has raised the request that some mutual location for these microphones might be agreeable to both Mr. Kirschner and the Committee. Perhaps that could be done. I am just wondering whether Mr. Kirschner will continue this attitude all through next week and the week after, because we intend to be here for quite a while.

MR. KIRSCHNER: If that question is addressed to me, may I respond?

CHAIRMAN HAMMOCK: The question is addressed to the chair.

MR. KIRSCHNER: Well, it seems to be a rhetorical question then, because I don't think the chair can answer on my behalf.

REPRESENTATIVE RICHARDSON: The question was

addressed to the chair and not to any other person, and I will make a decision as to whether or not I can reach a mutual agreement about where the microphones should be placed. And while you are collaborating with your client, I am going to look into the matter of whether or not we have a mutual place to set the microphones. That's what we are working on now. So if we can continue please. I do not want to hold up these hearings.

(Discussion off the record.)

BY MR. KAGAN:

Q Sergeant, are you familiar with this document?

A Yes, I've seen it before.

Q Are you obligated under the terms and conditions of your employment to follow the directives promulgated which might be included in this document?

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

MR. STOTELMYER: Sir, this document has been given

to me as an administrative directive dealing with adjustment behavior.

BY MR. KAGAN:

Q Thank you. I would like you to turn to page 9, if you would. I direct your attention to section 4, Behavior Control and Confinement and going on to the next page, page 10.

Have you had a chance to look at that?

A Just a minute please.

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

BY MR. KAGAN:

Q Would it be your impression that this section deals with general disturbances on the part of an individual prisoner or individual inmate or group of inmates in the institution?

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

MR. KIRSCHNER: Give us the question back please?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: Yes, sir.

BY MR. KAGAN:

Q And should a situation arise which would call into play this section, would you then immediately move to procedures outlined in section 3 which can be found on page 3, page 3 and 4?

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

MR. KIRSCHNER: Would you bear with us while we familiarize ourselves with the document?

MR. KAGAN: I would assume that means while counsel familiarizes himself with it, since the witness is already familiar with it.

MR. KIRSCHNER: Not entirely, since my client has informed me that it has been some time since he read the docu-

ment.

MR. KAGAN: Okay.

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

MR. KIRSCHNER: May I have the question back
please?

(The last question was read back by the
reporter.)

MR. KAGAN: If counsel would direct his own at-
tention to page 10, section B, it refers back to procedures
outlined in the section I am now referring to.

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

BY MR. KAGAN:

Q Perhaps we can short circuit this if I ask
the question in perhaps a different way.

Sergeant, if an inmate curses at you or
throws water out of his cell or creates a disturbance of some
sort, what procedures would you follow to deal with that in-

dividual?

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

MR. STOTELMYER: Sir, it would depend completely
upon the circumstances in each individual case.

BY MR. KAGAN:

Q Circumstances such as those I outlined --
if an individual was throwing water out of his cell onto the
tier, what procedures would you follow?

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

MR. STOTELMYER: Sir, I am not sure that particular
situation would be covered by this specific directive.

BY MR. KAGAN:

Q Well, assuming that it isn't, for the sake
of argument, what would you do?

MR. KIRSCHNER: Is or is not?

BY MR. KAGAN:

Q Isn't covered by this document. What would you do?

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

MR. STOTELMYER: Sir, I would use my best judgment depending on the facts of that particular incident.

BY MR. KAGAN:

Q You are a sergeant, is that correct?

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

MR. STOTELMYER: Yes, sir.

BY MR. KAGAN:

Q How much discretion do you have in your job?

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

MR. STOTELMYER: Sir, sufficient discretion as is commensurate with the responsibility of my rank.

BY MR. KAGAN:

Q Well, that's terrific. Let me ask you another question.

What limits your discretion in dealing with troublesome inmates or problems within the institution? Is there any document that you know of which limits your discretion, which prescribes certain rules, regulations, means of conduct which you must employ in dealing with certain situations, or is that left solely to your judgment?

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

MR. STOTELMYER: I'm sorry, I don't completely understand your question. Would you repeat it please?

BY MR. KAGAN:

Q Is there any administrative directive, any rule of the institution, any binding rule that you know of which limits your discretion in dealing with problems involving individual inmates?

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

MR. STOTELMYER: Yes, sir.

BY MR. KAGAN:

Q Could you tell me what they are?

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

MR. STOTELMYER: All of the rules, regulations and
directives of the Bureau of Corrections.

BY MR. KAGAN:

Q Are you familiar with all those rules?

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

MR. STOTELMYER: No, sir.

BY MR. KAGAN:

Q Is there any ongoing training within the
Bureau that keeps guards familiar with the rules and regula-
tions which allegedly are supposed to guide their conduct?

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

MR. STOTELMYER: Yes, sir.

BY MR. KAGAN:

Q How often?

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

MR. STOTELMYER: Sir, we have them on irregular
intervals. We may have one a month or one every six months or
seven months -- no regular time.

BY MR. KAGAN:

Q Are you familiar with the rules that govern
the conduct of inmates?

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

MR. STOTELMYER: Sir, I don't completely understand
your question.

BY MR. KAGAN:

Q We have heard testimony here today that in-
mates are given an orange or red bound copy of rules which tell

them what they can do or can't do in the institution. Are you familiar with that?

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

MR. STOTELMYER: Sir, I have seen the book, or the small pamphlet that you're referring to, but I have not committed the whole thing to memory. I've read some of it, but I don't know it all.

BY MR. KAGAN:

Q Would you say that you know it fairly well, or do you know it not so well? How familiar are you with those rules of conduct?

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

MR. STOTELMYER: Sir, the last time I read the inmates' handbook may have been three or four or five years ago.

BY MR. KAGAN:

Q Did you say years?

A Years, yes.

Q Sergeant, the last time you read the rules and regulations concerning inmates, the conduct of inmates, was four or five years ago, correct?

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

MR. KIRSCHNER: May I have the last question back please?

(The last question was read back by the reporter.)

MR. KIRSCHNER: May I have the previous answer of the witness back?

MR. KAGAN: It was "Yes".

MR. KIRSCHNER: The answer was "Yes"?

MR. KAGAN: Three or four years ago. If I said four or five, I'm sorry.

MR. KIRSCHNER: Okay, that's the only change.

MR. KAGAN: All right.

(Mr. Stotelmyer consulted with his counsel

at this point.)

MR. STOTELMYER: Yes, sir, approximately.

BY MR. KAGAN:

Q And from the testimony that you have given here today, you are not exactly conversant with this directive or, from what I gather, other directives concerning the limitations of your own conduct, is that correct?

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

MR. STOTELMYER: Sir, I have not committed any of these documents to memory.

BY MR. KAGAN:

Q I understand that, Sergeant. And what I am concerned with is the situation where you are not, it doesn't seem to me -- and if I am wrong, please tell me -- that you are not too familiar with any types of rules and regulations concerning your own conduct, nor are you very familiar with rules and regulations concerning the conduct of inmates. And I am wondering, does this present difficulties to you in

carrying out your official duties?

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

MR. STOTELMYER: Sir, in my opinion, I feel I am
very well qualified to do my job, and I understand my res-
ponsibilities in that job.

BY MR. KAGAN:

Q You have no difficulties even though you
are not conversant in the rules and regulations concerning
your conduct nor the inmates' conduct? That doesn't give you
any difficulties?

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

MR. STOTELMYER: Sir, I fully understand my duties,
responsibilities and obligations.

BY MR. KAGAN:

Q Okay, I appreciate that, Sergeant. Let me
ask you a couple more questions.

Exclusive of the incidents that occurred

on the 15th and the 20th, have you had occasion to remove juvenile inmates from their cells and take them to Mohawk?

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

MR. STOTELMYER: Yes, sir.

BY MR. KAGAN:

Q Is it your experience that, exclusive of the incidents of the 15th and the 20th, in general -- if you can characterize it -- would the inmates resist when you alone or accompanied by other officers go in to take them to Mohawk?

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

MR. STOTELMYER: Sir, each individual incident is different; some do resist and some do not.

BY MR. KAGAN:

Q Exclusive of the incidents of the 15th and the 20th, what is the most amount of men you had to take with you into a cell to remove a juvenile prisoner to take him to Mohawk or the hole?

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

MR. STOTELMYER: Sir, I don't know exactly. I
don't remember the exact number. It could have been five or
six at the most. Maybe we even had seven at one time, if you
have an unruly inmate.

BY MR. KAGAN:

Q It would seem if it would take seven guards
to subdue one inmate you would probably crawl all over your-
selves more than you would the inmate. But it is your ex-
perience that it takes seven guards to remove one inmate?

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

MR. STOTELMYER: Sir, I stand by my previous answer.

BY MR. KAGAN:

Q Was that "Yes"?

MR. KIRSCHNER: May I have the previous answer
back?

(The previous answer was read back by the

reporter.)

BY MR. KAGAN:

Q When you have an inmate and you are removing him to Mohawk, do you put the cuffs on in front or in back?

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

MR. STOTELMYER: Sir, in my experiences, they are generally put on in the back; yes, sir.

BY MR. KAGAN:

Q Generally put on in the back?

A Yes, sir.

Q Is it your experience that inmates are told where they are going before you enter their cell; that you tell them what you are coming in for?

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

MR. STOTELMYER: Sir, that varies from incident to incident. Sometimes they are informed, sometimes they are not. It all depends on the circumstances.

BY MR. KAGAN:

Q Under what circumstances wouldn't you inform someone?

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

MR. STOTELMYER: Sir, there's no rule on that one way or the other.

BY MR. KAGAN:

Q How do you do it?

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

MR. STOTELMYER: It varies, sir, from incident to incident.

BY MR. KAGAN:

Q Are inmates allowed to get dressed before you take them down to Mohawk?

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

MR. STOTELMYER: That also varies from incident to incident.

BY MR. KAGAN:

Q There are some incidents where it is all right to take somebody naked down to Mohawk?

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

MR. STOTELMYER: Yes, sir, there are some situations that require just that.

BY MR. KAGAN:

Q Let me just ask you one more question. Do you have the authority on your own to put somebody in the hole?

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

MR. STOTELMYER: No, sir.

BY MR. KAGAN:

Q Who has the authority to put somebody in the

hole?

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

MR. STOTELMYER: Sir, it is the shift commander,
the commander of that particular shift that authorizes or
gives the order to place the inmate on the first level.

BY MR. KAGAN:

Q Does a hearing have to take place before
that occurs?

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

MR. STOTELMYER: No, sir, it does not.

BY MR. KAGAN:

Q If you knew that guards, fellow guards,
took an inmate and put him in the hole without going to the
commander first, without authorization, what would you do?

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

MR. STOTELMYER: Sir, to my knowledge that has never occurred.

BY MR. KAGAN:

Q If in the course of your duties -- well, have you ever had occasion in the course of your duties, exclusive of the incidents of the 15th and the 20th, to stop a guard from beating an inmate?

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

MR. STOTELMYER: No, sir.

BY MR. KAGAN:

Q Exclusive of the incidents of the 15th and the 20th, to the best of your knowledge, has any other guard ever had occasion to stop you from perhaps using excessive force on an inmate -- strike the word "force". Has anyone ever tried to contain you?

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

MR. STOTELMYER: No, sir, not to my knowledge.

BY MR. KAGAN:

Q Exclusive of the incidents of the 15th and the 20th, assuming -- since the situation might arise -- that you have to go into an inmate's cell and not give him any warning that you were coming in to take him away down to Mohawk, for instance, how would you go about doing it?

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

MR. STOTELMYER: Sir, depending upon the particular circumstances. I mean, every incident has different circumstances. I would have to take them one at a time.

BY MR. KAGAN:

Q Assuming that you had a premonition that the inmate might resist, what precautions would you take, or what measures would you take, what plan would you devise before you went in to make sure you wouldn't have any difficulties with an inmate?

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

MR. STOTELMYER: Sir, my first action would be to consult my supervisor who would be my Lieutenant, and then consult the directive issued by the Bureau in the use of force.

BY MR. KAGAN:

Q And then consult the directive issued by the Bureau in the use of force?

MR. KIRSCHNER: May I have the answer back please?

(The last answer was read back by the reporter.)

BY MR. KAGAN:

Q What directive would that be?

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

MR. STOTELMYER: Maybe I should correct myself. It is not a Bureau directive, it is a handout by the Bureau of Corrections, and it is entitled The Use of Force.

BY MR. KAGAN :

Q Would it be possible to furnish this Committee with a copy of that?

MR. KIRSCHNER: We will be pleased to furnish you with the copy that the witness has in his possession. I would like leave to substitute a Xerox copy for the copy we have, because there are some personal notations on it.

MR. KAGAN: We would appreciate that.

MR. KIRSCHNER: Do we have access to a Xerox machine in the area?

MR. KAGAN: Yes.

MR. KIRSCHNER: We would like leave to use that then.

BY MR. KAGAN:

Q I just have one more question. I am sorry to drag this out so long.

Sergeant, have you ever had occasion to grab an inmate by the throat?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under

the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY MR. KAGAN:

Q Exclusive of the incidents of October 15th and October 20th, have you ever had occasion to grab an inmate by the throat?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

MR. KAGAN: I have no further questions at this time.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, going back to my original piece before I yielded to Mr. Kagan, I wanted to

ask you to bring your attention to the third section of that piece of paper, if you have it in front of you.

A . Which piece of paper, sir?

MR. KIRSCHNER: Which piece of paper was that, sir?

REPRESENTATIVE RICHARDSON: The one that relates to the incident that deals with the Patriot News that I gave you just before I yielded to Mr. Kagan.

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

MR. KIRSCHNER: Is there a question pending?

BY REPRESENTATIVE RICHARDSON:

Q On the third column I would like to read the last paragraph:

"However, earlier in the day they told newsmen that they used only the minimum force necessary to restrain the prisoners. They claimed Burgh resisted their efforts to control him.

"'This whole thing is being blown out of proportion', Stotelmyer said. 'This is just a move to get

publicity for the Camp Hill Project'".

I am asking you now, Sergeant Stotemyer, did you make these statements?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Do you have any recollection of ever addressing yourself to any newspaper men at all -- period?

MR. KIRSCHNER: Excuse me, Mr. Kagan, could I see you for a moment please?

(Discussion off the record.)

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

MR. KIRSCHNER: May I have the last question back please?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, you have sat in this room now for the last three days, as I stated earlier. You heard testimony given. I would like to ask you a question. Did you at any time subsequent to October 15th or the 20th ever punch any inmate, ever punch any juvenile, ever physically harm or hurt any inmate at the Camp Hill Institution where you presently work?

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

MR. STOTELMYER: On advice of counsel, I refuse
to answer this question on the grounds that my answer may tend
to incriminate me and I, therefore invoke my right under the
fifth and fourteenth amendments of the United States Con-
stitution and my right against self-incrimination as contained
in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, do you know Michael
Kaup?

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

MR. STOTELMYER: On advice of counsel, I refuse
to answer this question on the grounds that my answer may
tend to incriminate me and I, therefore, invoke my right
under the fifth and fourteenth amendments of the United States
Constitution and my right against self-incrimination as con-
tained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, do you know Mr. James Burgh?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, do you know Joseph Snyder?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right

under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, do you know Kendall Magwood?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, do you know Raul Pecheco?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Stotelmyer, I just named to you five inmates that were severely beaten who came before this Committee and testified to such. I am asking you now, at any time on October 15th or October 20th did you place your hands on their persons in any manner at all inflicting any type of physical injury, mental or otherwise, on them?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained

in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q I asked you earlier if you were an educated man, and you indicated you have completed the twelfth grade. I have sat here as the Chairman of this Committee, Sergeant Stotelmyer, and have beared patiently with you asking you to answer certain questions that are certainly not self-incriminating. I cannot for the life of me understand why as an educated man you cannot answer to the fact that if you are still working at Camp Hill Institution right now, whether or not you don't know Raul Pecheco, whether or not you don't know Joseph Snyder, whether or not you don't know Michael Kaup, whether or not you don't know James Burgh, and whether or not you don't know Kendall Magwood. And I am saying as an educate man, sir, would your answer still be the same?

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

MR. STOTELMYER: Yes, sir.

BY REPRESENTATIVE RICHARDSON:

Q Yes, sir, what?

MR. KIRSCHNER: May I have the question back please?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: Yes, sir, my answer would still be the same.

BY REPRESENTATIVE RICHARDSON:

Q And what is that answer?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY REPRESENTATIVE RICHARDSON:

Q Are you still working at the institution now, Sergeant Stotelmyer?

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

MR. STOTELMYER: Yes, sir.

BY REPRESENTATIVE RICHARDSON:

Q And how long have you worked there?

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

MR. STOTELMYER: Approximately 6½ years.

BY REPRESENTATIVE RICHARDSON:

Q 6½ years. And you do not know those five names that I have just mentioned to you? As a man who has been at the institution 6½ years, you have not run across these gentlemen that I have just given full notification to you about -- that you are indicating to this Committee that you don't know who they are, is that correct?

(Mr. Stotelmyer consulted with his counsel

at this point.)

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

REPRESENTATIVE RICHARDSON: Representative Hammock.

BY CHAIRMAN HAMMOCK:

Q Sergeant Stotelmyer, as a result of the incidents that were occasioned on the 15th and the 20th of October, have you had any occasion to file a written report of these incidents?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Con-

stitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY CHAIRMAN HAMMOCK:

Q Sergeant Stotelmyer, as a result of the incidents that were occasioned on the 15th and the 20th, which we have testimony on the record from five young people that they were brutalized and beaten -- and the testimony remains unrefuted or un rebutted -- have you had occasion to be interviewed by any member of the Bureau of Corrections or the Department of Justice?

(Mr. Stotelmyer consulted with his counsel at this time.)

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

BY CHAIRMAN HAMMOCK:

Q Sergeant Stotelmyer, as a result of the incidents that were occasioned on the 15th and the 20th, which testimony is on record that five juveniles were brutally assaulted -- and the testimony remains unrefuted and un rebutted at this point in time -- are you still employed with the Bureau of Corrections working in the capacity of a correctional officer at the Camp Hill facility?

MR. KIRSCHNER: I have to advise my client not to respond to that question, because it contains characterizations to which we do not subscribe. If the question is whether or not Sergeant Stotelmyer is still employed, that question we will answer. But in so doing, we do not subscribe to the other characterizations which we consider to be --

CHAIRMAN HAMMOCK: Well, counselor, I will be glad to rephrase the question.

MR. KIRSCHNER: Please do.

REPRESENTATIVE RICHARDSON: No side bar remarks, sir. He just said he would rephrase the question. I have asked you repeatedly throughout this entire hearing. I think that we have been very lenient with you, and I think as we

are proceeding along with this hearing, we would just ask you to consult with your client. You asked that the question be restated, and we are doing so.

MR. KIRSCHNER: Yes, sir.

BY CHAIRMAN HAMMOCK:

Q I will restate my question, Sergeant Stotelmyer.

Are you now employed still at the Camp Hill facility as a correctional officer?

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

MR. STOTELMYER: Yes, sir.

BY CHAIRMAN HAMMOCK:

Q Are you working when you leave these hearings in the evenings or during the day or at any other time?

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

MR. KIRSCHNER: May I have the last question back please?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: Sir, this past Saturday, Sunday and Monday were my days off this week, and so I didn't have to go back to work Monday night after the hearing. And Tuesday evening we were told -- I was told by Lieutenant Winters that we weren't required to report back to work after the hearings. So no, sir, I have not been to work since we started.

BY CHAIRMAN HAMMOCK:

Q Have you been informed as to whether or not you were to report to work today or tomorrow or any other time in the future?

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

MR. STOTELMYER: Sir, I was also told by Lieutenant Winters -- I asked him that same question, and he told me it would be considered on a daily basis according to how late

these hearings ran each day.

BY CHAIRMAN HAMMOCK:

Q When were you last paid? When did you last receive your pay check?

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

MR. STOTELMYER: I picked my pay up this morning, sir, at the institution before I came over here.

BY CHAIRMAN HAMMOCK:

Q And did you get paid for Monday?

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

MR. STOTELMYER: Yes, sir.

BY CHAIRMAN HAMMOCK:

Q You were paid for Monday?

A Yes, sir.

Q May I ask you this: Is it your understanding, Mr. Stotelmyer, that you are still officially on

the payroll of the Bureau of Corrections as a correctional officer? Is that your understanding at this point since you are going on a day to day basis?

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

MR. KIRSCHNER: May I have the question back please?

(The last question was read back by the reporter.)

MR. KIRSCHNER: I would ask that the Representative rephrase the question. We can certainly answer the first part of that question. I'm not sure there is any foundation, in fact, for the assumption that Sergeant Stotemyer is still going on a day to day basis.

REPRESENTATIVE RICHARDSON: As Chairman of the Committee, I would ask the witness to answer the question. You can advise him.

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

MR. KIRSCHNER: May I have it again please?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: Yes, sir.

BY CHAIRMAN HAMMOCK:

Q That is your understanding, that you are still officially on the payroll?

A Yes, sir.

CHAIRMAN HAMMOCK: Thank you, Mr. Stotelmyer.

Mr. Chairman, since we are going to have Sergeant Stotelmyer back on a number of occasions, at least regarding some other issues, I won't continue to question Mr. Stotelmyer at this point. However, I would like to make an observation.

REPRESENTATIVE RICHARDSON: You may proceed.

CHAIRMAN HAMMOCK: Mr. Chairman and my fellow members of the Subcommittee. We have had some five witnesses before us, young people, indicating that there has been some assault, some battery, at least prima facie, on their per-

sons, and they have alleged that those assaults and batteries were committed by some correctional officers. Sergeant Stotelmyer's name has appeared many, many times in this record and in testimony given by these witnesses.

In addition to that, on advice of counsel Sergeant Stotelmyer has, which he is certainly entitled to do, taken the fifth amendment on numerous occasions in the last several days.

In light of the fact that Sergeant Stotelmyer seems to be still employed with the Bureau of Corrections, I am requesting that the Committee formally vote to have the Attorney General suspend Sergeant Stotelmyer and all of the other officers whose names were mentioned in the record over the last several days pursuant to the outcome of the Attorney General's investigation, and that the suspension should be done without prejudice to these officers. And if, in fact, they are subsequently vindicated -- pardon the characterization, but I think we have that latitude -- that there is no cop-ability as to those officers, then certainly they should be reinstated. But I think at this time these officers should be suspended pending the results of the Attorney General's

report.

REPRESENTATIVE RICHARDSON: Representative Hammock, is that in the form of a motion?

CHAIRMAN HAMMOCK: Yes, it is. And I would suggest that we might retire to take a vote.

MR. KAGAN: May I advise the Committee that any formal motion made would have to be conducted in open session. And may I further advise the Committee that a motion of this type is more in the nature of a resolution and has no binding authority on the Attorney General and would be construed, should it be voted in the affirmative, as a recommendation coming from this Committee.

REPRESENTATIVE RICHARDSON: May I ask Representative Hammock if he would make it in the form of a recommendation and request that it be done before -- or, if you like, you can read your letter into the record.

CHAIRMAN HAMMOCK: Well, I would be glad, Mr. Chairman, for the sake of expediting these matters and in conforming with the rules of this House and the rules of this Committee that we are operating under, to revise and amend to whatever extent is necessary. However, yesterday I in-

licated that I was requesting the Attorney General to pursue that line of activity as well as another. There was a letter addressed to the Office of the Attorney General. I have repeatedly today requested that the Attorney General's Office give us some indication as to the use of suspension. We still do not have the Attorney General's decision. If we can avoid any delay in these proceedings, I will certainly be happy to do whatever it takes to get that. But I think we have a situation here where we have these guards going back to work. I think there is a clear and present danger to the inmates there, not only to the ones who have testified, but to others. As you know, all throughout yesterday's proceedings and other times over the last several days, we have received numerous phone calls and indications from sources that some retaliations will be taken against these young people. And while we are making every effort to move them, I understand that certain judges have taken opposite positions in terms of their removal. And I think that the minimum that this Committee ought to do is request the Attorney General to suspend these officers.

Now, I have a copy of the letter. I will be glad to introduce it for the record, but I think we should proceed

with that course of conduct.

REPRESENTATIVE FISHER: May I inquire, Mr. Chairman?

REPRESENTATIVE RICHARDSON: Yes. Representative Fisher.

REPRESENTATIVE FISHER: May I inquire from Mr. Hammock if it is his intention to ask you as Chairman of the Subcommittee for this investigation to take a vote; if he will consider withholding that motion until we resolve the issue as to whether or not Superintendent Patton will present this Committee voluntarily with copies of the reports that were given by the guards so that all of the members will at least have some opportunity, if those reports are given, to intelligently review the facts that have been presented and which have been uncovered in this investigation at this point.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: Again, Representative Fisher, as you know, I will always do in the spirit of what this Committee deems as being appropriate action to expedite this matter. If in fact Superintendent Patton is here with records regarding the Attorney General's investigation, regarding the

investigation being conducted by the Department of Justice or the Bureau of Corrections is here to give us that information, perhaps then we can avoid the formal vote. Assuming, however, that Mr. Patton is not here and not prepared or no member of the Bureau of Corrections or the Department of Justice is here and is prepared to give us the written reports of their investigation, which I might add has been underway now for some several weeks -- if they are not here and prepared to do that, then I think that at that time I will certainly request that this Committee vote to recommend that the Attorney General suspend these correctional officers. But in the spirit of your request, I certainly agree with you.

REPRESENTATIVE RICHARDSON: Based on the information, Representative Fisher and Representative Hammock, if we possibly could, along the lines of our proceedings -- if there are no other questions of Sergeant Stotelmeyer -- we can move on, and at that time we can find out from Superintendent Patton whether or not he has that information, and at that time we will determine whether or not we should move on Representative Hammock's motion.

So at this time --

MR. HARTMAN: Mr. Chairman, we have questions for Sergeant Stotemyer.

REPRESENTATIVE RICHARDSON: Okay, there are some other questions then.

Representative Miller.

REPRESENTATIVE MILLER: Has the motion been temporarily tabled?

REPRESENTATIVE RICHARDSON: I would ask if we can temporarily table the motion until such time as we can ascertain whether or not Superintendent Patton does have the information that was requested just before the recess.

CHAIRMAN HAMMOCK: Mr. Chairman, I will be more than pleased to withdraw that motion at this time.

REPRESENTATIVE RICHARDSON: It is temporarily tabled, Representative Hammock. You don't have to withdraw it.

CHAIRMAN HAMMOCK: I don't believe it was seconded though.

REPRESENTATIVE RICHARDSON: All right, then the motion is withdrawn, Representative Miller, and we can proceed on with Sergeant Stotemyer. Then I will have Superintendent

Patton.

Representative Lederer.

BY REPRESENTATIVE LEDERER:

Q Sergeant Stotelmeyer, in your course as a correctional officer at Camp Hill, you have been called on many times, sometimes, to remove inmates from the general population to the BAU, is that correct?

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

MR. STOTELMYER: When I am instructed to do so,
sir.

BY REPRESENTATIVE LEDERER:

Q As a rule -- and I don't want to lead you, but I do want to get a premise out, I think. As a rule, when you were requested to do this, you were assisted by a commissioned officer?

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

MR. STOTELMYER: No, sir, I am not always accompa-

nied by a commissioned officer.

BY REPRESENTATIVE LEDERER:

Q Where would the request come from?

MR. KIRSCHNER: Do I understand you correctly, Representative Lederer, that you mean the request to remove someone from the BAU?

REPRESENTATIVE LEDERER: No, to remove from the general population to the BAU.

MR. KIRSCHNER: Thank you.

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

MR. STOTELMYER: Sir, I would receive those instructions from the person, the next highest ranking person above me in the chain of command, which would be the shift lieutenant.

BY REPRESENTATIVE LEDERER:

Q Can I assume that this shift lieutenant would receive this request from the correctional officer in a particular block? For instance -- and I don't want to cloud

the issue -- if an inmate needs discipline and he is in his cell, he would be written up by the block correctional officer?

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

MR. STOTELMYER: Sir, it doesn't -- even if the inmate is in the cell block, it doesn't have to be the block officer who cites the inmate for misconduct. It can be any officer at all who is in the institution or -- usually the man that --

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

MR. STOTELMYER: Usually, sir, it is the officer who witnesses or observes an infraction that will actually write the misconduct report.

BY REPRESENTATIVE LEDERER:

Q Would, as a rule, that officer accompany you to the place where the inmate would be?

(Mr. Stotelmyer consulted with his counsel

at this point.)

MR. STOTELMYER: Sir, there are really two parts to that.

First, because a JBC 141 is submitted on an inmate, it doesn't necessarily mean he is going to be placed in the BAU, the Behavioral Adjustment Unit.

Secondly, the officer who is writing the misconduct report doesn't necessarily always accompany the inmate to the BAU.

BY REPRESENTATIVE LEDERER:

Q All right, the block officer would be accompanied -- would he accompany those personnel who would be taking the inmate to the BAU? Would he accompany them to the inmate's cell -- the block officer?

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

MR. STOTELMYER: Sir, it varies in each situation and each occurrence. It varies upon how many are at my disposal or the Lieutenant's disposal at that time.

BY REPRESENTATIVE LEDERER:

Q On occasions he would then?

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

MR. STOTELMYER: Yes, sir. If our table of organi-
zation was low for that day, yes, sir.

BY REPRESENTATIVE LEDERER:

Q Have you ever been a block officer?

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

MR. STOTELMYER: Yes, sir. I ran a cell block for
approximately 5 years.

BY REPRESENTATIVE LEDERER:

Q During those five years I can assume that
inmates were taken to the BAU by other officers other than
the block officer, yourself?

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

MR. STOTELMYER: Yes, sir.

BY REPRESENTATIVE LEDERER:

Q Could I say that the block officers' attention would be directed on that inmate and those correctional officers who are taking him to the BAU?

MR. KIRSCHNER: Could we have that question again please? We missed a word or two.

BY REPRESENTATIVE LEDERER:

Q Can it be said that the block officer could observe the correctional officers going to take the inmate from his cell? Is that too vague?

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

MR. STOTELMYER: Sir, in some instances the man -- I would say in all instances the officer would be able to see the men going to the inmate's cell. But in a great number of instances, if the inmate's cell would happen to be a good way down the tier -- and all of the cell blocks have approximately 30 to 35 to 40 cells on one tier, which makes the tier

approximately 100 yards long -- he can't see them going to an inmate's cell. Say if an inmate were housed in 30 on 3 or 30 on 4, he could see him going to this cell. But once they entered the cell, he could no longer see them.

BY REPRESENTATIVE LEDERER:

Q Would you also say he could see them leaving the cell?

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

MR. STOTELMYER: He could see them when they came out, yes, sir.

BY REPRESENTATIVE LEDERER:

Q Would you say in a court action he would probably be the best witness -- or a good witness to any events that may have happened to or from --

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

MR. STOTELMYER: Sir, I don't really know. It would depend on how observant the officer is and just what the

climate of that particular situation might be.

BY REPRESENTATIVE LEDERER:

Q I just have a couple more questions.

Do you know of any proclamation by the Governor that the holes were not to be used in state correctional institutions? Did you ever hear that?

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

MR. STOTELMYER: No, sir.

BY REPRESENTATIVE LEDERER:

Q I would like to show you this article.

Would you just let me know if you are familiar with it?

(Document handed to Mr. Kirschner.)

REPRESENTATIVE LEDERER: For the information of the Chairman and the Committee, the heading of this packet of papers is Inmates' Legal Action Against Correctional Personnel.

MR. KIRSCHNER: Is this the same sheath of documents that you referred to when you questioned Officer Himes

earlier today?

REPRESENTATIVE LEDERER: Yes.

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

MR. STOTELMYER: No, sir. I can't say I have ever
seen this document before.

REPRESENTATIVE LEDERER: That's all. Thank you.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: No questions at this time,
Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Mr. Chairman, I have a
question, and I want a ruling from you whether I am in order
to ask it at this time.

Representative Hammock withdrawing his motion on
suspension has stimulated a few questions in my mind that I
think counsel can answer very quickly as to some mechanical
procedures that may be involved. And I wonder if I may brief-
ly ask counsel for Sergeant Stotelmyer a few questions at this
time.

REPRESENTATIVE RICHARDSON: You are in order. You may proceed.

REPRESENTATIVE MILLER: Thank you, Mr. Chairman. Counselor, I don't know the answers to the questions I am asking. I don't intend to be coy with you. I want to be open about that. And I need this information to make a personal decision on voting on Representative Hammock's question.

MR. KIRSCHNER: You haven't been coy with me up until now, sir, and I'm sure you will be equally candid with me in the future.

REPRESENTATIVE MILLER: If an employee that you represent, a union employee, who is operating under a collective bargaining agreement with the State and one that you represent, such as Sergeant Stotelmyer, were to be suspended by action of the Attorney General or action of the Bureau of Corrections, what is the next mechanical step that you would take? Would you not challenge that suspension in some form and seek to have him reinstated?

MR. KIRSCHNER: Yes, sir. If you want me to amplify on that briefly, I will be happy to do so.

REPRESENTATIVE MILLER: Would you please?

MR. KIRSCHNER: Yes. I will be happy to do so.

There is a master collective bargaining agreement between the Commonwealth of Pennsylvania and AFSCME, which embraces approximately 75,000 employees. Those employees are categorized. There is a group that is referred to as the Human Services Unit. These are employees employed in hospitals and institutions. There is a group referred to as the Maintenance and Trades Unit. Those are people employed principally in the Department of Highways and PennDOT. There are other groups as well. There is a Clerical, Administrative and Fiscal Unit, that being CAF. There is also a group known as the Correctional Officers. All of these various groups were certified by the Pennsylvania Labor Relations Board under Act 195, and as a result AFSCME has been selected as their bargaining representative and has negotiated a master agreement.

In that master agreement there is a very detailed, specific grievance and arbitration machinery. The first step in the event that there is an imposition of discipline, which the grievant, the employee and/or the union feel has been un-

duly or improperly imposed, is to file a grievance. If disciplinary action were to be taken against any of the correctional officers involved, and if it was their opinion and the opinion of the union that it was unwarranted, there would be a grievance filed. That grievance would state in essence that the union grieves the unwarranted or improper suspension of John Smith, as it were, and demands that John Smith be reinstated with restoration of all seniority rights and back pay.

The matter would then be processed through the three steps of the grievance procedure, of which there are three or four. I just don't recall -- well, strike that. I think it starts with step three, but that is an aside and relatively unimportant.

If the matter is not adjusted between the Commonwealth and the union to the mutual satisfaction of both parties, it is then submitted to final and binding arbitration, and the arbitrator is an impartial arbitrator who serves at the request of both parties, and the award is final and binding. He hears the evidence. Since it is a discipline case, the Commonwealth has the responsibility of going forward.

The union will then respond. After considering the evidence, the arbitrator will generally take about 30 days within which he will render his opinion.

When he renders his opinion, he can do one of three things:

He can either sustain the discipline;

Secondly, he can sustain the grievance in its entirety; namely, reinstate the man with full back pay and restoration of all seniority rights; and

Three, he may mitigate the penalty. And by that I mean he may say that a two weeks' suspension was appropriate and not a six weeks' suspension, or whatever the case might be. And that decision is final and binding on both parties, and the employee as well.

Does that answer your question, sir?

REPRESENTATIVE MILLER: Yes.

My reason for asking you that question is that while I appreciate the interest that Representative Hammock has, that we are dealing with an unusual set of circumstances herein, in casting a Committee vote in favor of Representative Hammock's suggestion, we would be, in effect, asking the

Attorney General to issue a suspension prior to the results of fact finding. That's very important, because any action thereafter by your association on behalf of the client is based on the merits of the issue and the facts. So in essence, our Committee vote would then be premature. Yet, at the same time, we are dealing with unusual circumstances. We don't know. And the question I am getting at is, would a suspension with pay and benefits, because of the unusual nature of the situation, be more appropriate, in that there is a question of personal safety involved? Albeit unfounded at this point in time, no one on this Committee knows that. It is an unusual situation. Do you feel just removing the officers from the situation without personal harm to them, economic harm, for an interim period of time might be a reasonable gesture on behalf of the Committee, and to so posture that to the Attorney General?

MR. KIRSCHNER: I think there are several responses to that, and certainly would involve a fundamental policy determination having to be made by the union. My initial reaction is that neither these correctional officers nor, in fact, any employees of the Commonwealth of Pennsylvania want to

be paid for work not performed. And these men want to be paid, and they want to perform the work. That is the quid pro quo for the salaries that they receive. And we feel very keenly about the fact that there is no basis for the imposition of discipline in this case. My reaction is that the union would probably as a policy matter find that kind of arrangement unsatisfactory, because it would mean, in effect, that men are receiving pay for work not performed. And we don't intend to do that. That is not our intention or our purpose.

Let me just supplement, if I may, my comments with the following remarks:

Your point is well taken. At the risk of appearing to be the Devil's Advocate, let me suggest to you that if the Attorney General were to concur with your recommendation, if that were to be the recommendation, before he had completed his investigation and if the investigation subsequently results in the determination that discipline was not warranted and the case goes to arbitration, he, in fact, is put in the position of pulling your chestnuts from the fire -- rather I should say his chestnuts from the fire, when you placed them in the fire and he had no control over them. That is my ini-

tial reaction to it. It is perhaps not my problem, but I really ought to share my comments with you.

REPRESENTATIVE MILLER: I thank the gentleman and the chair for indulging this side line of questions.

REPRESENTATIVE RICHARDSON: Representative Wagner.

REPRESENTATIVE WAGNER: No questions.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: No questions.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

BY MR. HARTMAN:

Q Sergeant Stotelmyer, how old are you?

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

MR. STOTELMYER: 28, sir.

BY MR. HARTMAN:

Q How tall are you?

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

MR. STOTELMYER: Approximately 6'5½".

BY MR. HARTMAN:

Q And how much do you weigh?

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

MR. STOTELMYER: Approximately 190 pounds.

BY MR. HARTMAN:

Q You have been employed at Camp Hill for 5
years?

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

MR. STOTELMYER: Yes, sir.

BY MR. HARTMAN:

Q In your opinion, what would be the average
age of the juvenile inmates at Camp Hill?

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

MR. STOTELMYER: I would say the average age would
be 17 or 18, sir.

BY MR. HARTMAN:

Q And what would the average size of such an inmate be?

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

MR. STOTELMYER: Sir, that is hard to answer. There are some 15 year old people there who are larger than me in stature, and there are some 17, 18 and 19 year old people that are 5 feet tall and weigh 90 pounds.

BY MR. HARTMAN:

Q I am asking for the average.

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

MR. STOTELMYER: I would say they are the same as any average size teenager 17 years old.

BY MR. HARTMAN:

Q If you were to look to your left at the young men from Camp Hill sitting here, would it be your

opinion that they would represent the average size of the juvenile inmates at Camp Hill?

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

MR. STOTELMYER: They may or may not, sir. It all depends on what you consider average.

BY MR. HARTMAN:

Q Based on your five years of experience at Camp Hill, would the ordinary situation require more than two correctional officers to discipline an inmate by taking him into the BAU?

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

MR. STOTELMYER: Sir, in an institution on a day to day basis there are no ordinary situations. Every one is different and must be dealt with differently.

BY MR. HARTMAN:

Q You provided the Committee with a copy of the Bureau of Corrections instruction thing on the use of

force, is that not correct?

A Yes, sir.

Q And reading from the last paragraph on page two, it says, and I quote "Remember, use only enough controlling force to accomplish your purpose, and in all cases where any force is used, regardless of the degree, a Use of Force Report must be filed."

Is that edict still in effect?

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

MR. STOTELMYER: To the best of my knowledge, it is, sir.

REPRESENTATIVE RICHARDSON: I am going to take a two minute recess to give the stenographer time to change the paper in his machine. This House will stand at ease for two minutes.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, I would like to call the House back to order. We just broke long enough to allow the stenographer to change

the paper in his stenographic machine.

At this time I would like to continue the cross-examination by Mr. Hartman.

BY MR. HARTMAN:

Q Just to refresh everyone's memory, when we took the recess, we were talking about the last paragraph on page two relative to the Use of Force Reports.

Now, on occasion, other than October 15th and 20th of this year, during the course of your employment had you had occasion to file such a report?

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

MR. STOTELMYER: Yes, sir, I have.

BY MR. HARTMAN:

Q And, Sergeant, could you tell us then the contents generally of such a report and what would be included?

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

MR. STOTELMYER: No, sir. There is no specific form that I know of requiring me to submit a Use of Force Report on escorting an inmate from a population cell block to the Behavioral Adjustment Unit.

BY MR. HARTMAN:

Q No, I don't believe that was my question.

MR. KIRSCHNER: Could we have the question repeated then? I'm sorry. We will try and be responsive.

MR. HARTMAN: Would the reporter please read back the question?

(The last question was read back by the reporter.)

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

MR. STOTELMYER: The contents of such a report, sir, are that of the date, the time, the place, a brief resume of the situation, the officers involved, and the amount of force required to make that specific move.

BY MR. HARTMAN:

Q Then referring specifically to the incidents that occurred on October 15th and October 20th of this year, did you file any such report?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

MR. HARTMAN: Thank you. I have no further questions.

REPRESENTATIVE RICHARDSON: Representative Wagner.

BY REPRESENTATIVE WAGNER:

Q Sergeant, is there -- I'm not interested in the specific dates in question, but in general is there a disciplinary problem at the institution?

MR. KIRSCHNER: May I have the question back please?

(The last question was read back by the reporter.)

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

BY REPRESENTATIVE WAGNER:

Q May I explain? By disciplinary I mean disciplinary in the sense of controlling the conduct of the juveniles or the inmates.

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

MR. STOTELMYER: Yes, sir, that occurs daily in every institution in the State.

BY REPRESENTATIVE WAGNER:

Q Does this type of activity reflect itself in the destruction of property or towards non-persons, non-individuals, inanimate objects?

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

MR. STOTELMYER: Yes, sir. The violence is directed toward inanimate objects as well as personnel.

BY REPRESENTATIVE WAGNER:

Q When you say personnel, you mean the guards themselves?

A Staff, yes, sir.

Q How about the other inmates?

A And inmates, yes, sir.

Q You indicated this is a daily activity on the part of all inmates -- a large portion, a small portion?

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

MR. STOTELMYER: Sir, I couldn't emphasize on the percentage of people that have disciplinary problems in any one day. However, there are approximately 1,000 inmates at the Camp Hill facility, and to the best of my knowledge, there are very few days go by when it isn't necessary to place someone in the Behavioral Adjustment Unit for some infraction of the rules.

BY REPRESENTATIVE WAGNER:

Q Okay. And I am interested in what causes these disciplinary problems. Would it be the result of some program, be it recreational, disciplinary, educational, undertaken by the institution, or would it be the result of non-institutional causes such as fights between inmates, or maybe both?

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

MR. STOTELMYER: Sir, it could be both. It can come from anything as trivial as -- well, one inmate not giving a cigarette butt to another inmate short on cigarettes to an inmate getting frustrated with an officer, or just not liking the outcome of a hearing committee judgment -- practically anything at all.

BY REPRESENTATIVE WAGNER:

Q Well, on that latter point, the hearing committee judgment, you mean it could come from the Department ruling, such as a situation where a rock concert would be cancelled? Do you mean that type of thing where it is not caused

• by inmates' discipline problems, but rather it is actually sparked by a decision or something by the institution?

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

MR. STOTELMYER: Yes, sir, things of that nature occur. And the one thing that is fairly clear in my mind right now is that approximately two or three or four weeks ago, there was a rock concert, if you will, scheduled to be at the institution, and there was supposed to be a go go girl with this band. It was one or two bands -- I don't know. And the inmate population was made aware of the scheduled concert for some reason --to the best of my knowledge, it wasn't the fault of the institution or the administration -- it was cancelled. And the rumors that I had heard, which are purely rumors, was that there was a dispute on the amount of money that the band would receive for entertaining. That is the reason they did not appear. And there was a great deal -- I wouldn't say a great deal -- there was unrest in the institution because of this. And there were rumors carried back to the administration -- or I should say the shift com-

manders and the lieutenants of the shifts -- that there could be problems arise because this show did not, in fact, take place when it was scheduled to.

BY REPRESENTATIVE WAGNER:

Q I understand that situation, Sergeant.

How long have you been a correctional officer over there?

A Approximately 6½ years.

Q During that time do you think the administrative portion of that institution, or the Bureau, have been unreasonable in some of their regulations, policies towards how to handle inmates, towards what activities are permitted or not permitted?

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

MR. STOTELMYER: In my opinion, no, sir. But then I don't really know if I am qualified to make a judgment on that question.

BY REPRESENTATIVE WAGNER:

Q Okay, as far as handling disciplinary problems, we have heard about solitary confinement. Do you think that works?

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

MR. STOTELMYER: It depends on each individual inmate, sir. Some are responsive to that type of treatment and some are not.

BY REPRESENTATIVE WAGNER:

Q And as far as force, is force sometimes -- let me ask the question this way:

Is force sometimes necessary to handle disciplinary problems -- physical restraint?

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

MR. STOTELMYER: Yes, sir, it is.

BY REPRESENTATIVE WAGNER:

Q Does the force or the use of physical force in itself sometimes cause additional disciplinary problems?

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

MR. STOTELMYER: Yes, sir, at times it does. If
a minimum amount of force is required to place an inmate in
the Behavioral Adjustment Unit, depending solely on each and
every individual inmate -- there are no two people the same --
because of the force required to place them in the Behavioral
Adjustment Unit, it might tend to aggravate him to the extent
that he is more of a disciplinary problem in the future.

BY REPRESENTATIVE WAGNER:

Q Finally, Sergeant, are you of the opinion
that excessive force is sometimes used? I mean severe excessive
force?

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

MR. STOTELMYER: No, sir.

BY REPRESENTATIVE WAGNER:

Q In view of what you have heard today?

A Pardon me, sir?

Q In view of what you have heard today, are you still of that opinion?

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

MR. STOTELMYER: On advice of counsel, I refuse to answer this question on the grounds that my answer may tend to incriminate me and I, therefore, invoke my right under the fifth and fourteenth amendments of the United States Constitution and my right against self-incrimination as contained in the Constitution of the Commonwealth of Pennsylvania.

REPRESENTATIVE WAGNER: Thank you.

REPRESENTATIVE RICHARDSON: If there are no other questions from this Committee, we would like to thank you for your testimony, as it was, and we would like to ask that you keep yourself available to be recalled at a subsequent time if necessary. You are excused for now.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to call to the stand Superintendent Patton and all of his counsel.

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

BY REPRESENTATIVE RICHARDSON:

Q Superintendent Patton, I will remind you
that you are still under oath.

Will you state your name for the record
please?

A Ernest S. Patton.

Q And your position?

A I am Superintendent of the State Cor-
rectional Institution at Camp Hill.

Q Will you indicate whether or not you are
represented by counsel?

A I am, sir.

MR. GILMAN: Glenn Gilman for Mr. Patton.

REPRESENTATIVE RICHARDSON: I would like to turn
the interrogation over to Representative Fisher.

BY REPRESENTATIVE FISHER:

Q Superintendent Patton, have you brought

with you those reports which I requested that you voluntarily bring and submit to the Committee this morning dealing with the statements given to the Department by guards at Camp Hill? Have you brought those with you?

MR. GILMAN: Upon the direction of the Attorney General -- could I have permission to answer the question?

REPRESENTATIVE FISHER: Could I have an answer --

MR. GILMAN: The answer is no.

REPRESENTATIVE FISHER: -- from Superintendent Patton? Then I will ask counsel if he would like to make a statement explaining the reason why.

REPRESENTATIVE RICHARDSON: I ask that the witness answer directly please.

MR. PATTON: The information that I have received from the Attorney General is such that I did not bring the records at your request.

BY REPRESENTATIVE FISHER:

Q All right, before we get to your statement, just let me ask a couple of questions of the Superintendent.

Are there any reports dealing with statements given by guards at Camp Hill presently within the pos-

session of the Bureau of Corrections?

A By Bureau of Corrections do you mean the Central Office of the Bureau of Corrections, sir?

Q I mean any one who is employed by the Bureau of Corrections in any fashion from the commissioner on down.

A There are preliminary reports that were furnished to the investigators, yes, sir.

Q Okay. And are some of those reports either written statements taken from guards or oral statements taken from guards reduced to writing?

A Yes, sir.

Q And why have you not brought those reports in here as I requested of you this morning?

A I heard your request, sir, and on the advice that I received from the Attorney General's Office, I was told that I should not bring those reports.

REPRESENTATIVE FISHER: Would Mr. Gilman mind explaining the rationale behind the advice of the Attorney General's Office given to the Superintendent?

MR. GILMAN: Yes, sir, Mr. Fisher.

It has been a long standing policy of the Depart-

ment of Justice not to give out portions of investigations, especially pending investigations. And the type of information you requested comes under the category of raw data of an ongoing investigation. Upon the completion of the investigation, the Attorney General's Office will provide to the Committee the findings and conclusions thereof. That is the rationale.

REPRESENTATIVE FISHER: Do you have any estimate at this time -- I realize you are not the one who is handling this firsthand. But do you have any estimate at this time when the report will be available?

MR. GILMAN: No, sir, I don't.

REPRESENTATIVE FISHER: Do you have any knowledge whether or not that report, at least as to the position of the guards at the Camp Hill facility -- do you know whether or not that report will be available next week?

MR. GILMAN: I would imagine that the report will not be available in portions. As I said, when that report is completed, then the findings and conclusions in toto will be provided to the Committee. But as to next week, I couldn't say for sure, sir. I just don't know what the status of it is.

BY REPRESENTATIVE FISHER:

Q Superintendent Patton, have you reviewed those reports that were given by either the written statements or the oral reports reduced to writing, have you reviewed any of those reports given by guards at Camp Hill?

A Yes, sir.

Q Okay, did you review the report that was given by Sergeant Stotelmyer?

A To the best of my recollection, I did.

Q Will you tell us what was in that report?

A That, again, is a part of the material that was furnished to the investigators and, I would assume, would fall under the same type of information Mr. Gilman just spoke about.

Q I don't think the answer was responsive at all to my question.

A The information that I received from the Attorney General's Office, sir, was that this information should not be divulged at this time.

Q What I am asking from you is your best recollection of what Sergeant Stotelmyer's statement contained.

A I guess, sir, I would still have to say that any interpretation of the information I received would cover that, and I would be unable to give you my recollection at this time.

Q Are you claiming some privilege?

A No, sir. I am acting on the basis of my counsel and my superiors.

Q Are you saying that you have no present recollection of what that report contains?

A No, sir.

Q Then would you please tell us what your present recollection of that report is?

MR. GILMAN: Mr. Fisher, I believe Mr. Patton has made his position clear on this matter.

REPRESENTATIVE FISHER: Well, I believe Mr. Patton -- and I will ask the Chairman of this Committee to instruct the witness to answer the question.

REPRESENTATIVE RICHARDSON: Superintendent Patton, I would have to ask you to answer the question directly, as I have done on the occasion of other witnesses. If you don't understand the question, you can consult with counsel. But

the question, I feel, is self-explanatory, and I ask you to answer it now please.

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

MR. PATTON: I am afraid my answer would have to be the same, sir; that on the advice of my counsel and my superiors, I am just not able to answer it at this time.

BY REPRESENTATIVE RICHARDSON:

Q You are unable to answer it because you don't know, or you are unable to answer it because of what reason? You have not given a reason.

A No, sir. I have a general recollection of what I saw in those reports. But the advice of counsel and the instructions that I have received from my superiors is that I should not divulge it at this time.

Q Did any one order you not to go back on your recollection as to what you may have seen in those reports?

A This matter was discussed, yes, sir.

Q So you were ordered not to?

A Well, I was advised not to, sir.

Q By whom?

A My counsel.

Q Mr. Patton, I will say again, I will ask that you answer Representative Fisher's question directly.

A Sir, I would have to answer, again, that on the advice of counsel and the information that I have received from the Attorney General's Office, that the investigation is still ongoing and that my recollection of the reports and the reports should not be furnished at this time.

BY REPRESENTATIVE FISHER:

Q Superintendent Patton, you are aware that this is a lawfully empaneled subcommittee session of the Subcommittee on Corrections of the House of Representatives I am sure.

A Yes, sir. I received that information.

Q You are the Superintendent of the State Correctional Institution at Camp Hill, are you not?

A Yes, sir.

Q You are the person who is the top official from the Commonwealth of Pennsylvania directly in charge of that

facility, are you not?

A Yes, sir. That is my responsibility.

Q And you are the person who is responsible for the conduct of all of the employees that are situated at that institution, are you not?

A Yes, sir.

Q You are also the one that has been entrusted with the custody of the juvenile inmates at the State Correctional Institution at Camp Hill by the judges throughout the Commonwealth of Pennsylvania, are you not?

A That's correct.

Q Superintendent Patton, are you interested in seeing the full story and all of the versions and issues of this investigation being brought out and being brought before the public?

A Yes, I very much am.

Q Are you also aware that anything you say here before this Committee regarding what somebody else said would -- strike that.

Are you aware that anything you tell us about your recollection of what review you have made of those

files concerning this incident, which I know you are concerned about -- and I'm not trying to paint a picture that you are not concerned about it. But I am trying to paint a picture that for some reason you and the other people from the Department of Justice are not concerned with this legislative subcommittee finding out the truth. Are you aware that anything you tell us about your recollection is no way going to be used against any of the people that may be involved in any of those incidents?

A Mr. Fisher, I hear what you are saying. I am trying to convey, sir, that I have counsel, and that I am also employed by the Department of Justice, and that the Attorney General is not only the top legal officer in the Commonwealth, but that he is also my superior. And I am very much, if I might say it without any disrespect, in a bind.

Q Who has ordered you directly not to divulge this information to the Committee?

A Sir, I believe I answered that before by saying that I have received no orders; that I am responding on the basis of the advice that I have received.

Q Who directly gave you that advice?

A My counsel, Mr. Gilman.

Q Mr. Gilman who is next to you?

A Yes.

Q Superintendent Patton, are you concerned that the controversy that is presently raging over the alleged treatment of the inmates at Camp Hill is going to have a very detrimental effect upon not only the State Correctional Institution at Camp Hill, but quite possibly the correctional system in the Commonwealth of Pennsylvania?

A I'm not sure I understand your question, Mr. Fisher.

Q Would you agree with me then that a controversy such as this with testimony being as onesided as it has been -- and I for one, and I'm sure the other members of this Committee, would like to hear both sides and hear them as rapidly as possible. Do you agree with me that if a onesided controversy such as this continues to rage in the Commonwealth, that it is going to have a very detrimental effect upon your institution, upon the guards that are employed, and upon the inmates that are presently incarcerated at that institution and upon other institutions throughout

the Commonwealth? Would you agree with that statement?

A I would say, sir, that it is very possible.

Q Okay.

A But I would also say that I am very much interested in having the full facts brought out, the facts that would support the officers' as well as the juveniles' statements, sir. I must agree with you, sir, that the facts so far brought out are very definitely onesided, and I regret that very much.

Q Have you been advised by counsel directly that by divulging the information you are presently aware of based on your recollection concerning the statements given by Sergeant Stotelmyer and others, have you been advised that this may in some way jeopardize your position as Superintendent of the institution?

A No, sir, that has not been discussed at all.

REPRESENTATIVE FISHER: That's all.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Thank you, Mr. Chairman.

Superintendent Patton, am I correct in assuming that you have not received a direct order saying that you shall not divulge points of information that Mr. Fisher requested?

A Yes, sir. I testified to that, that I have not received a direct order.

Q Have you received an indirect order?

A I think that is difficult for me to answer. I think I have indicated that I have been advised not to. Whether that constitutes an indirect order or not -- I was told the matter has been discussed with the Attorney General directly.

Q Is your counsel advising you as personal counsel or as counsel from the Department of the Attorney General?

A Mr. Gilman is a Deputy Attorney General employed by the Department of Justice.

Q Is he advising you in that capacity or as personal counsel?

A I am an employee of the Bureau of Corrections, Department of Justice, so I would assume it is in a

formal representative capacity.

Q Are you aware, sir, of any regulation or State statute which would say, in effect, that you must abide by the advice of counsel in this instance?

A No, sir, I'm not aware of any.

Q For the record, neither am I.

Then let's run through this one more time, sir.

This Committee is aware that you have a personal recollection of information and facts that the Committee is interested in, that you have not received a direct order from your superiors not to testify as to those facts and as to your best recollection of those facts; secondarily, that advice of counsel you are not bound to follow as an individual department employee. And what it boils down to on the bottom line, as stated by counsel earlier today, you are basing your lack of willingness to testify to that information today on a department (quote) policy (end quote), is that not so?

A I am not aware of any policy that indicates that, sir.

REPRESENTATIVE MILLER: Is counsel for the gentleman aware of such a policy, and if so, would you enunciate it for us now? Did he not state that the department had a policy not to release information on an investigation until it was complete and until you had issued findings?

MR. GILMAN: That's correct, sir.

BY REPRESENTATIVE MILLER:

Q That is the policy I was referring to. So we are back to the fact that there is a department policy.

In your experience with the Department of Corrections, Superintendent Patton, have you ever at any time observed a department policy not being followed? Any policy at any time?

A Yes, sir.

Q I thought that may be the answer. Have you yourself ever personally not followed a department policy?

A It's possible.

Q Now, sir, can you sit there and say to this Committee, a Committee that you are aware of that is a duly constituted committee, that you are going to stand on department policy on a matter as serious as this and refuse to give

us your best recollection of the facts that this Committee needs to make a preliminary set of decisions?

A Yes, sir. My answer would have to be the same. And I have a recollection the other day when the Attorney General was on the stand that he did state that when the material was all in and the report was completed that, you know, the facts would then be divulged.

REPRESENTATIVE MILLER: No further questions, Mr. Chairman. Thank you.

BY REPRESENTATIVE RICHARDSON:

Q Superintendent Patton, are you aware that this Committee, under the hand and seal of House Resolution 47, can at any time subpoena you to answer our questions?

A I heard you read the resolution the other day, sir. Yes.

Q You didn't answer my question.

A I am aware of it, yes.

Q Do you think we would have to go through subpoenaing you to be compelled to answer those particular questions based on your recollection of any information you might have received, or that you might have recollection of

concerning these particular inmates that have been brought out in this particular investigation concerning those incidents at Camp Hill on October 15th and 20th?

A Yes, sir, I would imagine that you could subpoena me to appear before you with that information.

Q Do you think we have to do that?

A I guess my answer would have to be the same, Mr. Chairman; that on the advice of my counsel and on the instructions from the Attorney General, that I cannot divulge the information to the Committee at this time. The investigation is apparently still ongoing.

Q Let me read to you then from House Resolution 47.

"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."

I would like to let you know, Superintendent Patton, as Superintendent of the State Correctional Institution at Camp Hill, that it really galls me at this point to say that you are, on the advice of counsel, refusing to answer

any information that you have concerning this investigation that we are trying to complete. I would hope, again with advice of counsel, that you would confer with him one more time to certainly decide whether or not, since you have not made it clear to us as to whether or not it was a directive to you not to answer those questions. And I am asking that you directly answer the questions relating to any incident or recollection that you might have concerning the October 15th and October 20th incidents. I will leave you now to consult with counsel.

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

MR. PATTON: I cannot change my position, Mr.
Chairman.

REPRESENTATIVE RICHARDSON: Mr. Kagan.

BY MR. KAGAN:

Q Mr. Patton, if I might, this is your position in regard to statements that you have read or to discussing any matters concerning the incidents that occurred on the 15th and the 20th?

A It is my understanding that the investigation is still continuing, and that any information that I have turned over to the investigators for use in preparing their report for the Attorney General are not to be made public -- that I am not to make them public.

Q Let me ask you a question and see if we can move on from there.

On the night of October 15th, were you informed by personnel in the Camp Hill Correctional Institution that there was some trouble or some incidents were occurring?

A Not on the night of the 15th, no, sir.

Q When did you first become aware of that?

A I received the information on the next day.

Q Were you informed of this verbally or in writing?

A The report that I received the next day was verbal.

Q Could you tell the Committee the essence of that? If you can't remember it exactly, can you tell the Committee what was said to you at that time?

A I feel my interpretation of this would be that my answer would have to be the answer that I gave before, that this kind of recollection would be included in the --

Q I was just trying to clarify in my own mind whether your decision reached to written statements and to verbal statements. And I take it that you feel you are under some sort of order or compulsion not to make any statements at all regarding your recollections of any matters touching on the incidents that occurred on the 15th and 20th?

A That's my understanding.

MR. KAGAN: Thank you.

REPRESENTATIVE MILLER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Miller.

BY REPRESENTATIVE MILLER:

Q Could I just mention as an aside, but publicly for the record, that the gentleman said that he would in response to my questioning, or he seemed to infer -- and I was trying to be direct -- that he is not to his understanding under any direct order not to testify. Is that not correct? No one has given you an order not to testify?

A That's correct.

REPRESENTATIVE RICHARDSON: Yes. At this point I thought that I was correct, Representative Miller.

What I am going to suggest to this Committee at this present time is that I am going to move that this Committee move to subpoena Superintendent Patton to answer all questions and to bring all documents as relates to any part of the investigation and the completed part of the investigation or anything that might be a part of the October 15th and October 20th incidents that did occur at the State Correctional Institution at Camp Hill. I so move by this Committee.

REPRESENTATIVE FISHER: I second that motion.

REPRESENTATIVE RICHARDSON: Seconded by Representative Fisher. It has been properly moved and seconded.

Is there any question or debate on the matter?

CHAIRMAN HAMMOCK: Mr. Richardson, I would like to have a conference with you and Mr. Fisher and the others.

REPRESENTATIVE RICHARDSON: The House will be at ease.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: I would like to call

the House back to order.

The motion has been properly moved and seconded.

Is there an amendment to the motion?

CHAIRMAN HAMMOCK: I would like to offer an amendment to that motion. I would like to offer an amendment to the effect that any and all records regarding this matter in the possession of the Attorney General -- failure of the Attorney General to produce those records, and the Attorney General will likewise be subpoenaed to produce those records.

REPRESENTATIVE RICHARDSON: I would like to put a date on that.

Well, is there a second on the amendment?

REPRESENTATIVE FISHER: Question.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Mr. Chairman, I think you raised the question yourself -- should there be a return date on that subpoena for the -- did you have a return date in mind, since you were the person who made the initial motion?

REPRESENTATIVE RICHARDSON: Yes, I do, and I failed to say it at the beginning of my motion -- next Wednesday, November 5th.

CHAIRMAN HAMMOCK: Excuse me, Mr. Chairman, may I speak to you for a moment please?

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: The third of November -- that it should be submitted to this Committee on the third of November to give this Committee an opportunity to review and go over any records and papers that are in that particular part of the investigation so that we may resume our hearings on the 5th of November, which would be next Wednesday at 9:30 a.m. in this same room.

Question on the motion?

REPRESENTATIVE FISHER: Mr. Chairman, I for one would just like to note that I fully intend to vote for this motion, and I am very much concerned with this conspiracy of silence that we have seen here over the past three days. I can't for the life of me understand the basis of the conspiracy of silence that we have seen paraded before us. As I stated earlier today, I think it is only detrimental to those who have perpetrated it. And I would urge all my fellow members of this Committee to adopt the motion to

subpoena these records and, hopefully, the members of the employees and Superintendent Patton and the Attorney General will see fit to supply us with these records so we don't have to hassle with this matter.

Thank you.

REPRESENTATIVE RICHARDSON: Is there any other discussion on the motion?

(No response.)

REPRESENTATIVE RICHARDSON: We will take a roll call vote.

Representative Miller.

REPRESENTATIVE MILLER: Aye.

REPRESENTATIVE RICHARDSON: Representative Wagner.

REPRESENTATIVE WAGNER: Aye.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: Aye.

REPRESENTATIVE RICHARDSON: Representative Fisher.

REPRESENTATIVE FISHER: Aye.

REPRESENTATIVE RICHARDSON: Representative Richardson.

Aye.

The vote having been passed, the aye's are five and the nay's are zero. The Committee having voted unanimously, the motion passes.

Now, I say to you, Superintendent Patton, that we will ask Mr. Sam McClea to serve you with a subpoena requesting that you bring all documents and all papers in relationship to any incident, and also yourself and your recollection as to any incident that has occurred on October 15th and 20th, and that the Attorney General also be notified to bring such records and documents concerning anything on October 15th and October 20th that has to do with this particular matter on Monday, November 3rd, to room 600 of this House of Representatives, which is my office here in the House of Representatives, and that on October 5th (sic) you appear here before this Committee --

REPRESENTATIVE FISHER: November 5th.

REPRESENTATIVE RICHARDSON: Thank you.

That you appear here on November 5th, next Wednesday, at 9:30 a.m. for the continuation of the hearings on the Camp Hill situation at present.

Is there any other discussion?

(No response.)

REPRESENTATIVE RICHARDSON: Mr. Patton, I would just like to make an observation, also to the Committee, if they will bear with me.

I have been a member of this House of Representatives for 3 years now, and I certainly do not understand for the life of me why in terms of trying to investigate a matter where we are dealing with young people, particularly in the manner that it has been brought forth, that we have operated in a fair and open manner, that we have only had one side of the situation, that we have tried to in every way work cooperatively with the Department of Justice and the Attorney General's Office and also with Superintendent Patton at Camp Hill. I just feel this is outrageous and certainly intolerable that we as a Committee of the House of Representatives have to go through subpoenaing to get records and documents concerning a case that these young people have brought to the attention of this Committee, and that there has been no one on the other side of the issue who is man enough to recite to us why there is a reason why it is being held back. And I would think it would be incumbent upon us,

as coequal branches of government, to begin to deal with the facts surrounding this particular case so we can complete this investigation. I would hope that you understand the seriousness of this, Mr. Patton, and that if this motion is not complied with, that I must say that this Committee will certainly move to discuss the whole business of citing you in contempt. And I am saying that this is a matter that will be voted before this House of Representatives as soon as we are brought back into session. And I feel you should know this and have that on your mind since you did not tell us that you were given a direct order not to comply with the questions directed to you. And I feel you can convey that information to the Attorney General. And you have counsel from the Attorney General's Office sitting there with you. And I would ask that he also take that back to Attorney General Kane so they understand the seriousness of this matter. As I talked about this entire investigation through the last three days, I have indicated that I feel this is a very serious matter. I have noticed that guards feel it is funny, that there has been laughter. And I can see nothing of a laughing matter involved in this at all. I feel we have a

MR. PATTON: I would like to say, first of all, Mr. Representative, that I am also very concerned about this matter. And I certainly want to get to the bottom of it as quickly as possible. I also want to make sure we have enough facts so we can make a decision based on the facts that is proper for the inmates and also for the officers that are involved. I have already indicated that I have been very concerned about the onesided picture that has been presented here in the last three days. I am very concerned about it. I am also very anxious, as I indicated before, to make sure that the full facts are brought before the public.

Now, to inform you as far as our progress on the contact with the judiciary to have these young people removed from Camp Hill, during a brief recess a few minutes ago I talked with Harvey Hull, who is one of the people working with us on the Camp Hill Project. I will have the opportunity, as soon as we are completed here, to sign the request to the judges to make the decision to have them removed from our institution. We are doing all we can to get all of the juveniles out of the institution as quickly as possible. And we are very pleased with the cooperation we have had from your

responsibility here, not only to the people who have come here before this Committee, but also to the Commonwealth of Pennsylvania. And I think it is a situation that needs to be resolved immediately, because I feel that what is happening now is we are going to get caught up in a lot of preliminary issues that are going to be dealt with in court. And if we are going to have to go that far, I am saying that we are willing to do that. But it seems to me that it could be resolved, and if this is possible, that it would be in the best interests of all said parties involved.

Now, I also understood, as I sit here now -- I am waiting for a call to find out whether or not the young people we have requested to be transferred out of the institution -- that that process is still in operation. And we would like to find out where we stand on that. And if you can at this time, Mr. Patton, answer that. It is 6:11 in the evening, and I think that the Camp Hill Project, along with yourself and also the Attorney General's Office, has been working on this. Can you give us information as to where we stand in relationship to having the young people moved out?

Committee and from the Camp Hill Project. And we are anxious to complete the process as quickly as we can.

CHAIRMAN HAMMOCK: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Hammock.

CHAIRMAN HAMMOCK: I am going to have to leave in a few minutes, but I just wanted to add an observation.

I really couldn't say anything to improve upon what you said earlier. It certainly grieves me and all of us here in the House of Representatives and others -- it certainly grieves me, and I know it grieves you, Mr. Patton, to have to go through this at this level. As one trained in the law, I don't take the issuance of subpoenas and the aftermath, or the possible aftermath, very, very lightly. The issuance of subpoenas and the possibility of you and others being held in contempt -- perhaps even the Attorney General himself -- grieves me very seriously. However, I think it is intolerable to me -- I just cannot understand the kind of one-sided effect that has been produced by the failure of the witnesses to testify, by the failure of your Department of Justice to produce and finalize their report. It seems to me that it be smacks of a Watergate situation, quite frankly --

when did it happen and when was it covered up? I think from what we have been hearing, we are approaching or approximating a cover-up. And I don't mind saying that. Until such time as the Department of Justice and the Bureau of Corrections proves me to be wrong, I am seriously saying to all that are involved that we are prepared to go to the limit to get to the bottom of this.

Thank you very much, Mr. Chairman.

MR. PATTON: May I just make one brief statement?

REPRESENTATIVE RICHARDSON: Yes, you may.

MR. PATTON: I would like to insure Mr. Hammock that there was certainly no effort to cover-up this matter. It is a matter of the timing of it, and a matter of having the information available before it is released to the public.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Just an observation.

I simply, as a Committee member, cannot accept the gentleman's, Mr. Patton's remarks that he is interested and anxious to have this resolved and that he wants to cooperate. So everyone in this room understands a few things that we have very adequately developed and that Mr. Patton

has clarified today -- he is not under order not to testify. He is not bound legally to follow the advice of counsel. He has said he is not under threat of duress from the Attorney General's Office if he does not follow this casually passed on advice, which leaves one reason for him to decide and not to decide, and that is his own principle and conviction as a corrections man. That is it.

Now, I am just a country boy from Lancaster County, Mr. Patton, and I would like to say this kindly -- down there when we have a decision to make and there is an easy way and a hard way to go, I think you will find the hard way is right. Today was a day for you, sir, to stand up on principle as a corrections man and help us clear the air. There is no other way you can cut that pie. I will not accept the fact that you are anxious to have this resolved. You have to stand up and be counted.

MR. PATTON: Sir, I will be very happy to stand up and be counted. I don't take the matter lightly.

REPRESENTATIVE MILLER: Then do it now. We will sit here and listen. Answer our questions to the best of your recollection. Do that now. I challenge you, sir.

MR. PATTON: I cannot accept your challenge.

REPRESENTATIVE MILLER: You will not, sir. Don't say you cannot; you will not.

MR. PATTON: I feel I cannot, sir, accept your challenge at this time. And I am making the decision based on my principle and my experience as a correctional man. And I am very much interested in getting both sides of this story before I speak publicly.

REPRESENTATIVE RICHARDSON: Are there any further questions of Mr. Patton.

(No response.)

REPRESENTATIVE RICHARDSON: Since there are no other questions at this time, I would like to let you know, Mr. Patton, that you will be the first witness on Wednesday, November 5th, 9:30 a.m. in this same Majority Caucus Room. I would like to let the people know here and also the counselor for the correctional officers at the institution that they are still under -- or I request that they be present. They are still under oath, and they will be subject to call on the 5th of November.

As far as the inmates that are involved, hopefully they will be removed from Camp Hill. And I would hope that this Committee will find out where they are, because they may subsequently be called and asked to be present.

Before I adjourn, I see Counselor Kirschner approaching the witness stand, and I guess he wishes to make a few remarks.

Right now, you are excused, Mr. Patton.

(Witness excused.)

REPRESENTATIVE RICHARDSON: Mr. Kirschner.

MR. KIRSCHNER: With your permission, Mr. Chairman, I would like to address myself to the chair.

I have on more than one occasion in the last two days attempted to elicit from you and/or your counsel a schedule which will enable me and my clients to determine when they will be called. I have been singularly unsuccessful in that regard. I think with all deference to the Committee, but out of consideration for my clients, I should indicate to the Chairman that this is, as you know, very time consuming, and I think somewhat unfair to require these correctional

officers to continue to sit here day after day, hour after hour. I, therefore, respectfully request to be given a schedule, and we will make arrangements that they be here at that time and be represented by counsel. If that cannot be done, then we will have to take another look at our position with regard to whether or not we will voluntarily comply with your request. You may decide that you want to subpoena us. We may decide to move to quash the subpoenas. Those are some things down the road. But I would, again, just like to share with you my thinking at this juncture. So we would request that the Committee advise us when the correctional officers will be called. I think at this juncture we are still prepared to voluntarily present ourselves and be subjected to whatever questions the Committee has.

REPRESENTATIVE RICHARDSON: Thank you for your general comments. I would say to you up the road, I will submit to you my card, and I would be very grateful if you will submit to me your card. I will be in contact with you by phone so you will know the schedule and how we will be calling the correctional officers from Camp Hill. It just so happens that because of the lengthy testimony of the last

few days, that all of the guards that I had on my agenda today were requested to be present and were going to be called. Due to the problems, we were unable to do that. And as you know, even in a court proceeding, even though you might schedule certain witnesses for a particular time, sometimes they are not called.

MR. KIRSCHNER: I don't expect you to operate by a stop watch, but if you can give us some sort of schedule, we are prepared to continue to present ourselves voluntarily.

REPRESENTATIVE RICHARDSON: We will supply you with that information, sir.

MR. KIRSCHNER: Thank you.

REPRESENTATIVE RICHARDSON: This House is adjourned until next week, Wednesday, November 5, 1975 at 9:30 a.m. in this same room.

(Hearing adjourned at 6:20 p.m.)

CERTIFICATE

I hereby certify that the proceedings and evidence taken by me before the Pennsylvania House of Representatives Judiciary Committee Subcommittee on Cor--

rections and Rehabilitation are fully and accurately indicated
in my notes and that this is a true and correct transcript
of same.

Michael P. Elliott
Michael P. Elliott, Reporter