

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,

November 5, 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: I would like to call this meeting to order.

At this moment we are going to open up the hearings on the Task Force to investigate juvenile incarceration across the state of Pennsylvania. I am going to pass over Mr. Ernest Patton at this moment, and I am going to call Mrs. Mary Souders, the nurse of the Camp Hill institution and ask that she approach the witness stand.

MARY C. SOUDERS, recalled as a witness, having been previously sworn according to law, testified as follows:

REPRESENTATIVE RICHARDSON: Is it possible to get a table down here for the microphones of the press so we do not have the confusion that we had last night? Mr. Kirschner asked that the microphones not be on while he is consulting with his client.

MR. KIRSCHNER: Mr. Chairman, I am going to request that all of the microphones be disconnected, all those that are running into tape.

REPRESENTATIVE RICHARDSON: All of them dis-

connected?

MR. KIRSCHNER: All that are running into tape, yes. I will not agree to having any of this taped.

REPRESENTATIVE RICHARDSON: You are saying that you are requesting this Committee that the news media be absent from this particular hearing?

MR. KIRSCHNER: The media can do whatever they want to. All I am saying is that it is my understanding under the law that before anything that I say can be taped, it must have my concurrence to the taping. I do not agree that it can be taped, and on behalf of my client I state the same position.

REPRESENTATIVE RICHARDSON: You mean your remarks being taped? Is that what you are saying?

MR. KIRSCHNER: That nothing be taped that I say. I will not agree that anything I say may be taped.

REPRESENTATIVE RICHARDSON: It is my understanding -- and if I am incorrect, I will ask counsel -- that this is an open meeting, an open hearing, that the media as well as cameras and other things are allowed to be present in this room. Of course, we are trying to run a hearing here where we

are giving everyone an opportunity to certainly express themselves in the widest latitude as possible. I am asking you if you are asking this Committee to disconnect the tapes entirely, which means we are not then giving free access to this news media that is here to tape the results of anything that is going on in this meeting? I feel that we could not actually tell the news media that they cannot tape in this room.

MR. KIRSCHNER: You may not be able to tell them, sir, but I think I can tell them, because I am the one that is being taped. And I am so telling them. I will not agree that anything in which I am involved be taped. And it is my understanding under the recent amendments to the Crime Code that I have that right.

REPRESENTATIVE RICHARDSON: This is not a crime hearing.

MR. KIRSCHNER: I understand that.

REPRESENTATIVE RICHARDSON: This is a separate hearing.

MR. KIRSCHNER: I understand that.

REPRESENTATIVE RICHARDSON: This is not a court of law.

MR. KIRSCHNER: That's right.

REPRESENTATIVE RICHARDSON: And one of the reasons why we have been having confusion is because it has been cited that this was not a court of law, but that this was a hearing. We are running some investigations, and if the microphones were on at the time you were talking to your client, then I could understand your point. At this point I don't. I am going to now confer with counsel to find out where we are.

MR. KIRSCHNER: My understanding, sir, of the recent changes in the Crime Code is that under no circumstances can any conversation in or out of a court of law before any committee hearing anywhere at anytime at any place be taped without the concurrence of the individual that is being taped. I do not concur.

REPRESENTATIVE RICHARDSON: Well, you might not concur, but there is no way in the world that we can eject the news media or any one else from this hearing.

MR. KIRSCHNER: They can stay here all night long for all I care.

REPRESENTATIVE RICHARDSON: Well, I am just indicating to you. And also, that they are allowed to tape this

particular proceeding when you are not conferring with your particular client. And as you have asked before, then you can certainly place the microphones out of your reach.

But I will confer with counsel now, and then I will give you an answer.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: The House will be at ease.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The end of the recess having expired, I would like to call the hearing back to order.

Mr. Kirschner, before we proceed with the question you raised prior to the recess, I would like to remind Mrs. Souders that she is still under oath, so we do not have to swear her in.

Would you please state your name for the record and indicate whether or not you are represented by counsel?

MRS. SOUDERS: My name is Mary Carolyn Souders, and I am represented by counsel.

REPRESENTATIVE RICHARDSON: And would you state your name for the record please?

MR. KIRSCHNER: Richard Kirschner.

REPRESENTATIVE RICHARDSON: Mr. Kirschner, could you cite to me the act you are referring to in relationship to the particular Crime Code you are referring to?

MR. KIRSCHNER: If you give me about five minutes, I have made arrangements to contact my office, and I will give you the citation.

MR. KAGAN: May I say to counsel that if he is referring to Act 327 of the session of 1974, which started out in the House of Representatives Bill 1588, which is the electronic or mechanical eavesdropping devices, I would like to inform counselor that this act only refers to surreptitious listening and surreptitious tapes or eavesdropping. A public hearing would not fall under that definition.

MR. KIRSCHNER: If you will just give me about five minutes, I will get the information from my office. Or if you will excuse me, I can probably expedite it.

REPRESENTATIVE RICHARDSON: The House will be at ease.

(A recess was taken.)

REPRESENTATIVE RICHARDSON: The time of the recess having expired, Mr. Kirschner, I am willing to listen.

MR. KIRSCHNER: Actually, Mr. Kagan was correct in terms of his reference to the statute involved. It is Chapter 57, Title 18, Act of November 25, 1970, PL 707, which is now known as the Pennsylvania Consolidated Statutes with amendments thereto. And Mr. Kagan referred to Section 5701 with the additional definitions contained therein. And he invited our attention to the definition of eavesdropping, and he referred further to the word "surreptitiously". However, that word "surreptitiously" applies, as we interpret it, to the first act listed; namely, surreptitiously listening to -- comma -- and then following that there are such things as monitoring, transmitting, amplifying or recording the voice of any other person. So that the word "surreptitiously" modifies -- or actually, it is an adverb which is modifying the terminology "listening to", but it does not qualify the acts enumerated, such as monitoring, transmitting, amplifying or the recording of voice. So as we interpret the statute, it is not limited to "surreptitiously".

Apart from that, however, I want to say that since apparently this is still being taped, that we do not under any circumstances give our consent to the use of any of the material that is being taped.

REPRESENTATIVE RICHARDSON: Pardon me?

MR. KIRSCHNER: We do not, I do not and my client does not give its consent to the use of any of the material that is being taped.

REPRESENTATIVE RICHARDSON: To who?

MR. KIRSCHNER: To any of the news media that are present. And I am so advising the news media and putting them on notice to that effect now, that any violation of that directive or mandate by us will be dealt with appropriately. We do not agree to its use.

REPRESENTATIVE RICHARDSON: Listen, I am going to proceed on with these hearings. As I said before, these are open hearings not falling under the criminal act. I cannot take anyone out of this room or ask or request that anybody be dismissed from this room. I cannot stop anyone from taping. I cannot stop my stenographer, who has a tape and who is taping this proceeding, to stop. I cannot suggest to anyone of

the news persons who are here that they also stop. And I am going to rule at this present time that we are going to proceed on with these particular hearings, and that your comments to the news media -- I'm sure they heard you, and they can proceed accordingly.

Before I started, I asked that a table be brought forth here and placed in front of this particular table so as to try and do everything we can to certainly protect the rights of counsel and his clients to the privacy that he so desires.

(Discussion off the record.)

REPRESENTATIVE MILLER: Mr. Chairman, just a brief question for Mr. Kirschner, if I might, before we get started, sir.

Is your major objection that your privileged talks between you and your clients as asides may come out on media tapes because they are in such reasonable proximity to you, or is it a general objection?

MR. KIRSCHNER: Well, it is both, sir. One, obviously I cannot consult with my client privately and with confidentiality if there is some risk that I am being over-

heard.

Secondly, as we read the statute, what we are saying even publicly cannot be transcribed by the news media without our permission.

And thirdly, I am saying, apart from whatever statute may pertain, I am not giving to the news media permission to tape me or my client.

REPRESENTATIVE MILLER: Thank you.

MR. KIRSCHNER: And any taping is being done over my objection.

REPRESENTATIVE MILLER: Thank you, Mr. Chairman.

REPRESENTATIVE RICHARDSON: When you talk, if you would, Mr. Kirschner and Mrs. Souders, would you turn the House microphone on, which is directly in front of you so that the members of the Committee can hear you?

MR. KIRSCHNER: I will.

BY REPRESENTATIVE RICHARDSON:

Q Mrs. Souders, I would like to ask you what your duties are at Camp Hill.

A I'm employed as one of the nurses out there at Camp Hill. I am classified as Nurse I. I work the evening

shift. I work permanently 3 to 11. I have been there four years. That's about it.

Q Are you, can I say, the chief nurse?

A No, sir. The chief nurse works during the daytime.

Q Were you present on October 15th of this year?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: . 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 would like to call your attention, if I might, Mrs. Souders, to two reports that I have in front of me. I would like at this time for you to look at them.

(Documents handed to Mr. Kirschner.)

(Mrs. Souders consulted with her counsel
at this point.)

BY REPRESENTATIVE RICHARDSON:

Q Have you seen the reports?

A On advice of counsel --

Q No, I am asking you if you have seen them.

MR. KIRSCHNER: The witness has seen the reports.

BY REPRESENTATIVE RICHARDSON:

Q I am asking the witness to answer me directly. Have you seen the reports?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: I have seen the reports.

BY REPRESENTATIVE RICHARDSON:

Q The ones that are in front of you, I asked you to look at them. I know that counsel did, but I wanted to know if you looked at them.

A Yes.

Q Now my question is, have you ever seen those reports before?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 Mrs. Souders, have you in any dealings with the inmates at Camp Hill ever come in contact with Michael Kaup or Joseph Snyder?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 If you were present on October 15th, I would like to know from you, Mrs. Souders, whether or not you at any particular time filled out any of these forms that you see that are presently in front of you? Did you fill out any of the forms?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 As a nurse who works the evening shift at

Camp Hill institution, is it your responsibility to fill out any reports when anyone comes to you if they are sick?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes, it is part of my responsibility.

BY REPRESENTATIVE RICHARDSON:

Q Yes, it is what?

A Part of my responsibility.

Q Is it also your responsibility, Mrs. Souders, to apply any medication or bandages to any particular person if they have to receive such treatment?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: We do have procedures that we follow that the doctors, you know, have backed us up. We apply bandaides and give first aid. We do treat.

BY REPRESENTATIVE RICHARDSON:

Q Do you use merthiolate?

A We do use merthiolate.

Q Do you apply ice bags if necessary?

A We do.

Q Do you use bandages?

A Yes.

Q Do you remember using any bandage on Michael Kaup or Joseph Snyder?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 Mrs. Souders, are you a registered nurse?

A I am.

Q And you have been for how many years?

A I finished training in 1947 and have been nursing ever since.

Q And you have been at Camp Hill for four years?

A Right.

Q Have you ever had a tendency to have to treat in your four years that you have been present at Camp Hill any youngster for any cuts, any youngster for any bruises that he might have received?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Also while you have been a nurse there at Camp Hill for four years, do you know directly or indirectly whether or not the bruises or cuts that any of the inmates might have received were caused by any of the guards?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 Can you tell me what is incriminating about whether you know directly or indirectly if you have ever seen or heard as a result of your treating of any of the youngsters that they were inflicted by a guard?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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: I would like to call on Representative Wagner at this time.

BY REPRESENTATIVE WAGNER:

Q Are you a full time employee?

A I am.

Q What are your hours of employment over there?

A I beg your pardon?

Q What are your hours of employment?

A 3 p.m. to 11 p.m.

Q Are there other staff dealing with the
medical care of the inmates?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE WAGNER:

Q Is there a physician on board?

A On call.

Q How about other nurses?

A I am the only registered nurse on 3 to 11.

Q What type of injuries do you treat in general,
cuts, bruises?

(Mrs. Souders consulted with her counsel

at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE WAGNER:

Q Are there more serious injuries -- broken bones or that type of thing?

A I am not a doctor.

Q Well, when they come in, do they have broken bones?

A We refer them to an orthopedic specialist.

Q Are these injuries received -- again, I am speaking of general occurrences -- are these injuries received as a result of accidents, falls, intentional --

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: It's a conglomeration, you know. Everyday is different out there.

BY REPRESENTATIVE WAGNER:

Q Are some of these injuries the result of violence inflicted upon the particular inmate himself?

A We do have --

MR. KIRSCHNER: Just a moment.

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: This is possible.

BY REPRESENTATIVE WAGNER:

Q Pardon me?

A This is certainly possible.

Q As far as the inmates themselves, are there
assaults by inmates upon inmates and serious injuries re-
ceived when they come into you?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE WAGNER:

Q Again in general, have you treated any in-
mates for injuries that were received as a result of in-
tentional violence inflicted upon persons other than other
inmates, particularly corrections officers?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: 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 WAGNER:

Q As far as the injury then inflicted upon inmates by other inmates, do you ever talk to them about that -- how they received it?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE WAGNER:

Q What was that -- I'm assuming it resulted from fights. Did they ever talk to you about ways this type of thing could be prevented? For instance, did they ever say

it was because of lack of supervision, or did they ever call for help or things like that?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: No..

BY REPRESENTATIVE WAGNER:

Q Specifically, have you ever heard of a complaint by an inmate that another guard or corrections person or any staff person witnessed his being beat up or taken advantage of by another inmate while he called for assistance, and that that particular guard or staff person refused to come to his aid?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: 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 WAGNER:

Q As far as the injury inflicted upon inmates by other inmates, would you say that is a serious problem over there?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: It does happen.

BY REPRESENTATIVE WAGNER:

Q Are you aware of this type of violence in other such institutions? In other words, does Camp Hill experience an equal type of ratio here or -- I have been advised that Camp Hill has the highest ratio of inmate upon inmate assaults.

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: I really know nothing about any other institution. I have never been in any other institution.

BY REPRESENTATIVE WAGNER:

Q But you feel it is a serious problem -- or in answer to my question of whether it was a serious problem, I believe you answered yes.

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: I answered that it does happen. I don't know what you mean by serious.

BY REPRESENTATIVE WAGNER:

Q How long have you been over there?

A Four years.

Q Do you have any advice to this Committee how any sort of legislation or bureau regulations could be implemented which would prevent this type of assault by other inmates upon inmates?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: We do have behavior problems over there. You know, this is understandable. But I don't feel

that I can recommend --

BY REPRESENTATIVE WAGNER:

Q So you don't have any specific advice or opinions on how we could solve that particular problem?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: No.

REPRESENTATIVE WAGNER: I have no further questions, Mr. Chairman.

REPRESENTATIVE FISHER: Representative Miller, do you have any questions?

REPRESENTATIVE MILLER: No.

BY REPRESENTATIVE RICHARDSON:

Q I have one last question.

What I would like to know from you, Mrs. Souders, if you know, have there been several attempts of suicide of any inmates at the institution?

MR. KIRSCHNER: May we have that question back?

(The last question was read back by the

reporter.)

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Juvenile or adult or both?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Juvenile.

BY REPRESENTATIVE RICHARDSON:

Q As a result of that, is there any particular
procedure that you follow as a result of them indicating that
they might have some suicidal tendencies? Do you make any
recommendations?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE RICHARDSON:

Q And what are those recommendations?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: When an inmate is brought up to
us that has had suicidal tendencies, we have our own hospital
there and we admit them to an isolation room where they can
be observed more closely.

BY REPRESENTATIVE RICHARDSON:

Q Who administers any psychiatric counseling
treatment, if any? Who does it?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: We have a psychiatrist there.

BY REPRESENTATIVE RICHARDSON:

Q Is he on duty 24 hours a day or on call,
or does he work a normal 8 hours, if you know?

(Mrs. Souders consulted with her counsel

at this point.)

MRS. SOUDERS: He came recently. I couldn't tell you his regular schedule. I know he is available.

BY REPRESENTATIVE RICHARDSON:

Q The cases you have gotten before you, Mrs. Souders, could you explain to this Committee what some of them might have been, what type of suicidal attempts there might have been?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: These are in the usual form of sometimes scratching their wrists, sometimes a little more serious. Sometimes there are attempted hangings.

BY REPRESENTATIVE RICHARDSON:

Q Have there been any killings -- well, have there been any successful attempts at suicide, to your knowledge, at the institution?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: I would suppose you are referring to the rather recent one. It was in all of the newspapers.

BY REPRESENTATIVE RICHARDSON:

Q No, I am not referring to any particular incident. I am just asking you whether or not you know of any particular incidents where there were successful attempts at suicide at the institution?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Were you on duty at the time these attempts were successful?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: I was on duty that night.

BY REPRESENTATIVE RICHARDSON:

Q What night was that?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: I can't tell you. I don't know the
actual date.

BY REPRESENTATIVE RICHARDSON:

Q Was it in January?

A I'm not sure.

Q Was it in February?

A I don't honestly know.

Q Was it in March?

A I don't know.

Q Was it in April?

A I don't know.

Q You said it was in all of the newspapers.

The only reason I asked you to collaborate on that was be-
cause I thought if you remembered it being in the newspaper,
you might remember if it was this year. Was it this year?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: I can't actually say. It was not

too long ago.

BY REPRESENTATIVE RICHARDSON:

Q So indicating not too long ago. It was some-
time in 1975?

A I would say so.

Q As a result of that attempt that was success-
ful, what was the result of the suicide? What was the cause
of the death?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: I did not see the death cer-
tificate.

BY REPRESENTATIVE RICHARDSON:

Q Did you see the body?

(Mrs. Souders consulted with her counsel
at this point.)

MRS. SOUDERS: Yes.

BY REPRESENTATIVE RICHARDSON:

Q And as a result of your seeing the body, did you call a doctor?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: There was a doctor there at the time.

BY REPRESENTATIVE RICHARDSON:

Q As a result of that, what type of treatment was made in terms of taking this particular person's life?

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

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

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: I don't understand your question.

BY REPRESENTATIVE RICHARDSON:

Q I will give it to you another way.

When you were on the scene and you saw the body and evidently it was an attempted suicide that was successful, and as a result of that someone died, in what form -- strike that.

In what way was the person declared dead as a result of him attempting to kill himself -- I'm sorry, let me say it again.

When you appeared on the scene, wherever it was, and the doctor was already present, do you know how this person took his life?

(Mrs. Souders consulted with her counsel at this point.)

MRS. SOUDERS: He took his life by hanging himself.

REPRESENTATIVE RICHARDSON: I have no further questions of this particular witness, Mr. Kirschner.

Thank you very much, Mrs. Souders.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to call

Sergeant Benner.

JOHN BENNER, recalled as a witness, having been previously sworn according to law, testified as follows:

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Benner, I would like to remind you that you are still under oath.

I would like you to state your name for the record and your position, and I would like you to let this Committee know whether or not you are represented by counsel.

A My name is John Benner. I am a CO II at the State Correctional Institution at Camp Hill. I am represented by counsel.

MR. KIRSCHNER: Richard Kirschner.

BY REPRESENTATIVE RICHARDSON:

Q How long have you been a CO II at Camp Hill?

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

MR. BENNER: Approximately 6 months.

BY REPRESENTATIVE RICHARDSON:

Q How long have you been a correctional officer at Camp Hill institution?

A 5 years.

Q 5 years?

A Yes.

Q Do you like your job?

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

MR. BENNER: I like my job.

BY REPRESENTATIVE RICHARDSON:

Q As a result of that, Sergeant Benner, I would like to know whether or not you as a correctional officer have ever had any altercations with any inmates at the institution where they resulted in some physical contact with you and the inmate?

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

MR. BENNER: 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 would like to know whether or not, Sergeant Benner, you were present on October 15, 1975, and if you were, what duty shift you were working then?

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

MR. BENNER: 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 What is incriminating about whether or not you worked on October 15th, Sergeant Benner?

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

MR. BENNER: 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 What type of background do you have in CO work, Sergeant Benner?

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

MR. BENNER: I don't understand your question, sir.

BY REPRESENTATIVE RICHARDSON:

Q I will repeat it for you.

What type of background as a correctional

officer -- maybe the word is training. What type of training have you had since you have been there five years as a correctional officer? Did you have any training before you became a correctional officer?

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

MR. BENNER: I went to the training academy when I first entered the service at Camp Hill. I since have attended several seminars. I have attended refresher courses. My training is ongoing and continuous.

BY REPRESENTATIVE RICHARDSON:

Q I would like to know, Sergeant Benner, whether or not -- do you work seven days a week?

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

MR. BENNER: I work six days a week.

BY REPRESENTATIVE RICHARDSON:

Q Six days a week?

A Yes.

Q Do you know whether or not you were present on October 15th or not?

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

MR. BENNER: 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 would like to call your attention to the Morning Call newspaper article dated 10-29-75 and ask that you and your counsel look at it.

(Documents handed to Mr. Kirschner.)

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

BY REPRESENTATIVE RICHARDSON:

Q Have you seen those documents?

A What you just gave me, yes.

Q Do you remember talking to anyone from the Morning Call?

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

MR. BENNER: 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 remember saying that you felt that this particular issue involving the five juveniles that have testified before this Committee -- that this situation was blown out of proportion? Do you remember saying that?

(Mr. Benner consulted with his counsel

at this point.)

MR. BENNER: 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 remember, Sergeant Benner, whether or not on October 15th you punched any juvenile in the mouth, his head, kicked anyone on that particular day involving any particular juvenile at the institution? Do you remember that?

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

MR. BENNER: 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 have sat in these hearings everyday that we have had them, and I want to know whether or not you feel at any point we are going to get to the bottom of this issue?

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

MR. BENNER: 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 your training, Sergeant Benner, do they give you any orders of how to deal with an inmate if he tends to use physical abuse against you?

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

MR. BENNER: Yes.

BY REPRESENTATIVE RICHARDSON:

Q What does that say that you do as a result of that?

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

MR. BENNER: There is a directive, there is a manual, and we receive training.

BY REPRESENTATIVE RICHARDSON:

Q A directive, manual and training? What did the directive say?

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

MR. BENNER: It's a directive on the Use of Force that was presented to the Committee the last time we used it at the hearing.

BY REPRESENTATIVE RICHARDSON:

Q I couldn't hear you, sir.

A It was a directive presented to the Committee on the last day we had the hearing.

Q Since it was presented to this Committee, can you tell me what it said?

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

MR. BENNER: It's set forth in the directive.

BY REPRESENTATIVE RICHARDSON:

Q Pardon me?

A It's set forth in the directive.

Q I'm asking you a direct question I would like you to answer. I am asking you as a correctional officer at the institution at Camp Hill what that directive says, Sergeant Benner.

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

MR. BENNER: The directive is titled The Use of Force.

"There is an essential area of judgment in the use of force by the correctional officer. Generally, however, use of force is justified in the following situations:

- "1. To protect yourself or someone else.
- "2. To prevent inmate from hurting himself.
- "3. To prevent destruction of property.
- "4. To prevent escape.

" If at all possible, try to talk an inmate out of the cell rather than using force. If it becomes necessary to use force in either placing an inmate in or removing him from his cell, every effort should be made to have a supervisor present. If force cannot be avoided, the following guidelines should be observed:

"1. Try to determine if the inmate has a weapon before entering the cell".

BY REPRESENTATIVE RICHARDSON:

Q Stop right there.

Can you tell me how you do that? Without entering a cell, I would like to know how you determine whether an inmate has a weapon in his cell before you enter it.

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

MR. BENNER: Each case depends on different facts.

BY REPRESENTATIVE RICHARDSON:

Q Give me an example of one particular case.

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

MR. BENNER: When an inmate shows his weapon.

BY REPRESENTATIVE RICHARDSON:

Q Does what?

A Shows you a weapon.

Q Shows you one?

A Right.

Q In the cases when he doesn't show you one,
then what do you do?

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

MR. BENNER: Each case depends on its facts.

BY REPRESENTATIVE RICHARDSON:

Q Well, that is a particular case in point,

when he does not have one. I am asking you, Sergeant Benner, what you do when the weapon is not shown? What do you do? I am asking you that, and I am asking that you give me a direct answer.

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

MR. BENNER: We try to determine if the inmate has a weapon before entering the cell.

BY REPRESENTATIVE RICHARDSON:

Q Right. How do you determine that?

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

MR. BENNER: Sometimes we can see it.

BY REPRESENTATIVE RICHARDSON:

Q Then when you don't see it, what do you do as a result of that particular point? I am dealing now with when you do not physically or visibly see a weapon present to your eye. What is the course of procedure that you follow as a sergeant? What do you do?

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

MR. BENNER: If I am aware that a weapon is in
the room, it is my responsibility to see that it is removed.

BY REPRESENTATIVE RICHARDSON

Q How?

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

MR. BENNER: By following procedures outlined in
any directives.

BY REPRESENTATIVE RICHARDSON:

Q Sergeant Benner, I am being very patient
with you, and I am asking you some direct questions that I
am not receiving any direct answers to.

Counselor, I will ask you to have the wit-
ness answer directly to the question. If not, he can take
the fifth. I am asking a specific question -- when he does
not see a weapon in a particular inmate's hand and he has
reason to believe that person has a weapon, what is his pro-

cedure?

I am asking you directly, Sergeant Benner, what is the procedure that you follow?

MR. KIRSCHNER: I respectfully differ with the Chairman. I think the witness has been very responsive. He has indicated that the procedure to be followed is dictated in this memorandum entitled Use of Force, plus any appropriate documents pertaining to the situation.

REPRESENTATIVE RICHARDSON: Before I ask Mr. Kagan to ask some questions, I think if I am asking a direct question, and it says in this document "Try to determine if the inmate has a weapon before entering the cell.", and I ask him how he does that, that is a direct question. He has not answered my direct question.

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

MR. BENNER: 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 Then you don't know what the use of force is then really?

MR. KIRSCHNER: Is that a statement or a question?

BY REPRESENTATIVE RICHARDSON:

Q Do you know what the use of force is?

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

MR. BENNER: 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 Read number 2 then of your document, Use of Force.

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

REPRESENTATIVE RICHARDSON: He was reading it,
counselor. I see no problem with that. He was reading it.

MR. BENNER: Which number two?

BY REPRESENTATIVE RICHARDSON:

Q Where you were reading. You were reading
number one. After number one comes number two.

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

MR. BENNER: "2. Use only enough controlling
force to get the job done".

BY REPRESENTATIVE RICHARDSON:

Q What is enough controlling force to get the
job done. I know each case varies, but I want to know under
one particular situation where you have to go in and use
controlling force, what is controlling force? I am asking you
what controlling force you use.

(Mr. Benner consulted with his counsel

at this point.)

MR. BENNER: 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 Skip number three and do number four.

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

MR. BENNER: "In the more extreme cases, mace or the duster may have to be used".

BY REPRESENTATIVE RICHARDSON:

Q What is mace and the duster?

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

MR. BENNER: I know what mace is, but I have never

seen a duster. I don't know what it is.

BY REPRESENTATIVE RICHARDSON:

Q Have you ever seen this report before, sir?

A Yes.

Q Have you ever gone to some training school where this paper was issued?

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

MR. BENNER: No.

BY REPRESENTATIVE RICHARDSON:

Q You have never seen this before?

MR. KIRSCHNER: I don't believe that was the question.

BY REPRESENTATIVE RICHARDSON:

Q I will ask you, have you ever seen this before?

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

MR. BENNER: Yes.

BY REPRESENTATIVE RICHARDSON:

Q Was it issued to you?

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

MR. BENNER: I picked it up.

BY REPRESENTATIVE RICHARDSON:

Q I can't hear you.

A I picked it up.

Q Was it ever issued to you?

A It was not issued --

MR. KIRSCHNER: Just a minute.

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

MR. BENNER: It was made available to me.

BY REPRESENTATIVE RICHARDSON:

Q By who?

(Mr. Benner consulted with his counsel

at this point.)

MR. BENNER: It was in the training office, and I picked it up.

BY REPRESENTATIVE RICHARDSON:

Q You have never gone over this document?

A I've read it.

MR. KIRSCHNER: Just a minute.

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

MR. BENNER: I've received no formal training in connection with the document.

BY REPRESENTATIVE RICHARDSON:

Q That's sad, it really is. Because if I read a document like this, Sergeant Benner, and I saw something there, I would raise a question about it. Have you ever raised a question to anybody at Camp Hill? Did you ever ask Mr. Patton what the duster is? Did you ever ask Mr. Marks what the duster is? Did you ever ask Commissioner Robinson what the duster is? Did you ever ask the past Commissioner

who just left what the duster is? Have you ever asked that question?

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

MR. BENNER: No.

BY REPRESENTATIVE RICHARDSON:

Q Why?

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

MR. BENNER: 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 Miller.

BY REPRESENTATIVE MILLER:

Q It is Sergeant Benner?

A Correct.

Q Just a little personal background, Sergeant.

Are you married?

A Yes.

Q Do you have a family, sir?

A Yes.

Q Are you originally from the Camp Hill area, Cumberland County area?

A No.

Q When you -- maybe I had better not assume.

Have you tentatively chosen prison security as a profession?

A Yes.

Q Would you describe your interest in that profession as one in which you would like to pursue as a career for many years?

A Yes.

Q So then it is in your own mind a permanent vocation?

A Yes.

Q Is this the first time you have ever been part of a forum before the General Assembly personally?

A Yes.

Q Previous to the allegations that brought this forum into being, previous to the press and inmate allegations at Camp Hill institution, were you aware, even vaguely, of the general work of this Committee as the Judiciary Subcommittee on Corrections?

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

MR. BENNER: I've read newspaper articles in regard to it.

BY REPRESENTATIVE MILLER:

Q I'm sorry, I don't know the exact date, but we did have an opportunity to tour the BAU, and at that time you weren't on duty. That is just a personal reflection.

I would like to posture this question as one in which I am seeking your personal reaction. What is your personal reaction to the fact that this Committee is seeking information prior to the Attorney General's investigation being completed and released? And I am asking you only for your personal reaction as one who is involved personally.

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

MR. BENNER: My feeling, sir, is that one branch
of the government is investigating the matter, and I feel at
that time when they have completed their investigation, there
should be another branch.

BY REPRESENTATIVE MILLER:

Q Would it be a fair assumption on my part that
perhaps you view the work of this Committee as premature then,
in that the Attorney General's investigation has not been
completed?

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

MR. BENNER: Yes.

BY REPRESENTATIVE MILLER:

Q As a person who is directly involved and as
a person who has been accused outside of any formal legal
accusation as you would find in an actual criminal complaint,
do you feel this is a fair forum for you as an individual?

MR. KIRSCHNER: May we have the question back please?

BY REPRESENTATIVE MILLER:

Q As an individual who has been charged either in the press or by individuals of certain acts, do you feel this type of forum is a fair forum in which you have an opportunity to articulate your point of view?

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

MR. BENNER: I do not feel this is a fair forum.

BY REPRESENTATIVE MILLER:

Q Would you tell me briefly your reasons why you do not feel it is a fair forum?

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

MR. BENNER: I feel that it received a lot of publicity in the newspapers and newspaper articles stating that we were guilty before anyone talked to us. Also, we do not get a chance to cross-examine any witnesses.

BY REPRESENTATIVE MILLER:

Q The reason I am posturing this line of questions is because it is an issue fundamental to the credibility of this Committee in this whole area of individual rights and what is certainly not a judicial proceeding. Yet at the same time, as elected representatives, we are charged with certain responsibilities, and we have chosen to exercise them in this instance. And perhaps the key concern that the gentleman, Mr. Benner, shared with us is the fact that his counsel has not had the opportunity to question witnesses that have been presented against him.

I would just like to ask you two other brief questions, and they may get into your fifth amendment rights. That is not my intent. I will try to be careful in posturing the questions.

You obviously at some point in time -- there was a day when you first read in the newspaper a public allegation made against you. If you could think back to that point in time. Prior to the day that you read that in the paper, did any official of the Department of Justice, aside from your own immediate in-house superiors, consult with you

regarding the matter? I don't mean specifics at this point.

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

MR. KIRSCHNER: Did you mean within the Department
or outside of the Department, Representative Miller?

REPRESENTATIVE MILLER: Within the Department is
the first question. Outside the Department is the second
question. Prior to the thing becoming public, I would like to
know if he had any lead time as to what was happening.

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

MR. BENNER: I was called in to make a more detailed
statement in regard to the incidents we are discussing.

BY REPRESENTATIVE MILLER:

Q Then would that have been by the Department
of Justice personnel or investigators?

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

MR. BENNER: It was from the Bureau of Corrections.

BY REPRESENTATIVE MILLER:

Q Then the Committee may assume that prior to the first news story, at least to your knowledge, the Bureau of Corrections began an investigation at least informally taking statements from officers? Would that be correct?

A This is correct.

Q Thank you. One last question.

When you were initially contacted to make that statement, that preliminary statement before the issue became public, or at least to your knowledge before it became public in the press, did anyone outside the Department of Justice or Bureau of Corrections contact you regarding the matter? This is exclusive of your counsel.

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

MR. BENNER: No.

REPRESENTATIVE RICHARDSON: Could you repeat the question back, Representative Miller?

REPRESENTATIVE MILLER: My question was in the

pattern that we were following here in the questioning. I wanted to ascertain as to whether or not before the allegations of this whole instance became public, whether prior to that time anyone outside of the Bureau of Corrections, Department of Justice or his own in-house people at the Camp Hill Project contacted him personally with regard to the incidents, and the gentleman's answer was no. I was trying to just ascertain whether or not the press that initially reported these stories made any attempt to get the other side of the story at that point in time.

And I thank the gentleman for his answers.

REPRESENTATIVE RICHARDSON: Representative Wagner.

BY REPRESENTATIVE WAGNER:

Q Mr. Benner, Mr. Stotelmeyer testified last week that there is a discipline problem, in his opinion, within the institution itself. Do you concur in that opinion? This is a discipline problem in general now with regard to inmate activity.

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

MR. BENNER: Yes.

BY REPRESENTATIVE WAGNER:

Q Does this discipline problem result from violence by other inmates upon each other?

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

MR. BENNER: Yes.

BY REPRESENTATIVE WAGNER:

Q Do you at this time have any opinion -- as far as I am concerned, I am interested in really the purpose of this Committee, which is how do we attack this problem in general. We are investigating the problem of this whole juvenile correction system here. This Committee does not have any prosecuting authority here with regard to the specific problems which brought this whole thing about or any past acts, and I am interested in looking at this whole problem. Do you have any opinions as to how the Bureau of Corrections or the Department of Justice or any other method which would solve this type of discipline problem?

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

BY REPRESENTATIVE WAGNER:

Q Perhaps that was premature.

The violence which is perpetrated upon one
inmate by another inmate, is that done in the presence of
corrections officers or staff?

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

MR. BENNER: In my experience it isn't.

MR. KIRSCHNER: That was "is not", sir.

BY REPRESENTATIVE WAGNER:

Q Yes, thank you.

Do you think that increased personnel over
there would stop that type of activity or violence?

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

MR. BENNER: The more personnel that are available,
the less likely the incidents will occur.

BY REPRESENTATIVE WAGNER:

Q In your opinion then, this type of inmate violence upon other inmates does not occur then, I gather from what you are saying, as long as corrections officers are present.

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

MR. BENNER: Yes.

BY REPRESENTATIVE WAGNER:

Q Have you ever known of a situation in which one inmate has been attacking another inmate and has called for assistance and a corrections guard has not come to the assistance of that person?

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

MR. BENNER: I've never seen it.

BY REPRESENTATIVE WAGNER:

Q When an inmate does call for assistance, does he get prompt assistance?

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

MR. BENNER: Yes.

BY REPRESENTATIVE WAGNER:

Q Usually when the type of inmate violence which is inflicted upon other inmates is perpetrated, how do you in general, you and the other guards, find out about it? Is it, one, either through the hearing of the actual combat itself or the call for help or, number two, after the attack is over and the inmate, the victim, goes for medical help or comes to you with a complaint?

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

MR. BENNER: When the inmate presents himself with a physical injury.

BY REPRESENTATIVE WAGNER:

Q Then generally I can assume that while the actual attack is taking place, you don't come to his aid because you are not aware of the actual attack?

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

MR. BENNER: If I am aware of the attack, I separate
the combatants.

BY REPRESENTATIVE WAGNER:

Q But most of the time when these attacks do
occur, can I assume that the victim is out of reach of im-
mediate help?

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

MR. BENNER: Yes.

BY REPRESENTATIVE WAGNER:

Q Do you have any recommendations as to how
this Committee or the Bureau could stop that type of situation?
I think you indicated more staff. Do you have any other
opinion?

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

MR. BENNER: As I see it, the inmates need more supervision in their activities if we are to eliminate this.

BY REPRESENTATIVE WAGNER:

Q Okay, my comment here -- I am not going to ask questions as regards the violence perpetrated by guards on inmates in general because I believe Mr. Stotelmyer has taken the fifth amendment, and I assume you will too, and I don't want to put you in that position.

I can only say this: I am not too concerned with the specific incident involved here, because we don't have the prosecuting authority. But I might add here that I do believe in the need of a Camp Hill type facility where you have these types of juveniles. I believe there are juveniles over there that don't belong there, but on the other hand, I think because you have this type of individual over there, he should not be subjected to goon squads either by guards or other inmates. And I am trying to see how we can solve this problem. I think as far as your answer on the increased staffing, perhaps we could look at that. But I appreciate your answers.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

BY REPRESENTATIVE RHODES:

Q I just want to ask one question. I don't really see this as a broad inquiry into how to operate Camp Hill.

Can you imagine any reason why a guard who had brutally beaten an inmate would say so before this Committee?

MR. KIRSCHNER: Could I have the question back please?

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

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

MR. BENNER: I can only recite facts; I cannot speculate.

BY REPRESENTATIVE RHODES:

Q I asked you a question. I mean, you know, you can recite speculations about other things at the institution. You speculated that it would greatly increase the security of the institution if we had more personnel, which

is certainly a speculation. That's not grounded in facts like the fact that you are sitting there. That is an observation about the institution. So I'm asking you to make another observation.

Can you imagine why any guard who had brutally beaten an inmate -- and I personally feel that to be a small minority of the guards, like a small minority of policemen who are guilty of brutality. But assume that a guard had brutally beaten a child at Camp Hill prison. Why in the world would he testify to that fact before this Committee?

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

MR. BENNER: 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 RHODES: No further questions, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

BY MR. HARTMAN:

Q Sergeant Benner, just a few short questions.

For the record, would you state your age?

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

MR. BENNER: 32.

BY MR. HARTMAN:

Q And your height?

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

MR. BENNER: 5'9".

BY MR. HARTMAN:

Q How much do you weigh, sir?

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

MR. BENNER: 210.

BY MR. HARTMAN:

Q Referring back to the directive we were discussing earlier, the Use of Force directive, I direct your attention to the last paragraph on page two which states the following:

"Remember, you use only enough controlling force to accomplish your purpose, and in all cases where any force is used, regardless of degree, a Use of Force report must be filed."

Have you filed such reports?

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

MR. BENNER: Yes.

BY MR. HARTMAN:

Q And have you filed any such reports relative to the incident testified to before this Committee of October 15, 1975?

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

MR. BENNER: 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, Sergeant. I have no further questions.

REPRESENTATIVE RICHARDSON: If there are no other questions, you are excused at this present time. It is possible you might have to be called later.

(Witness excused.)

REPRESENTATIVE RICHARDSON: I would like to call to the stand Mr. Ernest Patton.

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

BY REPRESENTATIVE RICHARDSON:

Q Mr. Patton, you are still aware of the fact

that you are under oath?

A Yes, sir.

Q State your name for the record and your position.

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

Q Are you represented by counsel?

A I am.

Q Will you state his name?

MR. YAKOWICZ: My name is Vincent X. Yakowicz. I am the Solicitor General in the Department of Justice.

REPRESENTATIVE RICHARDSON: Pardon me?

MR. YAKOWICZ: I am the Solicitor General in the Department of Justice.

REPRESENTATIVE RICHARDSON: Are you representing Mr. Patton this morning?

MR. YAKOWICZ: Yes, sir.

BY REPRESENTATIVE RICHARDSON:

Q Are you here pursuant to the subpoena that you received to appear before this Committee this morning, Mr. Patton?

A I am.

Q Are you prepared at this point to answer questions relative to the incidents that occurred at Camp Hill on October 15th and October 20th for the record?

A No, sir.

Q Can you tell this Committee why?

A On the advice of my counsel I was directed not to answer questions relative to the investigation.

Q Could you tell me what the conversation resulted in? Why did they tell you not to answer any questions relative to October 15th and 20th?

A The reasons are still the same that I gave when I appeared before the Committee last week; that the investigation has not been made public by the Attorney General's Office. Until such time as it is released, I am not to discuss it publicly.

REPRESENTATIVE RICHARDSON: May I ask counsel if there is a written rule or policy that indicates why Mr. Patton cannot answer the question before this Committee?

MR. YAKOWICZ: Mr. Chairman, I'm not certain whether there is a written rule, but it is a firm policy in the Depart-

ment of Justice that while an investigation is continuing, the individuals involved do not make public disclosures of that investigation or information relating thereto.

REPRESENTATIVE RICHARDSON: Do you have that rule or policy with you?

MR. YAKOWICZ: Perhaps you misunderstood.

REPRESENTATIVE RICHARDSON: Is it a written policy?

MR. YAKOWICZ: I do not know whether it is written or not. I have never seen it in writing. However, all of the individuals, or at least most of the individuals in the Department of Justice are well familiar with it.

REPRESENTATIVE RICHARDSON: Is anyone present in this room that you could consult with, or do you know how you could get that information?

MR. YAKOWICZ: Well --

REPRESENTATIVE RICHARDSON: Well, let me say it this way: Is there any way that you could possibly get the information concerning the question of whether or not it is a written policy?

MR. YAKOWICZ: I stated I did not know whether it is in writing. I can assure you, Mr. Chairman, that it is the

policy of the Department.

REPRESENTATIVE RICHARDSON: Is there any way then, Counselor, that you know of that this Committee could move forward to get the information we are requesting in order to proceed on with these particular hearings?

MR. YAKOWICZ: Yes, Mr. Chairman. With your permission and the indulgence of the Committee, I have a brief statement.

The Department of Justice has experienced a significant increase in the resistance to proper supervision and authority over juveniles in Camp Hill.

There are a number of factors contributing to this situation, particularly:

Some juveniles have been behavior problems and, despite their numerous institutional infractions, they are being released; and,

Secondly, the publication of these hearings has insinuated arrogance and discord on the part of the juveniles and considerable demoralization on the part of personnel whose duties are sufficiently difficult and complex without adding to the burdens.

When the incident at Camp Hill first occurred, the Attorney General promptly ordered an investigation. That investigation is continuing.

In the midst of the investigation, this Committee commenced its sessions, necessitating a break in the continuity of our investigation. I respectfully submit that this has been disruptive and dysfunctional.

We believe that the objectives of the Department of Justice and those of this Committee are essentially mutual, and that is, to discern the facts and disclose the truth. However, until our investigation is completed, we submit that little good will evolve from publication of unverified and uncorroborated allegations and statements. It is too early to reach conclusions, and certainly the incarcerated juveniles have not been committed to the institution by juvenal court judges because of their notoriety for telling the truth.

Our investigation is being conducted expeditiously, and the prompt ascertainment of facts and conclusory determinations will be enhanced by the curtailment of the Committee public hearings.

We submit that to avoid protracted delays and to

arrive at an analytical, objective and fair determination and resolution of the issues raised, that the Attorney General and his staff meet in closed session with the Committee.

The Attorney General will bring the Committee up-to-date on the investigation and, upon completion thereof, will provide the Committee with a copy of our investigation and, upon completion thereof, will provide the Committee with a copy of our investigation in its entirety.

I submit that this procedure is the most expeditious one to bring all matters relating to this incident to a prompt and appropriate resolution.

That is the statement on behalf of the Attorney General and myself, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Mr. Yakowicz, do you have a copy of that resolution that you just cited before this Committee? Perhaps the members of the Committee can have a copy of it.

MR. YAKOWICZ: Yes, I have a couple of copies here, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Mr. Yakowicz, are you asking or requesting that this Committee move into executive session with you and the Attorney General and its staff and

other investigators involved in this particular matter to discuss this particular investigation?

MR. YAKOWICZ: Yes, Mr. Chairman. I suggest that that would be the most expeditious manner of handling it.

REPRESENTATIVE RICHARDSON: I would like to bring your attention, Mr. Yakowicz, to the fact that this Committee, and also your Department, is quite concerned with getting to the truth of this matter, trying to get all of the facts involved. In no way are we going to curtail public hearings or are we going to curtail the investigation in relationship to trying to get to the bottom of all this.

I would like at this particular time to say that our Committee will discuss your particular suggestion and see where things stand in an open forum so that you also may also hear. Because I feel we have some real direct questions also to Mr. Patton that are a part of this investigation and should be on the record.

I will now call on Representative Miller.

BY REPRESENTATIVE MILLER:

Q A question for Mr. Patton that is somewhat out of the continuity of the point that the Chairman is making.

I have had information come to my attention that during the evening of the concert that the inmates testified to, there were still a number of inmates in the cell block on restriction. I assume that is factual. I just wanted to check that fact with you.

A That's my understanding, Mr. Miller.

Q During the time of the concert while the inmates -- a number of inmates were still in that cell block on restriction, at any time was that cell block not being overseen by a guard?

A We have an officer that makes rounds through that particular quarters and other quarters, and that would have been the case on that evening, I believe.

Q Then that whole block did not have a guard assigned to it?

A The officer covers that quarters and another one.

Q I will be candid with you. The reason for my asking this question and establishing in fact that during periods of time there was not a guard in that cell block per se, brings me to a question relating to your investigation.

I would assume from what I have heard generally, without forming any opinions as to whether these acts actually took place, that the key to determining how this whole thing began would have been if there was an individual, a corrections officer at the very least, present to observe what first happened -- setting of fires, the rumor of riot. And it just brings into question in my mind how complete an investigation can be if, in fact, no one was there at the time these began to happen. Because you see, Mr. Patton, that is where it started. That was the catalyst that started everything. And eventually it is alleged that the officers, the BAU officers, came into the cell block. But what I am getting to is, you are relatively certain then that there was just a general officer making rounds of the blocks and was not actually in that block, is that correct?

A If you are asking was there one officer in the quarters the complete time, my understanding is that he was not there the complete time. However, on his visits to the quarters his observations were such that he documented the problems that were going on at the time.

Q Then in your estimation the beginning of the

investigation by the Bureau of Corrections could adequately cover those beginning sequences of acts that took place that precipitated the final allegations that this Committee has heard? In other words, do you candidly feel that the investigation was conducted with a good beginning, an awareness of the initial facts at least to the best of your knowledge? And I am not asking you what those facts are at this time. But do you feel that the investigation was conducted with a clear understanding of the initial circumstances that started this whole series of allegations?

A Mr. Miller, I'm sorry, I can't really say who all was contacted in the course of the investigation, so I'm not really able to answer your question. I'm not certain who all was a part of it and who was contacted and who all made statements the initial part of the investigation.

Q Then you, sir, have not had an active part in the investigation?

A I've given preliminary information that was received from -- that was given to my office. At a certain time, however, the investigation was turned over to higher authorities.

Q One final question.

Do you then, as a State corrections official, feel comfortable that the investigation could be thoroughly conducted from the go, from the beginning of those acts that occurred that precipitated this whole series of things; from that basis knowing there was no officer in the cell block in the period of time that it began? I think it is a critical question.

A As I indicated, the officer is in there sufficient number of times that he was able to document what was occurring at the times he was there. I'm certain he wouldn't be able to comment or document what happened when he was not there.

REPRESENTATIVE MILLER: I thank the gentleman. It was an observation that I wanted to have on the record.

REPRESENTATIVE RICHARDSON: Representative Wagner.

REPRESENTATIVE WAGNER: I am assuming, Mr. Chairman, that we are questioning Mr. Patton at this time.

REPRESENTATIVE RICHARDSON: Well, we are also dealing with the question that was raised by Mr. Yakowicz in relationship to moving into executive session. And if you have ques-

tions for Mr. Patton, certainly you can ask them.

REPRESENTATIVE WAGNER: Yes, I do.

MR. PATTON: Excuse me, Mr. Wagner.

I have a statement, Mr. Chairman. I don't know whether we have time for me to read that into the record now or not. I certainly would like to have an opportunity at some time to do that. Perhaps some of the information I have in that statement will answer some of the questions that they have on their minds.

REPRESENTATIVE RICHARDSON: If the gentleman will yield, we will listen to the statement.

REPRESENTATIVE WAGNER: Yes, I will.

MR. PATTON: It will probably take around fifteen minutes for me to read. Is that all right, Mr. Chairman?

REPRESENTATIVE RICHARDSON: Sure. Do you have copies?

MR. PATTON: I have copies, yes, sir.

REPRESENTATIVE RICHARDSON: Is this in answer to the questions, Mr. Patton, relative to the subpoena?

MR. PATTON: Mr. Chairman, this is a general statement that was prepared prior to the specific subpoenas in

question. It talks about the situation in general at the institution and my responsibilities and some of the things I feel were occurring at that period prior to and during the incident.

REPRESENTATIVE RICHARDSON: Go ahead.

MR. PATTON: As chief administrator of the State Correctional Institution at Camp Hill, I have the responsibility to provide a program of supervision, care and rehabilitation for the juveniles who have been committed to our facility. These and other objectives are spelled out in the Juvenile Act of 1972 which also permits juvenile courts to commit youths to Camp Hill who have been adjudicated as delinquent.

In April of this year, Attorney General Robert Kane ruled that after August 15, 1975, we would no longer be able to receive juvenile offenders. To date, the juvenile court judges have respected that ruling.

At the present time, we have 254 juveniles -- the date of this is the 27th. This morning I understand it is 234 -- remaining in our population of 947 inmates. A Superior Court ruling of 1973 (Parker v. Patton) requires us to keep

the juveniles separated from the remainder of the offenders who have been sentenced from the criminal courts of the Commonwealth.

A chief objective of the institution is to provide protection for the public. Camp Hill has been expected to provide sufficient external controls to prevent juveniles who have been persistent run-aways or behavior problems at the Youth Development Centers or other juvenile facilities from continuing these actions. Until August, we have had no control of our commitments and no opportunity to recommend to the courts that problem cases be removed. The buck stops at Camp Hill. Protection of the public naturally includes the responsibility to protect the youth committed to our care and also the staff members who work inside the institution. We must continually monitor the delicate balance between those forces within the institution which might cause disorders to erupt and the external control which we feel is necessary to permit a rehabilitative program to continue. Considering the circumstances within our institution at this time, I feel we are doing a good job.

Administrative Procedures:

These hearings have been called to examine alleged misconduct on the part of certain members of our staff. I would like to comment briefly on the administrative procedures and guidelines that we use to monitor and supervise our staff members. Since we are primarily concerned with the staff members who provide control, I will focus on the correctional officer positions.

Personnel Selection:

All correctional officers are selected from civil service lists under the standard procedures established by the Civil Service Commission and the Office of Administration. A personnel selection committee composed of the deputy superintendent for operations, the major of the guard, the director of personnel and the training coordinator interviews all applicants and makes recommendations to the superintendent for hiring. Levels of education, experience, maturity as well as physical and emotional health are considered. No political involvement is permitted.

Personnel Training:

All officers participate in a mandatory three week basic training period at the Bureau of Correction Training

Academy. Classes include those on security procedures and self-defense, legal aspects of employment, rehabilitation and treatment concepts, inmate behavior patterns, special offender types, such as assaultive, drug abuser, sex offender, etc., crisis intervention techniques, basic communication skills, release procedures and relationships with other criminal justice agencies.

An eight week orientation period to the Camp Hill Institution follows the basic training and exposes the recruit to the physical plant and all aspects of our treatment and operational programs.

The new employe then participates in on-the-job training for the remainder of his probationary period of six months so that he is exposed to service in various assignments throughout the institution.

Special classes on selected topics are also presented and these may be mandatory or voluntary for the correctional officer. An example of the former is a special half day training session that was presented last year on prisoner's constitutional rights and the legal implications of correctional employment. All personnel attended this session which was

presented by the office of Criminal Law of the Attorney General's Office.

An example of voluntary classes would be the on-going program of academic offerings given by the Harrisburg Area Community College in our institution which can lead to then a Certificate or Associate of Arts Degree.

Administrative Directives:

The Department of Justice and the Bureau of Correction have endeavored to implement general rules uniformly for all the state correctional institutions by issuing a series of regulations known as Administrative Directives. These are distributed and in other ways available to all employes of the Bureau of Correction and to all inmates of the institutions. These Directives state as closely as possible the constitutional rights to which an inmate is entitled. They also spell out the standards of behavior which inmates must follow and which govern the actions of all correctional officer personnel. A specific paragraph of the latter includes, "Professional stature should be the goal of all correctional personnel. The mark of this includes respect for the dignity of one's fellowman, personal bearing, a sense of loyalty and

continuing quest for knowledge to improve job performance.

The seeking and dispensing of favors or the unwarranted use of force, whether physical or psychological, shall never be condoned."

Options for Inmate Complaint or Grievance:

During initial orientation and classification procedures all inmates are given information on how to file a complaint or grievance. These include:

1. Request to staff member of the institution, Bureau of Correction or Attorney General's Office.

2. Mail. We do not censor or stop mail. Sealed letters can be sent to attorneys and certain government officials.

3. Regular visitation by family, friends, etc.

4. Law Clinic. Dickinson Law School provides a clinic to provide legal assistance and advice.

Options for Administrative Response:

A concerted effort is made to follow up on all complaints and grievances brought to staff attention. An investigative officer obtains information on which decisions and remedial action can be based. Assistance is requested from

the Bureau of Correction, the Attorney General's Office and the Pennsylvania State Police if preliminary investigative data indicates need for special handling. If staff negligence or misconduct is discovered various settlement options include:

1. Dismissal of charges. In that case a juvenile is informed of additional administrative and/or legal alternatives that are available.

2. Official reprimand placed in employe's personnel file.

3. Suspension.

4. Dismissal, with concurrence of Commissioner of Correction.

5. Referral to District Attorney or State Police for further investigation and possible prosecution.

The above options have been available and have been exercised when it was necessary to investigate and remedy a problem caused by interaction between inmates and staff members.

Deinstitutionalization Process at Camp Hill:

At any given time there are a number of character-

istics that institutionalized juveniles demonstrate which affect their relationship with staff members. These include a need to be active, which frequently is exhibited in considerable horse-play, body-punching, etc.; a desire to gain peer approval; the need to prove their masculinity; a generalized resistance to authority; and, an emotional immaturity shown by their inability to delay satisfaction of their desires.

During the present calendar year there has been considerable emphasis and publicity on the program to move juveniles to alternative programs commonly called the Camp Hill Project and initiated by Dr. Jerry Miller. At this time I would like to comment on some of the factors affecting the relationships between juveniles and staff members. I feel that many of these factors also have a direct bearing on the balance of control and maintenance of order within the institution.

A. Parker v. Patton Decision. This ruling directed that Camp Hill could continue to receive juveniles but they must be kept separate and apart from inmates committed from criminal courts. In effect, it forced us to set up two separate institutions and programs.

It, number one, reduced program opportunities. No additional funding or staff was provided. School classes were divided with juveniles going only in morning. Vocational class options were reduced or eliminated. Juveniles could not participate in our work-release program or our therapeutic community for drug and alcohol abusers.

Number two, it reduced housing alternatives. We had to place juveniles in three separate units where previously they could be placed in anyone of nine housing quarters. This meant that it was difficult, if not impossible, to separate various gang members, the mature from the immature juvenile, the behavior problem from the more stable youth, etc. This has resulted in:

a. Emerging gang activity and solidarity.

We had never had large gang confrontations until March, 1975. On March 13th and 15th, we experienced major gang rumbles in Quarters "C" and Quarters "G". While no juvenile was seriously hurt, the resultant tension and necessary control measures disrupted program and activities. In June, 1975, we again had a major gang confrontation in Quarters "G".

Note: In August, 1975, and again in October,

we had gang war activity in our adult population, also compressed into fewer housing alternatives, and also the first experienced gang activity in our criminal court population. Inmates had to be placed in a community hospital to treat serious wounds caused by opposing gang members.

b. Increasing confrontations between juveniles.

With only three possible housing placements, the older, more mature and aggressive juveniles saw more opportunity to take advantage of others. Theft, extortion, graft and sexual pressures have tended to become more prevalent. Pressure on juveniles who are about to be released has always been great to try to take personal belongings from them -- this is on the part of other juveniles -- on threat of involving them in a fight or planting of contraband, etc. in their rooms to cause possible delay in the release date.

B. General Kane's Ruling. This has resulted in stopping juvenile commitments to Camp Hill. Our last juvenile commitment was on August 14, 1975. Along with the increased number of releases going to community alternatives, our percentage of juveniles who are prone to act out their frustrations in attempts to gain attention or specialized program

alternatives has increased. In other words, more of the adjusted or "good" juveniles are being released and more "problem" juveniles are still with us.

C. Juvenile Problem Areas. As indicated, the percentage of acting-out juveniles has increased as evidenced by the number of:

1. Misconduct Reports. During the last six months of 1974, we averaged 174 minor and 74 major misconducts per month. During calendar 1975, this has increased to 201 minor and 221 major misconducts per month.

2. Attempts to harm self. During the five years prior to 1975, we had one suicide and fourteen suicide attempts. During 1975, we have had one suicide and fifteen attempts to commit suicide. A majority of these attempts appear to have been minor in nature rather than sincere efforts to take a life.

3. Other. While I did not have time to obtain statistics, staff reports indicate an increase in assaults on staff members. There also appears to be an increase in the number of juveniles who use verbal abuse on staff members. We have had over thirty toilet fixtures broken

in the past six months whereas this type of acting-out was virtually non-existent before. Incidents of throwing urine and feces on staff members have also become more common place.

D. The Camp Hill Project. This effort, fathered by Jerry Miller, and funded by the Department of Public Welfare and L.E.A.A. is coordinated by the Center for Community Alternatives, Inc. (CCA) of Harrisburg. John Mattingly is the director. Persons employed by the CCA have been working closely with Camp Hill staff since May. At present approximately 25 persons have been coming in and out of the Camp Hill Institution getting to know individual juveniles and trying to help develop alternative placements for juveniles remaining at our facility. Their work to date has been in three phases:

1. Evaluation Phase. During a three month span every juvenile at Camp Hill was seen by a professional team of behavioral specialists, psychologists and psychiatrists. Testing and interviewing proceeded without serious problem and incident. Unity of objectives was clearly demonstrated to the juveniles by our staff working closely with Project staff. Credibility of Project staff was high.

2. Supplementary Service Phase. As the first

or evaluative phase was being completed, the Project staff explored ways to supplement services to the Camp Hill juveniles. They talked of bringing in free telephones for the youth to use in calling home and working out release plans. Additional recreational activities were planned. Visits by parents and friends from distant locations were to be facilitated by bus trips. Handicrafts and educational opportunities were promised. All of these areas were explored with institutional staff, and we began to run into problems that prevented final action or completion of these projects for various reasons. Credibility of Project staff began to diminish.

3. Advocacy Phase. With little success in working out supplementary services for juveniles, the Project staff announced that a new emphasis was to be placed on getting juveniles out at the earliest possible time. While these efforts had been going on all summer, it appeared now that a much higher priority was to be placed on work in the community to expedite releases. Expanded Project staff now had fewer contacts with institutional staff members and began hearing of advocacy efforts by Project staff from the juveniles instead of more directly. Juveniles were, in some cases, more

informed on progress in completing release planning than were institutional staff. Juveniles also began to insert Project staff into confrontations with institutional staff by saying, "I don't need you to help, I'll go to the Camp Hill Project." Juveniles also saw some youth being released who had been in behavior problems within the institution. An attitude of "It doesn't matter whether I get along in here, I'll get out anyway." developed in many of the juveniles. Credibility of Project staff with institutional staff dropped lower.

Summary:

I have attempted to touch on certain factors which exist at the Camp Hill Institution and which appear to relate to your present concerns.

The administrative bases that are available for dealing with juvenile complaints or grievances and staff response have been covered briefly.

Other factors affecting the climate of the institution and, in particular, the relationships between staff members and juveniles were explored.

One of the most important factors in maintaining control and preventing disorder in an institution is staff

unity and agreement on common objectives. While the institutional staff is unified and while they share a common objective with the Camp Hill Project Staff -- the removal of the juveniles -- there is a widening gap between institutional and Project staff. The juveniles, who formerly observed institutional limits in "earning" their release, now find the Project staff directly responsible for their release in some cases. Institutional staff, and particularly those who must set limits of control, now have become the "bad guys" and Project staff members the "good guys". In addition, most juveniles have seen considerable publicity to indicate that "they don't even belong in an institution". The creditability of Project staff has decreased and many institutional staff members now believe -- rightly or wrongly -- that some Project staff members are obtaining and documenting information of a negative nature on institutional incidents. If this is happening, and it seems possible, it is contrary to agreements we have made with Project staff to "work together" to effect release of the juveniles. We have also agreed that anyone who has a concern for any aspect of our working relationship with the juveniles should share it so it can be resolved. Second guessing, by

either individuals or by groups of staff or Project personnel, can only contribute to seeds of disorder or loss of control. We are seeking ways to have our staff work more closely with Project staff to improve relationships and solidarity.

I would anticipate that more staff - juvenile confrontations will occur. I also am confident that these can be, and will be, resolved internally. We have had incidents before and have proved our ability to correct, to learn and go on. With the many avenues that are available for bringing incidents before the legislature and the public, I think it is significant that this type of hearing has not been felt necessary before this time. I am proud that the institutional staff members have been able to act professionally and keep their cool despite the many provocations and frustrations they face in our field today. We have heard our institution called a "sewer for kids", a "rathole" and "a national scandal". While these phrases may help to dramatize the deinstitutionalization process, this negative publicity does little to reinforce dedicated staff members who share concerns for youth but must continue to work in the institution. When the juveniles are removed, these employes still have an institution to operate.

For years we have realized that juveniles should be programmed in facilities other than Camp Hill. We have attempted to have the Department of Public Welfare assume responsibility for all juveniles. The Governor's Review Committee as recently as last week has also recognized this need in their recommendation No. 215. They suggest modification of an appropriate MH/MR facility for use of juveniles committed to Camp Hill. They point out that a one-time expenditure of \$500,000 would prevent spending \$13.7 million to provide authorized closed facilities at Loysville and Philadelphia. If Camp Hill is so bad -- and I don't agree that it is -- then why can't we reach agreement on the way to go and work together to achieve that end as quickly as possible? We need your help.

Thank you, Mr. Chairman.

BY REPRESENTATIVE RICHARDSON:

Q Thank you, Mr. Patton. I just have a few questions.

You indicated that the situations and some of the things that you cited in your statement here are partly a reflection of why the juveniles who have testified before

this Committee have indicated they were beaten. Do you think that justifies that in any way? You have pointed out all of the problems that you are encountering at Camp Hill. I am asking whether or not this report in any way indicates -- or are you indicating to this Committee that you feel that those reports that have been brought to this Committee by the juveniles of the problems existing in Camp Hill are a reflection of why these kids were beaten?

A. Well, sir, it has been alleged that they have been beaten. They have told the stories, you know, of what they felt happened. What I was trying to do for the Committee was to give you some kind of a background on how I view the institutional climate, how I feel that there were avenues available to the juveniles to bring any problems before institutional staff and/or Department of Justice personnel where this could have been resolved in our usual fashion. These are two single incidents that we are particularly concerned about here. And I am particularly concerned about it, too. I am anxious for a resolution of any questions that might have been raised in your hearings or that came up during the course of the investigation, Mr. Chairman.

Q Mr. Patton, I am concerned with the fact that we are now presently into our fourth day of hearings and we are still only at the one side. And I would like for you to tell this Committee whether or not you as the director of the institution at Camp Hill initiate any type of investigation yourself as an individual, or your staff at the institution -- not the Bureau of Corrections or the Attorney General's Office? When you hear of alleged cases such as the ones we heard, do you then proceed to investigate yourself or have your staff bring about an investigation?

A Yes, sir.

Q Did you do so in relationship to October 15th and October 20th?

A We did.

Q And as a result of that, that is part of the information that you have in your recollection that you at this point -- you said because of policy procedures you do not want to share that with this Committee in open session, is that right?

A That's correct.

REPRESENTATIVE RICHARDSON: I would move to make a

motion as Chairman of this Committee -- your request, Mr. Yakowicz -- that this Committee do move to go into executive session to deal with the problems surrounding October 15th and October 20th at the institution of Camp Hill.

REPRESENTATIVE RHODES: Second.

REPRESENTATIVE RICHARDSON: There has been a second by Representative Rhodes to move into executive session.

Now, we will have debate on the motion.

REPRESENTATIVE WAGNER: Mr. Chairman, discussion?

REPRESENTATIVE RICHARDSON: There will be discussion and debate, and several questions, I'm sure. And I will not move until it has been totally exhausted.

Representative Wagner.

REPRESENTATIVE WAGNER: I do have other questions, but this will go along with my vote here.

What is the scope of the investigation which the Bureau or the Department has undertaken right now? Is it only with the specific acts that have taken place during the last several weeks, or is it with the entire, let's say problem?

MR. YAKOWICZ: The present investigation relates primarily with the specific incidents, sir.

REPRESENTATIVE WAGNER: And I assume there are secondary investigations under, what, procedures and that type of thing?

MR. YAKOWICZ: With regard to what Mr. Patton said, the process is really continuous. Everytime you have a problem, it is analyzed and synthesized. And the information is related to the Attorney General in an attempt to resolve it. So there is continual analysis of the various problems.

REPRESENTATIVE WAGNER: So I would assume that your investigation is for two purposes. One is to look to a solution of this type of problem, if there is one. The other would be to look at the possible criminal or prosecutable implications involved in this.

MR. YAKOWICZ: That would be correct, sir.

REPRESENTATIVE WAGNER: Thank you.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Thank you, Mr. Chairman.

One brief question for the Solicitor General.

Mr. Yakowicz, do you have a rough ball park prediction as to when the current investigation you expect to be completed?

MR. YAKOWICZ: I would estimate no longer than 2 weeks. That would be on the outside. My guess would be that probably it would have been concluded by now but for the fact that many of us were busy in relationship to the Committee hearing and its process.

REPRESENTATIVE MILLER: I thank the gentleman for his answer.

Mr. Chairman, would I be in order for a brief comment on the motion?

REPRESENTATIVE RICHARDSON: You are in order. You may proceed.

REPRESENTATIVE MILLER: The Committee is faced with a bit of a difficult decision, and it's one of the practical outcome of what our decision will be. And if I might, I would offer this as an observation to the other members of the Committee. We are going to be voting on a question which will, in effect, bring about an executive session at which we will get the answers to questions we are interested in. The problem is, to my understanding, that we will be in that executive session as members of the legislature observing a principle of confidentiality, so that in the long view we will not be

able to comment to the public until such time as the original investigation is made public. The bottom line here is that the public will not know any sooner -- providing the members of this Committee respect that mark of confidentiality, the public will not know any sooner the answers we are seeking as a committee of the General Assembly on the public's behalf.

There is a secondary consideration which prompts an initial reservation on my part; and that is the general principle of the Sunshine Law. As a constituted public body, we are operating under formal resolution by the House of Representatives passed. And in doing so, we are also operating under the rules of our House which do provide for open meetings, open forum open to the public. The reservation is this: In going into executive session for a reason other than a direct personnel disciplinary problem or a union negotiating problem that is provided to local governments under our Sunshine Law, please be aware that if we go into executive session, we will be going into executive session with another branch of our own government. That is quite a horse of a different color.

The vote then, in my mind, boils down to one very

direct question. Our decision, as I see it, is, will we go into executive session for our own satisfaction, knowing full well that the public will not get the answers until the investigation is complete and that we may be violating the spirit of the Sunshine Law. And I am just asking the Committee members to consider that. I am not urging a negative or positive vote. I want the Committee to be aware that the bottom line of going into executive session still does not mean any new information for the public until such time as the Department of Justice's investigation is complete.

Finally, for the record, I do in principle support the policy of the Attorney General's Office to run investigations in confidence, but only in their stated position of a spirit of fairness to those being investigated. And I recognize the circumstances of this investigation may, indeed, be unusual and different. And for those reasons, I don't respect my own opinion of their policy and feel we should go into executive session.

Thank you, gentlemen.

REPRESENTATIVE RICHARDSON: Thank you very much,
Representative Miller.

Representative Rhodes.

BY REPRESENTATIVE RHODES:

Q It has been my opinion that having public hearings on this whole matter is the main protection that the juveniles who testified before our Committee had, and if we go into executive session, to some extent their protection is muted. Do you have any direct knowledge of any juvenile court judge in Pennsylvania threatening or implying a threat to any of the juveniles who have testified before our Committee that they would be treated harshly because of their testimony before our Committee?

MR. YAKOWICZ: I have no information with respect to any judges threatening any juveniles.

MR. PATTON: Nor do I.

BY REPRESENTATIVE RHODES:

Q Is one of the juveniles now in Mohawk when he wasn't there last week when he testified?

A Yes, there is one who is now in a detention unit.

Q Who?

A Mr. Goodwin.

Q Is there an additional one to Mr. Goodwin that you know of?

A Not to my knowledge. In fact, I think --

(Mr. Patton consulted with Mr. Marks at this point.)

MR. PATTON: I am corrected. There was one other individual who was placed there last night. I hadn't any report on that.

BY REPRESENTATIVE RHODES:

Q Do you know his name?

A Gary Misko.

Q Do you know why he is in Mohawk?

A No, I don't.

Q I would like to know why.

Does Mr. Marks know why?

(Mr. Patton consulted with Mr. Marks at this point.)

MR. PATTON: I am informed that yesterday afternoon

after he had an opportunity to talk with his attorney, that when he returned to his housing quarters, he refused to lock up in his room and he defied the officer, and it was necessary to place him in the detention quarters.

BY REPRESENTATIVE RHODES:

Q Do you have any knowledge as to whether or not he did so because of his apprehension about the actions of his juvenile court judge on his case pursuant to his testimony before our Committee?

A I'm not familiar with that information.

Q Will you investigate that, Mr. Patton?

A I certainly will.

REPRESENTATIVE RHODES: Thank you, Mr. Chairman.

REPRESENTATIVE WAGNER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Wagner.

REPRESENTATIVE WAGNER: Mr. Yakowicz, am I to understand that you have consented to meet with this Committee in executive session to disclose some of the information related to what the Department has that it does not want to make public?

MR. YAKOWICZ: Yes. The Attorney General will personally meet with the Committee if it is the Committee's

desire. The Attorney General has kept his schedule open the rest of the afternoon.

REPRESENTATIVE WAGNER: Thank you.

Mr. Chairman, am I to understand that the results of the outcome of what is disclosed at that executive session is to be made public? Is it the desire of the Chair to make that public?

REPRESENTATIVE RICHARDSON: Repeat your question please.

REPRESENTATIVE WAGNER: We are going to meet in executive session with various members of the Department of Justice and the Bureau of Corrections. They have asked us to maintain the confidentiality of that information. Is it the desire of the Chair that we are to respect the wishes of the Department regarding the confidentiality of that information?

REPRESENTATIVE RICHARDSON: Well, if it is the desire of this Committee to vote to go into executive session, then I think it would be part of the regulations that are set before us, and that it would be a spirit of confidentiality. We can only at this point suggest to other members that they keep the spirit of confidentiality regarding the other branch

of government at this particular time. But we certainly cannot beat anyone up and make them take that position. I feel very personally, Representative Wagner, that there are some comments I will make after you finish your questioning.

REPRESENTATIVE WAGNER: May I ask then, Mr. Chairman, whether you personally agree to respect that confidentiality? I do, and I consider it a breach of the ethical rules --

REPRESENTATIVE RHODES: Point of order, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Rhodes with a point of order.

REPRESENTATIVE RHODES: It is my understanding, Mr. Chairman, of the rules that it is a separate vote as to whether or not we will decide to release information developed in executive session. I don't think it is an appropriate motion right now.

REPRESENTATIVE RICHARDSON: I think the gentleman is making a statement, not a motion.

REPRESENTATIVE RHODES: Are you making a motion?

REPRESENTATIVE WAGNER: No, only on the question to go into executive session.

REPRESENTATIVE RHODES: Mr. Chairman, can I continue

with my point of order?

REPRESENTATIVE RICHARDSON: Point of order. Continue.

REPRESENTATIVE RHODES: The motion that I seconded, is that motion that we go into executive session, or is it that in addition to going into executive session, we will not release any information we might hear in executive session?

REPRESENTATIVE RICHARDSON: There has been no vote or any amendment to that particular motion to go into executive session.

REPRESENTATIVE RHODES: So the motion that is before us is to go into executive session?

REPRESENTATIVE RICHARDSON: That's the motion.

REPRESENTATIVE RHODES: Thank you, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Wagner, you may continue.

REPRESENTATIVE WAGNER: It is my understanding from the answer of the Chairman that if we went into executive session and information is disclosed to us confidentially, it is my understanding that the Chairman will treat an individual member's decision to disclose that information as an individual

member's decision, and not that we are bound by that? I would like to make that clear, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Are you asking me if we are bound by that?

REPRESENTATIVE WAGNER: Yes.

REPRESENTATIVE RICHARDSON: I don't think there is any other rule, other than the spirit of confidentiality, unless there is a rule that I do not know about. If there is a rule, Mr. Kagan will read it now.

MR. KAGAN: All right, I am advised in the first instance that the Attorney General's Office has an opinion relative to the Sunshine Law which is binding on executive agencies, but only advisory to the legislature concerning executive sessions. Could we have a copy of that to furnish to the members of the Committee?

MR. YAKOWICZ: Perhaps I could have Mr. Glenn Gilman who researched the issue with regard to the Sunshine Law and its applicability fill you in on his findings and research.

MR. KAGAN: Well, let me go on for one more second.

Under the Sunshine Law we can move into executive session. And under Rule 51 of the House, if we feel that any

evidence or testimony may tend to defame, degrade or incriminate an individual, we then may move into executive session. The rule goes on to say that no evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee. And I think Mr. Rhodes and Mr. Wagner's colloquy was on this point.

REPRESENTATIVE RHODES: It would take an affirmative vote to release it.

MR. KAGAN: It would take an affirmative vote on the part of the Committee to release any evidence or testimony taken in that executive session. So by our own House rules, we are properly bound by that confidentiality unless an affirmative vote by the Committee would change that decision.

REPRESENTATIVE WAGNER: Then before the Attorney General's comment here, may I then ask that in the event that confidentiality is breached without the permission of this Committee the Chairman himself bring an action of censor before the House.

REPRESENTATIVE RHODES: I think that is premature at this point. We assume we are all of good faith.

REPRESENTATIVE RICHARDSON: I feel the question is

premature. And certainly I would not want to take any action until such time we are able to determine what our course of action is going to be and whether or not that happens. I don't want to speculate on that at this particular time. I don't want to give anyone the notion that there will be a breach of that confidentiality.

REPRESENTATIVE MILLER: Mr. Chairman.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: I would just like to clarify one point.

It is my understanding that our vote today to go into executive session has been presented by the Attorney General's Office that we are going into executive session with the prearranged agreement of confidentiality, not under Rule 51 of the House.

REPRESENTATIVE RHODES: Those are the rules we operate under, Mr. Miller.

REPRESENTATIVE MILLER: Well, I just want to make it clear. I want to be certain that I understand for making my vote that while we hear the material in executive session, we are not bound as individuals until such time thereafter as a

Committee vote takes place. That is what I want to clarify. And in that regard, my previous statement was premature. I would like the record to reflect that.

REPRESENTATIVE RICHARDSON: I have a comment, I guess, and an opinion at this particular time relative to that statement. But before I do that, I will yield and hear from Mr. Gilman on his research of this question with regard to the Sunshine Law.

You may proceed, Mr. Gilman.

MR. GILMAN: Thank you, Mr. Richardson.

REPRESENTATIVE RICHARDSON: Would you state your name?

MR. GILMAN: Glenn Gilman, Deputy Attorney General.

REPRESENTATIVE RICHARDSON: You may proceed.

MR. GILMAN: The only interpretation thus far of the Sunshine Act, since it is a relatively recent act, is an Attorney General's opinion from September 12, 1974 written by then Attorney General Isreal Packel. And the appropriate section is 3(b) first off. That is the section that deals with limited executive sessions. And that would provide that a public meeting may be recessed for a single executive session

of 30 minutes to deal with a complaint, in this case for charges brought against public officers, employees or agents. That can be a 30 minute session.

However, there is a later provision of the Attorney General's opinion that provides for a longer private meeting to be held if the Committee deems that course of action to be desirable. That would be section 3(c) which deals with confidential information. And that says that a private meeting may be held at another time to deal with confidential information, such as that which is not allowed to be public under the Right To Know Law. And one of the specific provisions of the Right To Know Law, which is also discussed in the Attorney General's opinion, are that reports which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties is not a public record under the Right To Know Law. And it appears to me, and I think to the Department of Justice, that this is exactly the kind of investigation that we are talking about here today and, therefore, the Committee would have two choices: One, a limited 30 minute executive session; or, two, a longer or shorter, for that matter, private

meeting to discuss confidential information.

REPRESENTATIVE RICHARDSON: Is it your understanding also that there are no rules there that indicate that we cannot have more than one 30 minute session?

MR. GILMAN: No, not necessarily. Just a second here.

If the first option were taken, that limits the 30 minute executive session to a single occurrence. If the second option were taken, that would be a private meeting to discuss confidential information, then there would be no time limit set, at least not by law.

REPRESENTATIVE RICHARDSON: Well, my understanding of that particular act -- which is 3(b), is that correct?

MR. GILMAN: Excuse me, sir?

REPRESENTATIVE RICHARDSON: Didn't you say it was section 3(b)?

MR. GILMAN: It is section 3(b) of the Attorney General's opinion on the Sunshine Law.

REPRESENTATIVE RICHARDSON: And it is my understanding that under the rules of this House, we can move into executive session, but it is not limited to just one period of 30 minutes. We could recess and then come back into another

session of 30 minutes. Is that your understanding?

MR. GILMAN: No, sir, that's not; not under 3(b). Under 3(c) you could have any length of time. Under 3(b) it says a single session not to exceed 30 minutes.

REPRESENTATIVE RICHARDSON: Mr. Hartman.

MR. HARTMAN: Mr. Gilman, or Solicitor General, is it not true that in the proposed executive session, that testimony will not be taken from anybody? This is merely a meeting?

MR. YAKOWICZ: That is correct, sir.

MR. HARTMAN: So under the Sunshine Law, Section 7, it says that for purposes of this act, meetings of the legislature which are covered are as follows: All meetings of the committee where bills are considered and all hearings where testimony is taken. And we are not taking any testimony, so I don't think we come within the context of the Sunshine Law.

REPRESENTATIVE RHODES: Point of order, Mr. Chairman.

Am I to understand from the direction of that inquiry that there will be no guards or officials of Camp Hill in our executive session?

REPRESENTATIVE RICHARDSON: Not unless this Com-

mittee desires it. I am saying that based on information that was given to us by the Solicitor General -- it was that we move into executive session with the Attorney General, the Bureau of Corrections and also Mr. Ernest Patton. Is that correct?

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

REPRESENTATIVE RHODES: Mr. Patton will be there?

MR. YAKOWICZ: I believe Mr. Patton will be there.

Has the Attorney General discussed it with you directly?

MR. PATTON: No, sir.

MR. GILMAN: He has discussed it with me, and he will be there.

REPRESENTATIVE RHODES: So Mr. Patton will be there?

MR. YAKOWICZ: Yes, he will be there.

REPRESENTATIVE RICHARDSON: And the investigators?

MR. YAKOWICZ: The investigators will not be present, I don't believe.

REPRESENTATIVE RICHARDSON: Well, I would like to request then that if that is not the case, if this Committee so desires to move into executive session with the Attorney General's Office, that the investigators who certainly took

this report also be present if they are in Harrisburg.

MR. YAKOWICZ: I don't know whether the investigators are present in Harrisburg or not. There were numerous individuals involved in the various aspects.

REPRESENTATIVE RICHARDSON: I am speaking of the chief investigator primarily, sir. I met him at Camp Hill on October 23. I don't remember his name. He said he was the chief investigator.

(Discussion off the record.)

REPRESENTATIVE RICHARDSON: Mr. Emrick or Mr. Faust.

MR. YAKOWICZ: It is your desire to have Mr. Emrick there?

REPRESENTATIVE RICHARDSON: That's correct.

MR. YAKOWICZ: I will relate that to the Attorney General.

REPRESENTATIVE RICHARDSON: Okay, thank you.

I would like to move now on the motion. I asked for the Deputy Attorney General's opinion. I want to make it very clear to the Attorney General's Office, Mr. Patton, that if it is the desire of this Committee to move into executive

session, that I would like the public to know that I am quite concerned about this matter. I do have some hesitancy about moving into executive session, but that if we do not get the cooperation, or it does not seem that we are getting the cooperation dealing with this matter, that I must remind Mr. Patton his subpoena is still outstanding, and I will move to ask that he answer the questions directly under that subpoena. And I would also like the public to know that we are in no way going to cover up. We are going to be, perhaps, using this as a tool to be able to go into executive session to really try and get to the bottom of this issue. I have been certainly most upset that we have not been able to, in an open forum, get the kind of information we want in order to have a well rounded investigation, hearing both sides. I feel that it is important that the public know exactly what is going on and what is happening, because I feel that we have nothing to hide and there should be nothing to hide in the halls of justice. That is certainly our obligation not only as elected officials but as persons who are operating under good government. And I would certainly feel -- and I am doing this for discussion purposes with the Committee -- that if we make this move to move into

executive session, that we understand that if at anytime we are not getting the kind of answers that are important and the kind of answers that we are looking for, that we will then close the executive session out, come back and meet in open meeting and bring back the Attorney General and also Mr. Patton to continue these open hearings. I feel that it has been a request of the Solicitor General to this Committee. I feel at some point there is going to have to be some meeting of the minds in order to bring about the kind of changes necessary to hear what is really going on. And I would suggest very strongly to the members of this Committee that we take that into consideration before we vote. There is no question that there is a lot of weight on this Committee at this present time because of the fact that we have moved into this investigation with the spirit in mind of trying to get all of the facts involved; that it was not a onesided deal on our part; that it was not a onesided deal in relationship to any member of this Committee to do so, but to solely get all of the information so we could make a decision and decide to move.

Before I vote, I would like to ask a question of Mr. Patton or the Solicitor General.

If it is found that in any way, shape or form, that there are any persons who are guilty and that there are possible criminal proceedings that must follow, will it be the recommendation of the Attorney General to then move to whoever the District Attorney is or whoever the counselor is involved, to move that these persons be prosecuted under the law?

MR. YAKOWICZ: Mr. Chairman, this case will be treated no differently than any other one. If we find any violations with regard to criminality, the file would be turned over to the District Attorney. Our normal procedure is not to recommend either prosecution or the dropping of charges. It is submitted to the District Attorney for his judgment, his consideration, as is the procedure in any other case, Mr. Chairman.

REPRESENTATIVE RICHARDSON: Thank you very much.

Are there any other questions on the motion?

MR. KIRSCHNER: Mr. Chairman, would you accord me the opportunity to ask one question?

REPRESENTATIVE RICHARDSON: Not at this particular time I will not, no, sir.

Are there any other questions by this Committee

on whether or not we will move into executive session with the Attorney General and his staff, Mr. Patton and members of the Bureau of Corrections pursuant to Rule 51?

(No response.)

REPRESENTATIVE RICHARDSON: I would like to call the roll.

Representative Miller.

REPRESENTATIVE MILLER: Aye.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

REPRESENTATIVE RHODES: Aye.

REPRESENTATIVE RICHARDSON: Representative Wagner.

REPRESENTATIVE WAGNER: Aye.

REPRESENTATIVE RICHARDSON: Representative Richardson.

Aye.

The roll has been taken. It is a unanimous vote that this Committee move into executive session to meet with the Attorney General, Mr. Patton, part of the staff of the Department of Justice, and also the Bureau of Corrections.

It is now 1:15, sir. If 2:00 is a good time for

the Attorney General to come to the executive session, we will hold it in the Majority Leader's Office, which is directly across from this room, and at that time we will move then to discuss whatever matters have to be discussed. And at the completion of that executive session, we will come back here to resume our hearings, whatever time that is. I think we will have to recess at the call of the speaker, and then we will resume at that time these particular hearings.

I think it should also be noted for the record that there will be no testimony taken in this executive session, so our stenographer will not be present. Only our staff and your staff will be available at that time at 2:00.

REPRESENTATIVE MILLER: Mr. Chairman, a question on staff that will be present. And it's merely a request from me.

Certainly House members are there and certainly Majority Counsel, but I have a basic question as to whether general staff should be in the room, since we are dealing with the confidentiality. I would accept Committee counsel, Committee members, Department counsel and the pertinent individuals we have requested, but there is a question in my mind as to all of the general staff.

I will defer to the Chairman's consideration.

REPRESENTATIVE RICHARDSON: It is my understanding of this particular session that certainly any staff members of our Committee and other representatives understand that the spirit of confidentiality will be respected in this request of the Attorney General's Office.

REPRESENTATIVE MILLER: Mr. Chairman, I might point out that this was a motion of the Committee to go into executive session, and that, indeed, even extending it to counsel would appear to be an abridgment of that motion. And I would ask very seriously that it be limited to counsel.

REPRESENTATIVE RICHARDSON: It is my decision at this time, Representative Miller, that certainly having counsel or having staff, unless there is a motion, that they can be present. If you are requesting that there be a motion that they not, I will certainly entertain it. But I feel we are not going to have any of our staff members breach the confidentiality.

REPRESENTATIVE MILLER: Mr. Chairman, I would still move that only Committee counsel and Committee members be present for one very simple reason:

I respectfully disagree with the Chair, because general staff are not obliged to the general rules of House operation that we as House members are.

REPRESENTATIVE RICHARDSON: I think, Mr. Miller, that you will note that in other cases of executive session, there have been other staff members present. I don't think it is a breach of confidentiality at all. I think if you check with counsel and other Committee members, you might withdraw your motion. I don't feel that we have that problem.

REPRESENTATIVE MILLER: I respectfully request the Chair to call for the question.

REPRESENTATIVE WAGNER: I second.

REPRESENTATIVE RICHARDSON: Okay, properly moved and seconded that this executive session only include the representatives and the Attorney General and also Mr. Patton and the Bureau of Corrections.

On the question, is there any discussion?

(No response.)

REPRESENTATIVE RICHARDSON: Okay, I will take the vote.

Representative Wagner.

REPRESENTATIVE WAGNER: Yes.

REPRESENTATIVE RICHARDSON: Representative Rhodes.

REPRESENTATIVE RHODES: No.

REPRESENTATIVE RICHARDSON: Representative Miller.

REPRESENTATIVE MILLER: Aye.

REPRESENTATIVE RICHARDSON: Representative Richard-
son.

No.

The vote being two to two, the motion falls, and we will move at 2:00 into executive session, and those persons who are members of the staff will be present.

This House stands in recess.

(Hearing recessed at 1:15 p.m.)

CERTIFICATE

I hereby certify that the proceedings and evidence taken by me before the Pennsylvania House of Representatives Judiciary Committee Subcommittee on Corrections and Rehabilitation are fully and accurately indicated in my notes and that this is a true and correct transcript of same.


Michael P. Elliott, Reporter