

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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22
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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: Public Hearing on Proposed Anti-Drug Legislation

* * * * *

Stenographic report of hearing held
in Courtroom 653, City Hall, Philadelphia,
Pennsylvania

Thursday,
May 18, 1989
1:00 p.m.

HON. THOMAS CALTAGIRONE, CHAIRMAN
Hon. Babette Josephs, Secretary
Hon. Kevin Blaum, Subcommittee Chairman on Crime
and Corrections

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Lois S. Hagarty Hon. Robert D. Reber, Jr.
Hon. Richard Hayden Hon. Karen A. Ritter,
Hon. David W. Heckler Hon. Chris R. Wogan
Hon. Nicholas J. Maiale

Also Present:

Hon. Jon D. Fox
David Krantz, Executive Director
William Andring, Majority Counsel
Mary Woolley, Minority Counsel
Katherine Manucci, Staff

Reported by:
Ann-Marie P. Sweeney, Reporter

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536 Orrs Bridge Road
Camp Hill, PA 17011

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+ 64

220 pages

INDEX

	<u>PAGE</u>
1	
2	
3	4
4	17
5	
6	27
7	
8	34
9	86
10	93
11	
12	99
13	
14	110
15	
16	115
17	125
18	
19	141
20	146
21	
22	149
23	
24	
25	158

EXHIBITS:

Michael Reilly
 Robert Armstrong - (On file with committee staff)

1 CHAIRMAN CALTAGIRONE: Okay, if you're
2 ready, we'll open up the meeting.

3 This is the first in two days of hearings,
4 public hearings, on the drug issue sponsored by the House
5 Judiciary Committee of the Pennsylvania House of
6 Representatives. I am chairman Tom Caltagirone, and I'd
7 like the members to please introduce themselves, and the
8 staff. And if we'd start to my left. Dave.

9 REPRESENTATIVE HECKLER: Dave Heckler, 143rd
10 District.

11 REPRESENTATIVE HAYDEN: Dick Hayden, from
12 Philadelphia.

13 REPRESENTATIVE HAGARTY: Lois Hagarty,
14 Montgomery County.

15 REPRESENTATIVE REBER: Bob Reber, Montgomery
16 County.

17 REPRESENTATIVE MAIALE: Nick Maiale,
18 Philadelphia.

19 MS. WOOLEY: Mary Wooley, Republican
20 counsel.

21 MR. ANDRING: Bill Andring, Democrat
22 counsel.

23 MR. KRANTZ: Dave Krantz, Executive Director
24 of the Judiciary Committee.

25 MS. MANUCCI: Kathy Manucci, secretary for

1 the committee.

2 CHAIRMAN CALTAGIRONE: All right.

3 We'll start off with the Crime Commission.
4 We're going to move it out of order, but they had a time
5 squeeze and there's something happening that they have to
6 get to. So if you'd like to introduce yourself for the
7 record. I apologize for not having microphones here, but
8 we'll try to do the best that we can.

9 MR. REILLY: And we'll try to speak, up Mr.
10 Chairman.

11 My name is Mike Reilly, and I'm chairman of
12 the Pennsylvania Crime Commission. With me on my left is
13 Charlie Rogovin, vice chairman; and Art Coccodrilli,
14 another commissioner of the Pennsylvania Crime Commission.

15 I have submitted a written statement which I
16 would ask to be entered into the record. I'd like to make
17 a couple of preliminary comments, and then we would like
18 to spend our time, if we could, answering the questions
19 because we think that might be the most useful thing to
20 do.

21 (See index for exhibits of Mr. Reilly.)

22 By way of preliminary observation, I think
23 the thing that this committee especially is sensitive to,
24 and all of us in the law enforcement business have to be
25 aware of, are that there is one virtue above all others

1 that's going to be required, and it's something other than
2 tenacity, which is what we principally brought to this
3 battle thus far. I just read a book about a group of
4 American executives who went over to participate in a
5 joint program with a number of the most successful
6 Japanese executives, and the keynote speaker for the
7 presentation was one of the Japanese, Mr. Matsushi who was
8 head of the Matsushi corporation that owns Panasonic and a
9 number of those other major Japanese firms and built them
10 from nothing after World War II. They asked him whether
11 he had a long-range plan. That's the first question the
12 American executives asked. And he responded, "Yes, I do.
13 I have a long-range plan for my corporation." They said,
14 "Well, what's the duration? Do you plan in 3-year,
15 5-year? What's the increment for your plan?" He said,
16 "250 years." They said, "Well, what does it take to
17 achieve a long-range plan of 250 years?" He responded,
18 "Patience," and that's the virtue that I think we are all
19 going to have to have in ample supply to deal effectively
20 with the problem of narcotics in Pennsylvania.

21 I salute you for assembling an excellent
22 package of proposals. I will not speak on the individual
23 bills because other people that have sponsored them are
24 here to do that. I'd like to speak a little bit just to
25 give like by way of preliminary remarks a couple of

1 considerations that are reflected in my formal remarks.

2 There has been some confusion about our
3 advocacy of street enforcement. We absolutely believe in
4 street enforcement, we believe in the value of two kinds
5 of street enforcement: Street enforcement in areas where
6 the buyer is known to the seller and vice versa, to
7 disrupt the organization by eliminating those buyers. A
8 number of these bills address that situation very
9 effectively. The other is the value of street enforcement
10 in going against buyers rather than sellers. I think
11 we've had some recent demonstrations and some very
12 effective programs of this type here in Philadelphia,
13 specific projects which focused on it. This is what you
14 really have to go to if you're going to have law
15 enforcement have an effect on the demand side, on
16 curtailing the demand side for drugs to take us beyond our
17 traditional role in the supply side. The kind of things
18 that are in many of these pieces of legislation will
19 enhance the ability of law enforcement and prosecution in
20 this Commonwealth to move in those areas.

21 The other area of enforcement that we
22 believe will again prove to be very successful is the same
23 kind of enforcement which is recommended by the joint
24 National District Attorneys Association and the
25 Association of Attorneys General Joint Study in this area,

1 and that is moving after the criminal organizations
2 themselves, moving after the drug trafficking networks,
3 and this is something that I know from our meeting the
4 Attorney General, for one, is absolutely committed to, to
5 moving of these groups and dismantling them and putting
6 them out of business as networks, not focussing on
7 individuals as much as focussing on taking out the whole
8 trafficking network and more importantly, really, taking
9 out their assets. And that's the thrust of a number of
10 these bills in addition to taking out the assets of those
11 enterprises so as to not leave them the economic power
12 they once had.

13 What I believe has become inefficient, the
14 strategy which no longer is the best use of our limited
15 finite resources, is to target the multi-kilo dealer or
16 the multi-kilo courier. The reason for that that is
17 tactic developed 15 years ago when the DEA was trying to
18 convince major cities and convince its own agents that
19 they should move up the ladder and move after more
20 significant players. And at that time, a multi-kilo
21 dealer was a very significant player.

22 In the city of Pittsburgh, the city I come
23 from, the city I policed, the city I served in the
24 Allegheny County District Attorney's Office, we had three
25 of those at one time, and that was big news, and

1 eventually we got all of them, with the DEA's assistance.
2 Nowadays, a multi-kilo dealer is like a mailman. There
3 are so many of them and the supply has so grown that we
4 make a mistake if we focus our limited resources on those
5 individuals as individuals. To the extent they fit into a
6 network, they are appropriately assaulted as part of the
7 network, and so on. But if I'm going to send two people
8 out for three days and make a multi-kilo dealer at the
9 same time I could go out and make 15 street arrests,
10 frankly, the street arrests are a better use of their
11 time.

12 We talk in my prepared remarks about a
13 number of these bills which focus on enhanced sentencing,
14 enhanced punishment. Punishment is appropriate. I mean,
15 I'm a cop, I'm a DA, and I'm a citizen, I'm a parent. I
16 understand that punishment is important, punishment is a
17 very valid aspect of our criminal justice system,
18 punishing the guilty. However, there is another critical
19 aspect that all of us are aware of, and that is
20 deterrence. And I suggest to you that in many of these
21 areas you will achieve more deterrence with swift and
22 certain punishment than you will with severe punishment.
23 Now again, I'm preaching to the choir. I know working
24 with this committee, because you have been aware of this,
25 you can focus your own attention on this, but I did want

1 to make that point because that's one of the points we
2 lean into rather strongly.

3 There are a number of approaches to that
4 swift and certain -- for example, those people, if you
5 bring District Attorney Castille in here, he will tell
6 you, as he told us, and perhaps will tell you as he has
7 told us, that those people who have lost their cars in
8 those sting operations he has run on the drug thoroughfare
9 corners are much more sanctioned and more effectively
10 sanctioned than people who get probation or who would even
11 go to jail or the few of them that would eventually go to
12 jail.

13 The last point I want to make from my
14 statement is that it is awfully important as we go forward
15 into this area that we are willing to learn things, we are
16 willing to be creative, and that we find some way to
17 accurately and sensibly keep score about our success or
18 failure. If we use the old methods of seizures,
19 quantities seized, people arrested, people incarcerated,
20 we will not be likely to measure the success to the extent
21 the objective is to control the narcotics problem. To the
22 extent the objective is to punish people that deal drugs,
23 we can measure that success by incarcerations. We cannot
24 measure the success of our ability to control drugs by
25 measuring the number of arrests or the quantities seized.

1 That's just a universal experience. One of the things the
2 Attorney General, for example, has suggested, I'm speaking
3 now about Attorney General Preate has suggested, would be
4 in his area the idea of focussing on the organizations,
5 destabilized on the criminal organizations that he intends
6 to target.

7 Another approach I would suggest from the
8 more street perspective is the quality of life in the
9 communities and the decrease in other crimes in
10 communities as we effectively destabilize some of these
11 narcotics trafficking organizations and break up their
12 grassroots street level marketing.

13 That's a summary of what we had in our
14 presentation. I'd like to now open it up, with my other
15 commissioners, to any questions or any discussions, if it
16 please this committee.

17 CHAIRMAN CALTAGIRONE: Certainly.

18 Questions?

19 REPRESENTATIVE HECKLER: Thank you, Mr.
20 Chairman.

21 BY REPRESENTATIVE HECKLER: (Of Mr. Reilly)

22 Q. Mr. Reilly, the one question that springs to
23 my mind when I see this, the variety of legislative
24 options that are presented in terms of enhancing penalties
25 or creating new offenses, which most of these fall into

1 one of those categories, I wonder whether the fundamental
2 issue here isn't the quantity and the quality of the
3 resources we devote, that if the legislature just simply
4 didn't pass a single additional law, whether the best
5 thing we could do about this problem is simply put more
6 people on the street, and to the extent that there are
7 courtrooms which are so overcrowded that they're not
8 moving the cases through once arrests are made adequately,
9 funds those resources. Do you have a comment?

10 A. I agree with you on that. I also would
11 carry it one step further, as you, of course, have, and
12 which that then you have to have those judges and district
13 attorneys and those juries have to have something to do
14 with these people who come before them, and that's an
15 issue I know that this committee is especially sensitive
16 to. But I agree with you, no system -- we can have death
17 penalties but if no one ever comes to trial and people go
18 back on the street within 3 hours of their being arrested,
19 we don't have that penalty, and though we have this
20 draconian sanction, we have no sanction, because a
21 sanction unimposed or randomly imposed is no sanction
22 whatsoever. And we would be -- I think one of the things
23 that we learned when we worked with some of the academics
24 to prepare that study that the Commission on Crime and
25 Delinquency had funded was that some of the best thinking

1 is you're better to get people in quickly and surely
2 rather than to have these draconian remedies which may
3 well not ever be imposed.

4 And the other thing to remember is we're
5 dealing with a very different kind of offender now in
6 narcotics trade, especially in the Crack trade, than we
7 have historically dealt with. They are not the same kind
8 of people that we dealt with in the heroin trade or in the
9 powdered cocaine trade. We've got a younger, more violent
10 group of people with very little to lose, whether they are
11 Jamaicans, whether they are African Americans from our
12 inner city neighborhoods, whether they are Colombians.
13 We're dealing with a very different kind of criminal, and
14 I would hope, as we all do, that some of those sanctions
15 for narcotics transactions with guns and for murders and
16 intimidation -- now, for example, you see a number of your
17 bills talk about extending protection to prosecutors,
18 judges, jurors, probation officers. That is to say to
19 make it an enhanced crime for someone to threaten or take
20 action against them, and I completely support that
21 approach, but I really wonder to what extent that will
22 sanction these people, and these people are not the
23 rational business people that some of the people we've
24 dealt with in the past in other narcotics markets have
25 been.

1 REPRESENTATIVE HECKLER: Thank you. That's
2 all I have.

3 CHAIRMAN CALTAGIRONE: Yes.

4 REPRESENTATIVE BLAUM: Thank you, Mr.
5 Chairman.

6 BY REPRESENTATIVE BLAUM: (Of Mr. Reilly)

7 Q. Mr. Reilly, I'm one of those who believes
8 that there's not a war on drugs, that it's barely a heated
9 argument, and I think you're right when you say that we're
10 dealing with irrational people, we're dealing with
11 something that is responsible for 70 percent of the crime
12 in Pennsylvania, and the millions that we are spending and
13 that we'll continue to spend in our prisons. You
14 mentioned that irrational kids. I assume these people
15 stand to make 1,500 bucks a week, if not a day?

16 A. That's right.

17 Q. And that if we remove them, they have about
18 600 applications for that position in the line of command?

19 A. Sure.

20 Q. What do we do? If we're talking about
21 getting them into the court system quicker, how do we do
22 that? I mean, with all the legal obstacles we have, how
23 do we do it?

24 A. The kind of thing that I've seen recommended
25 that I think has been a thoughtful approach is remember

1 what we did with career criminals. One of the things that
2 we did when we focused on general career criminals -
3 burglars, career armed robbers, career rapists - the
4 realization that a certain limited percentage of the
5 criminal offenders commit the most serious crimes, and
6 what we did in many of our jurisdictions, including
7 Philadelphia, is we did a target. Now, I'll tell you how
8 it worked in Allegheny County, because we based ours on
9 the experience in Haddonfield County, a city in
10 Minneapolis, and the experience up in Boston, and we put a
11 fast track together of people we identified as career
12 criminals we moved through the system on a different track
13 than people who were being processed normally. I suggest
14 to you we could extend that and even go to a special court
15 system and process these narcotics matters faster and get
16 it more expedited. None of us who are in prosecution
17 would have believed we could bring a case to trial within
18 180 days until the Supreme Court of this Commonwealth
19 mandated that every case be brought together within 180
20 days. And within six months in all counties of the State,
21 save Philadelphia, we were bringing people to trial within
22 180 days. I suggest that there are systems approaches.

23 There's another excellent point you made
24 that I slid over and I shouldn't have. That excellent
25 point is the major, major costs of our narcotics problem,

1 of our drug problem, is the crime that supports it. I
2 mean, I don't feel -- I'm not outraged at the fact that
3 certain Colombian international criminals are making
4 billions of dollars. I am outraged that people can't walk
5 the streets in most neighborhoods of the city of
6 Pittsburgh, many neighborhoods of the city of Pittsburgh,
7 because of the Crack. Not so much -- now Crack cocaine is
8 becoming a problem, but historically heroin addiction,
9 and that's a problem that we've accepted. Most of what
10 you hear now is about Crack. And those heroin addicts are
11 committing a significant portion of that crime and we're
12 not focussing on it. And that's why I suggested, one of
13 the things I should have more directly addressed, when you
14 measure your success, the reduction in street crime is a
15 very real measure of the success in controlling narcotics.
16 And that should be one of the factors that we consider.

17 Q. One final question. When we're talking
18 about trying to get a war on drugs off the ground, and I
19 think that Secretary Bennett is trying to do that, when we
20 talk about local police and how much -- what a good job
21 they are doing trying to fight this unbelievable foe, and
22 the prosecutors and the court systems which are clogged,
23 our prisons now that are bursting, one element that I
24 believe is missing from this, and I'd ask you to speak to
25 it, is our State Department, the Federal government. And

1 I wonder what Ronald Reagan and George Bush would do if
2 elements in the Colombian government were systematically
3 funneling poisonous gas into the United States. I believe
4 that our Federal government has a bigger responsibility
5 with this terror that leads to, again, people not being
6 able to walk the streets, homes in quiet neighborhoods in
7 the city of Wilkes-Barre that I represent, this is not
8 just big cities, being broken into to obtain money for
9 drugs. This is touching all facets of our society, and I
10 wonder if the Federal government is not doing all they
11 should be doing in the foreign policy area.

12 Q. Before I turn it over to my vice chairman,
13 let me just make a brief comment, brief response to that.
14 Some of the best work in this whole area of drug control
15 has been done by an Australian named Peter Boyer, who is
16 an employee of the Rand Institute. He's done two, one on
17 the effective interdiction, how effective is it to try to
18 stop the erosion from outside the point, and he makes that
19 same point, makes the point that you've got to control it
20 in Columbia. It's too late if you've got to catch it
21 coming from over the border in Los Angeles or Miami.

22 Q. Who is this fellow?

23 A. Peter Boyer. And in the booklet that we
24 distributed when we gave our annual report, when you go
25 through the symposium we held, discussed some of these

1 points are made in there. He's one of the people we
2 brought in. But I think his conclusion could be fairly
3 characterized that even if we were to absolutely shut down
4 Columbia, for example, put it out of business, to invade
5 it, put it out of business, that interdiction is not the
6 solution to our drug problem. That our drug problem, we
7 would use designer drugs, we would transfer from one drug
8 to another. We could put the Medellin Cartel and the
9 other cartels in Columbia out of business, but we've got
10 to really think about what effect would that really have
11 on the drug trafficking here in the Commonwealth of
12 Pennsylvania?

13 So I think the State Department can do more.
14 I agree with you on that, but I'm also saying that I don't
15 think we, as the Commonwealth of Pennsylvania, can focus
16 our attention really on interdiction, because even if we
17 did, one of the worst drug problems we had on our end of
18 the State was the China White synthetic heroin. It was
19 made by a chemist working for one of the best companies in
20 town, he had a Master's degree in chemistry, he finds a
21 way very simply to make a synthetic heroin, and 22 people
22 died before the police were able to break the ring. I
23 know Vice Chairman Rogovin may have some comments.

24 MR. ROGOVIN: If I may, Representative, just
25 two observations. I was particularly struck by what Mr.

1 Heckler opened with today, Mr. Chairman and members, when
2 he said, not to denigrate the legislative proposals that
3 you are considering, but rather asked the question, is it
4 a more basic issue than quantity and quality of the
5 resources that we allocate, and the Chairman indicated
6 that he agreed with that and as to why, with an addendum,
7 and I think it's the most critical addendum of all, and
8 that is not just the quantity and quality of the
9 resources, but what you do with them. And what I think
10 confronts all of you and those of your colleagues who sit
11 on the Appropriations mechanism in this legislature is the
12 day of account. You are not only being asked to enact
13 legislation, whether it's the entire package or portion
14 that in your wisdom you think are appropriate, you have
15 the responsibility to say, what are the measures of
16 effectiveness? If it's \$8 million this year and \$10
17 million next year or \$20 million, whatever the legislature
18 in its wisdom concludes is bearable and appropriate, Mr.
19 Heckler, how will you ask the stewards to account?

20 Now, I regret that some of us, with all due
21 respect, Mr. Chairman, are old enough to remember Vietnam.
22 Others think of it as something in the history books, but
23 you will remember the idea of the body count. How many
24 did we kill? Well, we apparently killed hundreds of
25 thousands and we ultimately lost that war. So if we

1 retreat to the use of the existing measures of
2 effectiveness, how many arrested, you're not going to
3 achieve a hell of a lot. I think it behooves this
4 legislature and it may well be if you take the opportunity
5 to do it, the first time that I am aware a State
6 legislature begins the process of articulating new
7 measures of effectiveness.

8 For example, one of your colleagues, I'm
9 sorry, sir, I didn't get your name at the beginning.

10 REPRESENTATIVE BLAUM: Blaum.

11 MR. ROGOVIN: Mr. Blaum. I'm sorry. Mr.
12 Blaum made a good point, arguably at least, that 70
13 percent of crime in the Commonwealth is linked to drugs.
14 I don't know whether that's accurate, but accepting it
15 arguendo, can we say two years from now that only 40
16 percent of the crime in Pennsylvania is linked to drugs?
17 If we can, then we've apparently made some successes. If
18 we can talk about whether there's a reduction in overdoses
19 -- I'm sorry, Mr. Chairman?

20 MR. REILLY: Or whether we reduced all
21 street crime.

22 MR. ROGOVIN: Absolutely. Has all street
23 crime come down or only the drug-related crime? It is
24 time that some deliberative body seriously confront this
25 issue. You can't get answers without better measures than

1 we've got. The chairman of my commission, Mr. Chairman,
2 commented a moment ago about interdiction as a strategy.
3 There is no way on God's green earth that the United
4 States has been successful in stopping the movement into
5 the United States of foreign-origin narcotics problems.

6 Now, the question is, can we have our
7 legislature, coupled with a new set of measures, correlate
8 programming? Are we going to address the demand issues?
9 A law enforcement strategy alone has not been successful.
10 Mr. Heckler knows from his background that the attempt and
11 the enactment of draconian drug penalties didn't work with
12 the heroin problem in the State of New York in the 1960's
13 and '70's, and I will tell you, and I think my reputation
14 stands for itself, I am not regarded as soft on crime or a
15 soft liberal on those issues. I am saying most
16 respectfully, however, that a single focus strategy
17 doesn't work, and the question of what we do in
18 Pennsylvania is a function of the executive branch. But I
19 put to you most respectfully, it is your responsibility to
20 call to account the stewards of executive power. When
21 people make declarations about what they're going to do
22 based on soft, squishy measures, there is no
23 accountability.

24 If, however, you say in two years, tell us
25 against this set of measures, that will be the first time

1 that I think we will have seen a State take that kind of
2 action. That's it. I'm sorry if I get a bit rhetorical
3 here, Mr. Heckler, but you and I have been at the wars in
4 different capacities a long time. With all due respect,
5 Mr. Blaum, I don't suggest that you imply in any way or
6 that your position is anti-dealing with the demand
7 problem.

8 REPRESENTATIVE BLAUM: No, no.

9 MR. ROGOVIN: I know. I'm saying quite the
10 contrary. I know that it's not, now that I know who you
11 are in person. I'm aware of your willingness to address
12 that issue. I think that's critical, and that for
13 purposes of legislative action in this Commonwealth, not
14 only law enforcement but the other programming becomes
15 essential if you want to achieve some real results.

16 Thank you, Mr. Chairman.

17 BY REPRESENTATIVE BLAUM: (Of Mr. Rogovin)

18 Q. Going back, the 70 percent of our crime, I
19 think Attorney General Preate testified to that before the
20 Appropriations Committee in Harrisburg, which was a pretty
21 shocking figure. This is related to crime. My point to
22 Mr. Reilly was that we are addressing the demand side,
23 that we are trying to deal with education. Law
24 enforcement is pouring an awful lot into it, and how much
25 we're spending on our correctional facilities. My

1 question was, in the opinion of you gentlemen, was the
2 Federal government pulling its weight, and primarily the
3 State Department, which I don't believe they are, as a
4 part of this problem. I don't think there is any one area
5 or one solution to it, and I like your idea. I like your
6 idea about coming up with new measurements, hard
7 measurements that we can judge our progress by, and I
8 think that's absolutely necessary because I believe that
9 we can pass all these bills.

10 In 1972, in the city of Wilkes-Barre, we had
11 Hurricane Agnes. Largest national disaster in the history
12 of the country. As the water was coming over, there were
13 people sandbagging 30-foot strips out of desperation, and
14 I wonder sometimes if that's not what we're doing by
15 passing all these bills. I mean, it's just like we don't
16 know what else to do, so we come up with tougher penalties
17 that don't work with the people that Mr. Reilly talked
18 about, those irrational kids. And I'm going to look up
19 the information from the fellow from Australia because I
20 think when it does leave these countries, we've lost it.
21 You got to get it before it comes out of there.

22 But what would the measurements be? You
23 mentioned trying to measure street crime. What other
24 measurements might there be that we might be able to use?

25 A. I'll give you one example. I haven't been

1 in your city for a number of years. I remember many years
2 ago it was a pleasant community and I had no fear about
3 walking around on the two nights I was there. There are
4 sections of the major cities and not so major cities in
5 this Commonwealth where the drug peddlers operate openly
6 on the street, with the buyers driving up in their cars,
7 and the citizens of those communities won't walk around.
8 You want to measure effectiveness? After an intensive
9 drug effort, Mr. Heckler, and all of you, Mr. Chairman, do
10 the people in the community feel comfortable in walking in
11 their own community? To me, that's a significant measure
12 of performance. If the drug peddlers are gone and the
13 fear of drug-related criminality is removed and citizens
14 will come back out of their community, that's a
15 significant measure.

16 Q. And if that's not there?

17 A. Then what have you accomplished?

18 Q. Nothing.

19 A. Let me respond, if I may, Mr. Chairman. I
20 don't mean to extend it, I know you've got a busy
21 afternoon, but one point that Mr. Blaum raised. I was a
22 member of President Reagan's Organized Crime Commission.
23 One of the areas, as you are well aware of, Mr. Blaum,
24 that we looked at was the narcotics problem. We looked at
25 the issue of how effectively the State Department was

1 seeking to employ Federal legislative authority directed
2 against nations which were the source, external to the
3 U.S., of drugs. And our assessment was the same as yours.
4 The answers we got, however, and I can't simplify to be
5 simplistic, that they are incredibly complicated kinds of
6 issues. Just look at the U.S. response to Mexico in terms
7 of Federal aid. Our administration has said most recently
8 they have made significant efforts to enhance their
9 internal anti-drug capability, therefore we will put them
10 back on the approved list. You start to meddle, and I use
11 that word wisely, you start to meddle in the affairs of
12 foreign nations, you are into a very complicated arena.
13 The geopolitical struggles around the earth don't depend
14 solely on the drug issue. So I'm not sympathetic to you,
15 but it's a very complicated problem.

16 Mr. Chairman, if I may, in response to Mr.
17 Blaum's comments, I have here and I would be glad to
18 submit for the record, I regret that it's too heavy to
19 have duplicated for all of you, but for the records of the
20 committee, I have a very interesting initial piece
21 measuring the effectiveness of organized crime control
22 efforts that you may wish to have and those of you may
23 want to take a look. It contains certain suggestions with
24 regard to approaches to developing new measures of
25 effectiveness.

1 CHAIRMAN CALTAGIRONE: Thank you.

2 MR. ROGOVIN: Thank you, Mr. Chairman.

3 CHAIRMAN CALTAGIRONE: We do have additional
4 members that have joined us. Representative Ritter,
5 Representative Josephs, and Representative Wogan.

6 Are there other questions?

7 REPRESENTATIVE REBER: Just one.

8 CHAIRMAN CALTAGIRONE: Representative Reber.

9 BY REPRESENTATIVE REBER: (Of Mr. Rogovin)

10 Q. Mr. Rogovin, Representative Reber. I
11 listened with--

12 A. Mixed?

13 Q. No, bated breath waiting for the
14 pontificating to be completed and the appropriate movement
15 to which we should be going on this appropriation aspect
16 coming from you, and I didn't hear the end, if you will,
17 as to what we should do on the appropriation side. Are
18 you suggesting we should funnel significant amounts of
19 money into local strike force concepts on the street?
20 Because I think personally that's where we ought to be.

21 A. (Indicating in the affirmative.)

22 I'm sorry, for the stenographer, I was
23 nodding my head. I was nodding in enthusiastic agreement
24 with you.

25 Yes, I think new resources in significant

1 amounts ought to be channeled into the street level effort
2 to deal with drugs, just as I think additional resources
3 ought to be put into the anti-demand and treatment
4 program. What I'm asking you for, sir, sorry to be so
5 lengthy, is that you couple with the allocation of the new
6 resources the standards by which you're going to measure
7 whether they were used effectively. That's all.

8 Q. I guess my constituents measure the fact
9 that there is presence, enforcement, prosecution on a
10 day-to-day basis. I had a conversation yesterday with a
11 few district justices in a very informal type of setting
12 and they agreed with my observations that it seems like
13 too many times our municipal police forces, if you will,
14 are spending inordinate periods of time on various other
15 types of violations when, as you say, the open sale is
16 going on up the street. I think there has to be an
17 absolute commitment to a day-in, day-out war, to use
18 Representative Blaum's terminology, on this issue, and you
19 have to give the manpower. The problem and the reason why
20 we lost Vietnam, and I do remember it, is because we did
21 not use the weapons and the manpower appropriately placed
22 to fight the war, and that's the reason why we're losing
23 this particular situation, in my opinion.

24 Thank you. I'm glad you so enthusiastically
25 agree with my remarks.

1 CHAIRMAN CALTAGIRONE: Thank you. Are there
2 any other questions from the committee members?

3 (No response.)

4 CHAIRMAN CALTAGIRONE: If not, I want to
5 thank you very much for taking your time to appear here.

6 Our next witness is Christopher A. Lewis,
7 the Executive Deputy General Counsel of the Office of
8 Deputy Counsel.

9 We'll also have Bruce Feldman, the Executive
10 Director of the Governor's Drug Policy Council.

11 Before we get started, I'd like to enter for
12 the record a letter from Representative Fox addressing
13 House Bill 727, of which he is the prime sponsor, and
14 we'll duplicate that then and share it with the members of
15 the committee.

16 REPRESENTATIVE FOX: Thank you, Mr.
17 Chairman.

18 MR. LEWIS: Mr. Chairman, thank you. My
19 name is Christopher Lewis. I am the Executive Deputy in
20 the Governor's Office of General Counsel. With me today
21 is Bruce Feldman, who is the Executive Director of the
22 Governor's Drug Policy Council. I've prepared written
23 remarks which have been distributed to the committee. So
24 has Mr. Feldman. We'd ask the committee to enter those
25 remarks of record.

1 In light of the testimony that the committee
2 has heard earlier this afternoon, I'd like to first bring
3 some perspective to the task before the committee.
4 Governor Casey has recognized drugs and addiction as the
5 single greatest threat to family life in Pennsylvania
6 today. Many of you were present for his budget message in
7 February, and in that message he called for a
8 comprehensive attack on drug abuse, an attack that
9 consists of three components - tougher law enforcement to
10 cut the supply of drugs, expanded anti-drug education to
11 cut the demand for drugs, and expanded treatment programs
12 to cut the ball and chain of drug addiction. Your
13 committee has critical responsibility for the first
14 component of that attack, and that is the passage of
15 effective legislation dealing with drug law enforcement.
16 That is the issue I'm going to address today. I would
17 point out that the Governor's budget did contain \$80
18 million for statewide prevention and education efforts.

19 The problem of drugs is not a partisan
20 issue, it is a people issue that insinuates itself into
21 and erodes every aspect of our society. At the Governor's
22 request, two bills have been introduced in the House of
23 Representatives and are now pending before your committee.
24 Those two bills are House Bill 1274 and House Bill 1275.
25 They call for sweeping changes in the penalties applicable

1 to drug trafficking. My purpose here today is to urge you
2 to give those bills your unqualified and expeditious
3 approval.

4 In discussing the two bills, I want to begin
5 where I know the Governor would begin, and that is with
6 our children, the most vulnerable members of our society.
7 Scarcely a week goes by without the newspapers reporting a
8 another chilling example of the devastation that Crack has
9 inflicted on our children. Here in Philadelphia, children
10 5 and 6 years of age have been shot down in cold blood,
11 killed, or paralyzed for life. Some have been enslaved in
12 Crack houses dealing drugs on end for hours, often without
13 food, without water, without sanitary facilities. Crack
14 is instantly and insidiously addictive. Without effective
15 deterrence, too many of our children will be trapped into
16 a bleak life of addiction, poverty, and despair.

17 House Bills 1274 and 1275 are designed to
18 remove our children from the battleground of the drug war.
19 House Bill 1274 expands the application of mandatory
20 minimum sentencing for trafficking drugs to a minor. Last
21 year, as members of this committee are well aware, the
22 Governor signed into law legislation creating drug-free
23 school zones. Under the law, anyone convicted of selling
24 drugs to a minor within 1,000 feet of a school, a
25 university, or a college would receive a mandatory minimum

1 sentence of three years imprisonment. That law was very
2 well-intended but it has a significant loophole. The law
3 covers drug sales to minors but not drug sales to adults,
4 like undercover agents. House Bill 1274 will close the
5 loophole and allow police to run "buy/bust" operations for
6 sales to undercover police officers.

7 Our concern for children cannot stop at the
8 schools. The most despicable and offensive practice of
9 drug dealers today is to use children as employees in the
10 drug trade. We cannot allow drug traffickers to
11 contaminate and corrupt our young. House Bill 1275 will
12 make it a felony punishable by a prison sentence maximum
13 of at least 10 years and a fine of \$300,000 to employ any
14 minor in the drug trade in any way. And by "in any way,"
15 I mean as a seller, as a courier, or even as a look-out.

16 The Governor recognizes that children
17 themselves must face a meaningful and realistic sanction
18 for involvement with drugs. To this end, House Bill 1274
19 requires the mandatory suspension of the driver's license
20 of anyone under the age of 18 who is convicted of any
21 drug-related offense. And I want to repeat that, any
22 drug-related offense. Whether or not the offense occurs
23 while the minor is actually driving a vehicle is
24 irrelevant. If the minor is not old enough to hold a
25 driver's license, the suspension period will be deferred

1 until he is old enough to obtain a learner's permit, and
2 at that time the suspension will go into effect. This is
3 part of a program of "Users Must Be Losers." This is a
4 concept that I know members of this committee have
5 endorsed and also that Attorney General Preate has
6 endorsed.

7 House Bill 1274 also contains criminal
8 penalties for making property available for use as a Crack
9 house. If you feed off the drug trade by knowingly
10 allowing your property to be used as a Crack house, a
11 shooting gallery, a drug warehouse, or manufacturing
12 laboratory, you will face a penalty of one year in prison,
13 a fine of \$100,000, or both. Further enhanced penalties
14 are provided for fortifying those properties. If you
15 fortify a Crack house or knowingly allow someone else to
16 fortify the property, House Bill 1274 will impose a
17 penalty of two years in prison, a fine of \$300,000, or
18 both. Finally, if you are the criminal who actually opens
19 and uses the property as a Crack house, House Bill 1274
20 will impose a penalty of three years in prison, a stiff
21 fine of \$300,000, or both.

22 Each of the penalties I have just enumerated
23 is on top of and in addition to any other penalties that
24 are provided by law. The message of those provisions is
25 unmistakable. Owners and operators of drug houses will

1 not be allowed to avoid criminal responsibility for their
2 role in the drug business.

3 As the committee knows, drug addiction has
4 many tragedies. None is more deep or sad than the growing
5 problem of maternal addiction. Just this week, on
6 Tuesday, I believe, the newspapers in Philadelphia
7 reported that the rates of infant mortality in
8 Philadelphia have risen to the highest levels since 1982.
9 The figure they reported, to the best of my recollection,
10 was about 17 in 1,000. There is no doubt in anyone's mind
11 that most of the increase in infant mortality rates is due
12 to Crack.

13 As part of his comprehensive attack on drug
14 abuse, Governor Casey has already called for a statewide
15 network of treatment centers for addicted mothers of young
16 children. To compliment this effort, House Bill 1274 will
17 make it a separate crime with a mandatory minimum sentence
18 for anyone to sell illicit drugs to pregnant women.

19 In their testimony earlier today, you heard
20 mention of China White and other synthetic drugs. The
21 proliferation of those drugs throughout the Commonwealth
22 has resulted in a spree of deaths. You may have read
23 about the incidents in the city of Pittsburgh. Under
24 current law, sellers cannot be held criminally liable for
25 those deaths without a finding of negligence, intent,

1 knowledge, or recklessness. House Bill 1275 would create
2 a new offense for sales of drugs that result in the death
3 of the user. Under the bill, the sales will be punishable
4 as a first-degree felony with a maximum prison term of 20
5 years and a fine of \$100,000.

6 Those are the highlights of the Governor's
7 legislative drug law enforcement initiatives. I don't
8 want to leave this committee with any misimpressions
9 though. Those are not the only bills that the Governor
10 endorses. At the close of my remarks, Bruce Feldman is
11 going to address many of the other bills that are pending
12 before the committee that the Governor has endorsed, many
13 on the recommendation of Attorney General Ernie Preate.

14 I want to close by directing my remarks to a
15 bill that's not before this committee but is nevertheless
16 important in the drug law enforcement effort, and that is
17 House Bill 1355, which deals with the National Guard.
18 Under current law, the National Guard may be ordered at
19 the discretion of the Governor to serve special State
20 duty, but under the Military Code only commissioned
21 officers are entitled to pay and allowances for that duty.
22 Noncommissioned officers and enlisted Guardsmen do not
23 receive pay if they are ordered to active State duty.
24 Also, active State duty is reserved for emergencies.

25 House Bill 1355 will expand the types of

1 State duty that Guardsmen can serve and will allow all
2 Guardsmen to be paid to the extent that the General
3 Assembly appropriates funds to support such duties. This
4 will allow the Guardsmen to be involved in anti-drug
5 enforcement activities on a limited basis when those --
6 when funds for those activities aren't made available by
7 the Federal government.

8 The agenda for State government is long and
9 complex, but freeing our citizens from the ravages of
10 drugs is the most important task we face over the next
11 decade. On behalf of Governor Casey, I urge you to give
12 swift approval to House Bills 1274 and 1275.

13 Thank you.

14 CHAIRMAN CALTAGIRONE: Bruce?

15 MR. FELDMAN: Thank you, Mr. Chairman.

16 My name is Bruce Feldman, and I'm the
17 Executive Director of Governor Casey's Drug Policy
18 Council. Thank you for inviting Chris and me to attend
19 these hearings today.

20 I will try to dispense with most of my
21 formal remarks and direct my attention to the specific
22 bills before you. The drug bills before you comprise not
23 just Governor Casey's priority agenda, and ownership
24 really isn't vested solely with Attorney General Preate
25 either, and these bills are neither authored nor sponsored

1 by just a few members of the House and Senate. The
2 legislation that we testified to today and that you'll
3 hear testimony about tomorrow is an agenda for all
4 Pennsylvanians, everybody's agenda. And it's the number
5 one item on the Governor's agenda. And I would like to
6 share with you, as a stakeholder in this process, our
7 thoughts about a few of the bills that are before you.

8 Representative Josephs had a difficult time
9 in using her binder clip to close on the bills before you.
10 I don't know that you can really entertain many more than
11 those that you have in front of you now. It's voluminous
12 and your job is very, very difficult, and I'm hoping that
13 the remarks that I'm prepared to make now and the offer,
14 the standing offer really, of assistance as you deliberate
15 these bills will assist you in honing in on those that
16 make most sense for Pennsylvania and trying to sort
17 through this panoply of bills that's before you. One of
18 law enforcement's frustrations is that Pennsylvania is the
19 only Middle Atlantic jurisdiction that prohibits the
20 computerization of drug intelligence and drug
21 investigative information. Section 9106 of the Criminal
22 History and Records Information Act impairs Pennsylvania's
23 ability to work closely with our neighboring jurisdictions
24 and to use computer technology to our advantage within the
25 Commonwealth. Your help is needed to remove this

1 impediment.

2 House Bill 1274 proposes to eliminate this
3 prohibition by deleting the Section 9106 in its entirety.
4 Now, there's other legislation that attempts to achieve
5 the same objective. House Bill 1283, which has been
6 advanced by Attorney General Preate, expressly prohibits
7 computerization of drug treatment information but
8 expressly allows the computerization of drug intelligence
9 and investigative information. We agree that drug
10 treatment information generally should be excluded from
11 law enforcement data bases. It really has very little
12 purpose for being there. There are a few reasons,
13 however, where we may want to see that permissible. For
14 example, the Department of Corrections and the Board of
15 Probation and Parole have a need to computerize
16 information about drug treatment rendered to their
17 respective populations. We support either bill, quite
18 frankly, so long as the expressed prohibition on
19 computerization of drug treatment information doesn't
20 restrict such State agencies from legitimately maintaining
21 the kind of information they need with respect to
22 treatment of their particular populations.

23 The Governor endorses several bills promoted
24 by Mr. Preate to limit the violence associated with drug
25 trafficking. Death penalty amendments, for example,

1 inclusion of certain drug offenses in second degree
2 murder, assault on government officials, possession of
3 firearms during the commission of certain drug offenses.
4 For example, House Bill 1276 expands the circumstances for
5 which the death penalty may be invoked, and that includes
6 killing of government officials, judges, prosecutors and
7 the like, informers as well, and killings committed in
8 furtherance of a drug crime. House Bill 1281 provides
9 that drug felons who cause someone's death while
10 committing a drug offense will be guilty of second degree
11 murder and receive a mandatory life sentence.

12 Another bill which this Governor endorses is
13 House Bill 1288, which expands the class of individuals
14 against whom aggravated assault charges may be brought,
15 assault against, again, government officials, prosecutors,
16 judges, and so forth.

17 House Bill 1289 imposes a mandatory minimum
18 sentence for drug distributors and manufacturers who
19 possess firearms during the commission of drug crimes.

20 We also favor several other legislative
21 initiatives promoted by the Attorney General. House Bill
22 1277 addresses financial transactions that attempt to
23 conceal illicit gains from drug trafficking. We support
24 that.

25 House Bill 1279, street dealers avoid

1 mandatory prison sentences very often by frequently
2 engaging in a series of drug transactions just below the
3 statutory minimum which requires mandatory sentencing.
4 This bill would impose mandatory sentencing upon
5 conviction of three or more drug sales within a 90-day
6 period.

7 House Bill 1284 clarifies civil liability of
8 municipal police officers engaged in State drug law
9 enforcement agency task force operations. It's come to
10 our attention that a number of municipal police officers
11 who are asked to assist with strike force operations are
12 reluctant or their chiefs are reluctant to allow them to
13 do so for fear of liability once they leave their
14 particular jurisdictions, and this bill would eliminate
15 that fear.

16 House Bill 1298 contains two provisions
17 among many which are supported by the Governor. The first
18 proposal provides for a mandatory life imprisonment after
19 a third drug trafficking offense. The second portion of
20 1298 that we favor imposes a mandatory minimum fine of
21 \$500 for conviction of illegal drug possession, which
22 really creates a deterrent for casual drug users.

23 We endorse certain other legislative
24 concepts contained in bills referred to this committee.
25 For example, House Bill 176. Possession of fire arms

1 should be prohibited for those committing drug law
2 offenses as well as other violent crimes, which the law
3 now prohibits ownership of firearms for.

4 House Bill 810. Young people engage in
5 commercial drug enterprise while on school property and
6 are effectively aided by the use of beepers and paging
7 devices. These should be prohibited. We only ask that
8 there be some minor fine tuning to permit the wearing and
9 use of certain medical devices which, depending upon the
10 definition of pagers and beepers, might otherwise be
11 excluded.

12 House Bill 962. Publication of the arrest
13 and law enforcement records of minors who are convicted of
14 certain drug offenses may be a deterrent. It may have a
15 deterrent effect, and we would simply encourage the
16 passage of this legislation with the caveat that only
17 those drug offenses of a felony nature would be subject to
18 public scrutiny.

19 House Bill 964 makes it a felony to furnish
20 contraband alcohol and other drugs to prison inmates. It
21 goes beyond that to include inmates of mental institutions
22 as well, and our endorsement of this bill is conditioned
23 on the retention of a misdemeanor offense for the
24 furnishing of contraband to those patients of mental
25 hospitals, but certainly an elevation of the offense, the

1 offense to a felony for the supply of drugs and other
2 contraband to prison inmates.

3 House Bill 965, enhanced fines and sentences
4 for drug kingpins, is justifiable. And we support the
5 provisions of this bill to the extent that they are
6 confined to the leadership structure, the financiers, the
7 kinds of people that Mike Reilly and others were speaking
8 to.

9 House Bill 1157. We support a reasonable
10 form of earned time legislation. We have a very serious
11 prison and jail overcrowding problem in this Commonwealth,
12 as has already been testified to, and anything that can be
13 done legislatively to provide relief is something that we
14 support.

15 House Bill 1360 expands the jurisdiction of
16 the minor judiciary to include misdemeanor drug offenses,
17 and again, the proposal appears to offer some relief to
18 the courts of Common Pleas, and we would encourage serious
19 consideration of this proposal.

20 These bills are an important adjunct to
21 programs that State government and local government
22 implement in our war against drug abuse. Freeing people
23 from the ravages of drug abuse is, as Governor Casey has
24 said, the most important commission of government now and
25 for the coming decade. I hope that you will be

1 enlightened by these hearings and discover the patience
2 and understanding that's needed to choose from amongst the
3 many options before you. We stand ready to work closely
4 with you to facilitate the decision and refinement
5 process, and I'd be happy to answer any questions you may
6 have. Thank you.

7 REPRESENTATIVE HAYDEN: Mr. Chairman?

8 CHAIRMAN CALTAGIRONE: Yes.

9 BY REPRESENTATIVE HAYDEN: (Of Mr. Lewis)

10 Q. Mr. Lewis, it's unfortunate that Mr. Owens
11 isn't here with you today because the message that we get
12 from Mr. Owens, who runs the State prison system, is
13 substantially different than what I think the major focus
14 of the initiatives are here today. We hear a completely
15 different message from Mr. Owens than we do from those
16 testifying here today.

17 Let's talk about House Bills 1274 and 1275.
18 You said that last year's law which was passed about the
19 mandatory sentences for sales within certain distances of
20 schools was -- had a loophole. Did your office or did the
21 Governor's Office do any analyses as to how many people
22 had been arrested under that bill? How many people are
23 now either awaiting trial or have been arrested under the
24 old bill?

25 A. There have only been a handful of arrests to

1 date.

2 Q. Did the Governor's Office do any analyses as
3 to what they thought that the total number of both people
4 arrested and then those convicted would be under House
5 Bills 1274 and 1275?

6 A. I know we generally ask the Pennsylvania
7 Commission on Crime and Delinquency to run those numbers,
8 and I can assure you that we would not put forth a
9 legislative proposal that we do not believe was mandatory.

10 Q. I notice in both our House bill analysis and
11 in the bill itself there's no direct language for any
12 specific appropriation for State money for prison
13 construction. What I'm getting to is has the Governor's
14 Office given any consideration as to how many more people
15 are now going to be convicted under these new laws if
16 passed, and I'm sure they will pass, and how many more
17 people will be entering the State prison system?

18 A. That certainly was a factor that was
19 considered. Let me point out that before you you have a
20 panoply of bills, many of which call for mandatory
21 sentences which would have far greater impact and scope
22 than those of House Bills 1274 and 1275. We certainly
23 were conscious of the crowding, and I don't want to use
24 the term "overcrowding"--

25 Q. Mr. Owens would use the term "overcrowding,"

1 but you can use the term "crowding".

2 A. I have to defend Mr. Owens.

3 Q. Fine.

4 The point I'm trying to make is I looked at
5 a daily prison population analysis here in the Court of
6 Common Pleas in the city of Philadelphia, because as you
7 know, the city of Philadelphia, like Allegheny County, is
8 involved in litigation over the prison overcrowding issue.
9 There were 574 people on this given day in April awaiting
10 trial on various drug-related offenses. If you take those
11 574 people, most of whom would now fall within the
12 definitions of 1274 and/or 1275 and other legislation that
13 we have passed, if you take the figures of 65 percent of
14 the conviction rate of those arrested, which are
15 reasonable statistics based upon a separate Justice
16 Department analysis of the Philadelphia criminal justice
17 system, you take 65 percent of those 574 people, you're
18 over 300 people just from the Court of Common Pleas that
19 are now going to be in the State prison system because
20 these are State prisons, these are State penalties
21 exceeding a minimum of two years imprisonment.

22 A. That's not exactly correct. The law
23 provides that if the sentence is between two years and
24 five years, it's at the discretion of the judge.

25 Q. Oh, that's better. Let's talk about the

1 county prisons then. Let's talk about the county prisons.
2 So then we could go down to Judge Shapiro here and tell
3 her, well, we can then keep these people here at
4 Holmesburg Prison or at the Detention Center because the
5 State law permits us to when we're on our prison cap. How
6 realistic is it to expect local counties to cope with
7 additional prisoners, additional sentences, when there's
8 no appropriation that I can find anyway for major State
9 prison construction?

10 The point I'm trying to make is we need more
11 prisons. There's nobody probably on this committee who
12 doesn't agree with that statement. The point is, I
13 haven't seen any proposal, either through a bonding issue
14 or direct appropriations, which is taking a very close
15 analysis of the impact of these bills, what these bills
16 would cost the Commonwealth, what these bills would cost
17 the individual counties. How much is it going to cost us?

18 A. My recollection, Representative, is that
19 there is a provision in the capital budget for a prison in
20 the Philadelphia area.

21 Q. In whose budget?

22 A. In the capital budget.

23 Q. In the State's capital budget?

24 A. The State's capital budget.

25 REPRESENTATIVE HAGARTY: What capital

1 budget?

2 BY REPRESENTATIVE HAYDEN: (Of Mr. Lewis)

3 Q. There's a prison proposal for the city of
4 Philadelphia in which some of that money, my understanding
5 is, would come from the State. I mean, there's obviously
6 things we have to get together here at the local level.
7 But the point is, the majority of the people convicted,
8 we're going to hear from the county commissioners. I can
9 tell you, the county commissioners aren't going to ask
10 their local judges to keep people convicted under these
11 sentences in their local prisons. They're going to say,
12 send them to the State because they can pass the
13 responsibility along, they can pass the cost along. But
14 there's nothing in here in all these reams of documents
15 that I've seen which is going to say, we need to spend --
16 let me tell you what George Bush says. George Bush said,
17 "Let's spend \$1.2 billion on a major law enforcement issue
18 on a Federal level. 825 people are going to be law
19 enforcement, 1,600 are going to be new U.S. assistant
20 attorneys, and \$1 billion in prison construction for
21 24,000 new beds." I haven't seen anything similar to that
22 here. All I see is, these are bills, these are laws, we
23 go back and tell everybody we're taking care of the
24 problem because we've passed mandatory sentences. But
25 we're not taking care of the corrections end, and I think

1 that we're going to hear from the county commissioners.
2 Chairman Caltagirone had judges from all counties from
3 around the State come in and talk to us about a month ago,
4 and even from counties that I thought were the most remote
5 counties that weren't encountering the prison overcrowding
6 situation said, we need help. Can you give us help from
7 the State? We need help for prison construction.

8 If you're going to pass these bills, you
9 need also to pass additional appropriations. We haven't
10 been doing that. Mr. Owens says we're at 136 percent
11 capacity. If we open a new wing at Graterford, we can
12 fill it overnight. We need new prisons but we need money.
13 I think the Governor's proposals are very short on the
14 money end, and I speak, I think, on behalf of those at the
15 county level, we're going to have to cope with it, and
16 those in general who are interested in a more responsible
17 position on prison space.

18 A. I think your point is well taken and there
19 is, of course, an inherent attention between having new
20 criminal penalties and having a situation where you're
21 already crowded. But your point is very well taken in
22 that obviously the prison population will increase and
23 resources must be devoted to it.

24 Q. If you have an analysis from any commission
25 which has even attempted to try to draw some conclusions

1 as to how many more convicted people we're going to have
2 in this new legislation, I'd be happy to see it because I
3 think what we could simply do then is take the cost of the
4 prison bed in the system, and we have those figures from
5 Mr. Owens, he's been very good about supplying this
6 information, simply multiply the numbers of those who we
7 expect to be convicted by the cost of the new bed and then
8 we can find out what the prison construction costs are
9 going to be. And then on top of that we then have to
10 figure out what it would cost us on an annual basis to
11 maintain a prisoner in a State correctional institution.
12 The figures I've seen have been in the area of \$20,000 to
13 \$25,000 a year.

14 On the issue of the penalties for operating
15 and maintaining Crack houses, I've seen Crack houses in
16 the city of Philadelphia. The notion that you're going to
17 be able to somehow address the issue by assessing a
18 \$100,000 to \$300,000 fine for those operating Crack houses
19 I think is a little bit naive and not quite realistic when
20 you consider what's really going on here in the city of
21 Philadelphia in the Crack houses. What I have seen and
22 news reports have reported extensively some of these major
23 cases is that you have a group of people, for instance the
24 Jamaicans who have been referred to, and other areas of a
25 more organized group of criminal element which finds a

1 network for distribution in neighborhoods and what they do
2 is they then go and they recruit within the neighborhoods,
3 juveniles, young males primarily, and then they point out
4 the individual places where they want them to distribute
5 the drugs. And the reason they use these houses primarily
6 because they are abandoned and they don't have any legal
7 interest in the property, they don't have any other
8 interest whatsoever, so what happens is younger juveniles
9 and younger males begin to operate the drug trade and ply
10 their trade out of the houses to supply that local
11 distribution network. If those kids are arrested or
12 somebody else is arrested in those houses, they go into
13 the system, and then what happens is those houses in many
14 cases are boarded up or simply left, and rather than use
15 the same house again, they'll go and use a different
16 house. I think it's unrealistic to think that here you've
17 got inner city kids who are carrying out this drug trade
18 for primarily financial purposes that a \$100,000 to
19 \$300,000 crime is going to have some kind of impact on the
20 street drug trade.

21 BY REPRESENTATIVE HAYDEN: (Of Mr. Feldman)

22 Q. Another issue I'd like to address, and from
23 Mr. Feldman, I didn't hear too much in terms of testimony
24 about how we're going to address the demand end. And if
25 you heard Mr. Reilly's testimony and others from the Crime

1 Commission, the message that comes across loud and clear
2 to me is that law enforcement alone is not going to
3 address the problem of drugs and drug addiction in
4 society. I'd like to know if the Governor, through your
5 office working for the Governor, has done any analysis as
6 to what is the most effective type of treatment. You made
7 reference to \$80 million for drug treatment centers. The
8 reason I ask that question is because statistics that I've
9 seen say that treatment for particularly for cocaine abuse
10 is very unsuccessful in that at least 70 percent of the
11 people return to cocaine usage, and the reasons for that
12 are very complex. I have two major drug treatment
13 facilities within my district. One, Charter Fairmont
14 Institute, which is a private psychiatric hospital, the
15 other is the Philadelphia Psychiatric Center, which has a
16 few people who are committed there under the Philadelphia
17 court system. They now do inpatient, and the Philadelphia
18 Psychiatric Center is starting to do outpatient. Very
19 expensive, very costly programs. Those inpatient
20 treatment centers for 30, 35 days run \$20,000 to \$25,000
21 in some cases. Has the Governor's Office begun to do some
22 sort of analysis as to experimenting with different types
23 of treatment programs that is going to give us a better
24 success rate, that's going to give us a better use for the
25 dollars that we commit to treatment, or have you simply

1 taken the tact that where we can find openings within
2 these established programs we're going to take it?

3 A. Well, let me step back for a minute,
4 Representative, and say that the reason that I didn't
5 address with any degree of specificity the demand
6 reduction strategies is that the legislation before this
7 committee really doesn't address that. It's primarily law
8 enforcement related, and my remarks were directed at those
9 bills before the committee.

10 We have asked the Health Department, which
11 is the agency responsible for administering the treatment
12 and to a certain extent prevention system within the
13 Commonwealth, to begin to take a look at the effectiveness
14 of existing treatment strategies, and you're absolutely
15 correct that cocaine, and particularly Crack, present very
16 significant problems in the way we go about treating
17 people who present themselves with addictions to these
18 chemicals, and quite frankly, you'll hear from other
19 treatment-oriented folks later on in your hearings, and I
20 believe that question would be appropriately posed to them
21 as well, but my sense is that we need research. We are
22 looking, quite frankly, to the Federal government as well,
23 through the Office of Substance Abuse Prevention, for the
24 conduct of certain long-range evaluations of treatment and
25 prevention strategies. We simply do not have the

1 resources at the State level to conduct that kind of
2 intensive evaluation and assessment, but within the
3 context of the programs that our Department of Health
4 operates, we certainly ought to be able to know and get a
5 clear sense from the people on the front lines that are
6 actually addressing the needs of people as they come in
7 the door what works and what doesn't work, and I know that
8 many of them have confessed to me that they are struggling
9 to deal with the population that is addicted to Crack and
10 cocaine. And I've heard mixed reactions, but I do know
11 that they are confronted and struggling and optimistic at
12 the same time. The numbers waiting to get into treatment,
13 well, you know the statistics as well as I.

14 Q. Sure.

15 A. They're struggling to keep up and they're
16 making use of available beds, as you suggested. If
17 there's a slot available that is appropriate for that
18 individual, they will be placed in that available slot and
19 afforded the most appropriate treatment methodology at
20 this point, but we do not have all the answers and I'm not
21 going to sit here and tell you that I have a monopoly on
22 or that the Governor's Office or that the Health
23 Department has a monopoly on answers to this problem,
24 because we do not.

25 Q. I have one last point in the way of a

1 suggestion, I think, and it's something that you might
2 want to consider through the Governor's Office. I -- and
3 I'm looking at the costs and the scarce resources which we
4 have to deal with the problem. I look at the costs of
5 prison construction, I look at the cost of maintaining
6 prisoners on an annual basis, and I think that perhaps for
7 some people convicted there might be another solution, and
8 I look at it from the perspective of somebody who
9 represents an urban area within the Commonwealth, someone
10 who has seen the problem firsthand both through the
11 criminal justice system and in my own neighborhood, and
12 tell me what you think of this suggestion:

13 I get press releases on occasion from the
14 Pennsylvania Housing Finance Agency through the Governor's
15 Office about low-interest loans which are available for
16 primarily for first time home purchasers, and I've spoken
17 to the director of the Housing Finance Association
18 generally about this, Housing Finance Agency, and what
19 that program does is that says we're going to set aside --
20 they float bond issues periodically, and this last one is
21 \$50 million, and if you fall within certain income
22 guidelines, you can qualify for these first time loans,
23 and the income qualifications are up to \$39,000 for a
24 married couple and \$30,000 for a single individual, and it
25 provides money for mortgages at below market interest

1 rates. It's been a very successful program. I've had a
2 number of constituents of mine who want to participate.
3 But I think what it does fail to address is another need
4 and another issue which I think we can tie into the urban
5 perspective and the whole Crack house issue. Rather than
6 spending the kind of money that we know we have to spend
7 on many cases of imprisonment, treatment, everything else,
8 I think if we want to address some of the street level
9 crime issue, why can't we take some portion of that
10 Housing Finance Agency bond issue and say, let's take \$10
11 million of it. We've had testimony, I've had through the
12 House Urban Affairs Committee by representatives of the
13 city's housing department which said that we have
14 approximately 40,000 abandoned homes in the city of
15 Philadelphia, major abandoned homes, abandoned home
16 housing stock. We have a demand for use for those homes.
17 In many cases, those homes need substantial
18 rehabilitation. The figures quoted to us were in the area
19 of \$35,000. So for \$35,000, you can rehabilitate a home,
20 you can target certain groups of homes in certain
21 neighborhoods, and you can begin to turn around some of
22 those areas I think that need this kind of investment, and
23 then you say, well, who's going to do the rehabilitation?
24 I have a terrific population help to do this through
25 rehabilitation. Those are these young, primarily males,

1 who are in many cases finding themselves involved in the
2 drug trade out of economic incentive, out of having no
3 other recourse or nothing else to do so they violate and
4 break the law. If you have a first-time offender who is
5 caught in a possession situation, I'm not talking about a
6 major distribution of sales, who is arrested in a
7 possession situation, why can't we then say, you are now
8 going to be part of a labor force or workforce, which
9 rather than simply sealing up a Crack house at Eighth and
10 Butler, if you're arrested at Ninth and Butler, we're
11 going to send you back to Eighth and Butler for this work
12 detail, and rather than putting cinder blocks in the
13 windows of the houses at Eighth and Butler, we now have
14 Housing Finance Agency money available which we are going
15 to put to a rehabilitation of those homes.

16 So instead of boarding up one Crack house
17 and incarcerating one defendant for three years in the
18 State prison, we are now going to say, we're going to
19 rehabilitate five homes at Ninth and Butler, and when we
20 do rehabilitate those homes, we're going to put people in
21 those homes. And what you begin to do is say that, you
22 know, we're just not going to let people continue to prey
23 on certain areas of the city, be it public housing areas
24 or abandoned areas, and rather than put that person in
25 prison say, okay, once a week we're going to check your

1 urine, we're going to give you a urine test. Because the
2 part of the problem of the treatment end is that people
3 function very well in the treatment centers because it's
4 inpatient, it's for 30 days. Anybody can have their
5 system purged of drugs or of alcohol, but when they go
6 back into the environment from where they came, the
7 problem is all the issues which created the dependency in
8 the first place exist. So what you do is you say, here's
9 what your sentence is. We're sentencing you to nine
10 months on this work detail, and randomly once a week we're
11 going to test your urine. If your urine is high, if it
12 shows presence of cocaine or any other controlled
13 substance, you're going to do prison time. But if you
14 show that you can function back in this environment, if
15 you're contributing again, if you're helping build up
16 rather than tear down your neighborhood, then we'll
17 consider that as a viable alternative to simply saying,
18 let's put everybody in jail. What do you think of that
19 idea?

20 A. I think it deserves exploration, and I can
21 tell you that we already have initiated conversations with
22 PHFA folks because as the Governor's budget makes clear,
23 we are proposing that a capital expansion and improvement
24 program for treatment programs next fiscal year be
25 operated jointly by PHFA and the Department of Health, and

1 this is certainly a logical thing to follow that
2 initiative, so I'd be happy to explore that with them.

3 Q. I mean, it satisfies many of the objectives,
4 I think, of what a lot of the legislation is. I think it
5 is punitive in that it is a penalty. You're required to
6 report if you do violate the terms of whatever the
7 sentence is, in this case this work detail, then you will
8 go to jail. It requires that you be somewhere for a
9 certain length of time, your freedom is, in effect,
10 regulated. You're taken out of the business of being able
11 to go about and do whatever you want. Mr. Reilly talked
12 about deterrence is only effective when it's swift in
13 certain punishment. Rather than having somebody be
14 detained for 270 days out in a detention center awaiting
15 trial, I think what you do is you satisfy the need that
16 something is happening and something is happening quickly.

17 I'd appreciate if you would explore that and
18 I'd be happy to get back to you.

19 A. I'll get back do you.

20 REPRESENTATIVE HAYDEN: Thank you.

21 Thank you, Mr. Chairman. Sorry for taking
22 so much time.

23 CHAIRMAN CALTAGIRONE: Representative
24 Hagarty.

25 BY REPRESENTATIVE HAGARTY: (Of Mr. Lewis)

1 Q. I've become increasingly frustrated at the
2 flurry of bills that this committee experiences on
3 mandatory sentences. The thought behind mandatory
4 sentences came from a bureau which started probably at
5 least 10 years ago with sentencing guidelines because
6 judges, particularly in the city of Philadelphia, were
7 giving inappropriate length of sentences. That era is
8 over, and while I certainly believe in harsh sentencing,
9 I'm a former prosecutor, I wonder, in light of the Crime
10 Commission's comments with regard to mandatory -- with
11 regard to the type of people we're looking at, how little
12 they have to lose, the fact of the matter is the judges
13 are giving hard sentences now, the fact of the matter that
14 we have no capacity in our State prisons with overwhelming
15 increases every month because of other mandatory sentences
16 at all of the counties and at all of the State prisons, I
17 wonder what philosophy is behind your thought today that
18 you will accomplish something in the drug traffic by new,
19 you know, numerous, numerous, numerous mandatory minimum
20 sentences and what that goal and what that philosophy is
21 that this legislature should simply further push people
22 into a prison one at a time after a long, costly jury
23 trial in which very few people can make it through the
24 system because that's what it takes to impose a mandatory
25 sentence, and I wonder what is the philosophy? I mean,

1 what do you expect to accomplish at all by new mandatory
2 minimums for 15 or 20 crimes as solutions, frankly,
3 because that's the bulk of the proposal here?

4 A. I guess I would like to respond to that,
5 Representative Hagarty, by saying two things. First, the
6 Governor does believe that heinous crimes deserve just
7 punishment.

8 Q. We all do.

9 A. The second thing is I think contrary to your
10 suggestion that we've been exceptionally liberal in the
11 use of mandatory and minimums, I think in fact we've been
12 sparing. If you look at the legislation that's pending
13 before your committee, you would see that we recommended
14 minimums in only certain limited instances, and that we're
15 very careful about their use.

16 Q. And I wonder, what is the Governor
17 recommending with regard to what we're going to do with
18 all these people in prison? Let me specifically ask you,
19 and I may be misstating this because I picked up the tail
20 end of it, I think you said that the Governor would do
21 anything that can be done legislatively to ease
22 overcrowding, is that what you said? No?

23 A. I don't recall making that specific
24 statement.

25 Q. What is the Governor's response, because I,

1 as the Subcommittee Republican Chairman of Crimes and
2 Corrections, don't believe anymore that it's responsible
3 for this committee to simply say we've done our job, you
4 know, period, the end of sentence, we're imposing
5 mandatory sentences and who cares what the judges, what
6 the counties, what the prisons do? I want to know, what
7 is the Governor prepared to do with these proposals?
8 Because we, as the lawmakers, and you, as the executive
9 branch, must be facing the fact that these people have to
10 go somewhere when we put them in prison.

11 A. Absolutely. Let me begin in trying to
12 answer that by saying that I think we all recognize that
13 there is a crowding problem in the prisons. At the very
14 beginning of this administration, Governor Casey set up a
15 task force to look at crowding in the prisons and made
16 certain recommendations. One of the recommendations, for
17 example, was that we have earned time. The earned time
18 bill did not get out of the legislature. That is a
19 recommendation that was made that the Governor did support
20 that did not get out that would have reduced crowding in
21 the prisons.

22 Q. Okay, do you want do tell us today what the
23 Governor supports with regard to earned time?

24 A. I am not prepared today to go into the
25 specifics. I will point you to prior press releases that

1 the administration has released, certainly Commissioner
2 Owens has spoken several times on earned time. We've been
3 in support of it all along, and that is a matter of
4 record, it's a matter of public record.

5 Q. Just one other question, because I'm, again,
6 frustrated by the simplicity of these solutions. I wonder
7 why you expect that for a kid who is selling Crack in
8 violation of the law that you are offering any
9 disincentive to him by suggesting that we take away his
10 driver's license. I mean, if you sell Crack, do you
11 really care whether you drive with or without a license?
12 And aren't we looking at this through some rosy glasses of
13 some suburban mentality which has worked for drunk driving
14 but what does it have to do with selling drugs in a city?

15 A. I think it's aimed primarily at the very
16 young. It is not aimed at someone who is 17 years old and
17 who has been selling drugs for five years.

18 Q. And you think that someone 13 or 14 is going
19 to be deterred from selling drugs because when he's 16 he
20 might lose his learner's permit?

21 A. I think it will have an impact if he sees
22 his friends around him being denied that privilege, yes.

23 Q. This frustrates me, and I guess particularly
24 in light of the Crime Commission's comments with regard to
25 the type of drug trafficking that we are seeing, the sense

1 that it's time to move on and look at who the population
2 is and what's working. These simplistic proposals I don't
3 think are going to move us forward.

4 CHAIRMAN CALTAGIRONE: Representative Reber.

5 REPRESENTATIVE REBER: Thank you, Mr.

6 Chairman.

7 Mr. Feldman and Mr. Lewis, I noted with
8 interest at the outset, Mr. Lewis, your testimony
9 concerning 1274 and you referenced that in your discussion
10 of the bills, you were going to begin, or the Governor
11 would begin with the need to protect our most vulnerable
12 aspect of our society, our children. And I listened with
13 bated breath waiting for you to make some recommendation
14 on HB 310. Representative Roebuck here in Philadelphia,
15 as well as with myself, through some amendments in
16 committee and on the floor, have virtually put this bill
17 in position where I dare say, and I'm going to ask both of
18 you gentlemen, and I'll accept the offer of assistance
19 that Mr. Feldman made at the outset of his testimony, that
20 if you would contact Senator Greenleaf, House Bill 310
21 addresses all of the concerns, and frankly goes even a few
22 steps further to address concerns of many of the police
23 departments that brought to my attention as other aspects
24 of loopholes, if you will, in the vicinities language and
25 the sentencing and penalty aspects for that trafficking

1 and drug-free zones. And I would hope that we could
2 possibly have this thing on the desk of the Governor
3 before Memorial Day, if you would contact Senator
4 Greenleaf and get the bill passed in the Senate and it can
5 then go right directly to the desk of the Governor and he
6 can sign it into law on Memorial Day and we would have
7 basically the primary piece of your presentation, Mr.
8 Lewis, enacted into law before May 31st of this year.

9 So I will be looking forward to some forms
10 of communication with Senator Greenleaf in hopes of the
11 support that you have exhibited for this concept with the
12 vehicle that we already have sitting over there, already
13 unanimously having passed the House and in a framework for
14 expeditious enactment by the Governor, upon receipt of
15 from the Senate. I can't conceive of how, with all the
16 glowing endorsements you have vested upon this, as well as
17 the feeling of this committee and the House in general
18 having passed it, we should have any problem getting that
19 into signed act form, if you will, in a very short order.
20 I'm just wondering if you know something that I don't know
21 that would not allow that to happen. If that's the case,
22 I would like to publicly know about that.

23 MR. LEWIS: No, we endorse House Bill 310,
24 the concept. We believe 1274 is more a comprehensive
25 bill.

1 REPRESENTATIVE REBER: Well, let me say
2 this. You know, I get a little upset with Governor Casey
3 and the way he always has more comprehensive things that
4 seem to be addressing many of the same problems that we in
5 the legislature have been addressing in some respects for
6 time and memorial prior to his pronouncements. 310 was
7 introduced in February, came out of the House and was over
8 in the Senate and all that took place about a month and a
9 half before House Bill 1274 was even introduced, and if
10 that was the case, there was no need for that aspect of
11 the legislation even being in House Bill 1274. So I just
12 think somewhere along the line this so-called "love fest"
13 that's going on on the war on drugs and the bipartisan
14 efforts and spirits don't seem to be ultimately jiving in
15 the real world when we get around to enacting meaningful
16 and necessary legislation. I'm not being critical of you.
17 I'm just saying, if we are going to just do rhetoric, then
18 we'll just do rhetoric. But if we are going to formally
19 and constitutionally adopt something, let's do that too
20 which is most expedient. Enough said on that. I think
21 you get my point.

22 MR. FELDMAN: Representative, I think what
23 I'd like to do is just follow on Chris' lead and say that
24 we do endorse in concept there, but I think maybe we can
25 resolve it by sitting down. One of the things that 310

1 doesn't do is address the problem of sales between adults
2 within these drug zones.

3 REPRESENTATIVE REBER: I respectfully
4 disagree.

5 CHAIRMAN CALTAGIRONE: That was taken care
6 of.

7 REPRESENTATIVE REBER: I'll rely on counsel
8 for both staffs.

9 MR. FELDMAN: I stand corrected. At the
10 time we were looking at it, however, that was one of the--

11 REPRESENTATIVE REBER: Well, in the
12 Governor's Office, let's take a look at some things that
13 are moving in the legislature not take a look at things
14 that are sitting on the back burner of a chairman's filing
15 cabinet somewhere. It's extremely disturbing to me.

16 Not this chairman. I'm talking about other
17 chairmen.

18 MR. LEWIS: We have no pride of authorship.

19 REPRESENTATIVE REBER: I'm not worried about
20 pride of authorship. I lost that battle a long time ago
21 in the Superfund. I've gotten over that one a long time
22 ago.

23 One other question, and then I'll let
24 someone else take off. The \$18 million of drug prevention
25 money that is in the budget, I don't know if you gentlemen

1 were present when the Crime Commission members were
2 speaking earlier, but there was some concern about the
3 money filtering down to be used by municipal strike
4 forces. I have a deep-seated desire to see municipal
5 strike forces and municipal police forces be appropriately
6 funded. I think that is probably what our constituents
7 are most concerned about. They like to see the action on
8 the streets. They don't care whether it's low-, middle-,
9 high-level dealer, sales, whatever. They don't care
10 whether it's marijuana or all the way up the scale on the
11 schedule. How much of that \$80 million, if this budget is
12 adopted on time and in the context in which we're talking
13 about, how much of that will get back into actual use by
14 our municipal police forces and when do you anticipate
15 that happening? And if you don't have that today, I'd
16 like to have it on Monday.

17 MR. LEWIS: I will gladly provide you with
18 that specific information. Let me just point out, the \$80
19 million is for treatment and education.

20 REPRESENTATIVE REBER: Well, okay. That's
21 what I'm saying. You know, we're talking about apples,
22 and here you are trying to compare with oranges all the
23 time. Not all the time, but in this particular instance.
24 And that's concerning for a lot of us. We want to know
25 how much of that money is getting back for the war on

1 drugs. Again, Vietnam, we didn't give them the troops, we
2 didn't give them the ammunition. Again, I see that same
3 type of problem happening in this particular skirmish. If
4 you'll analyze it?

5 MR. LEWIS: I'll get back to you.

6 REPRESENTATIVE REBER: Okay. Thank you, Mr.
7 Chairman. I'm sorry.

8 CHAIRMAN CALTAGIRONE: Thank you,
9 Representative.

10 Representative Josephs.

11 REPRESENTATIVE JOSEPHS: Thank you, Mr.
12 Chairman.

13 First, I want to thank Representative
14 Hagarty for asking all of my questions.

15 REPRESENTATIVE HAGARTY: We've been thinking
16 alike so much it's scary.

17 REPRESENTATIVE JOSEPHS: Much better than I
18 could have asked them.

19 And to pick up a little bit on something
20 that she said, talking about losing one's driver's
21 license, I wonder why anybody thinks that even the death
22 penalty is much of a deterrent to people who stand out,
23 when we read in the paper very frequently of killings
24 among people who are dealing in drugs. It appears to me
25 that a young person makes the decision to get into this

1 kind of lifestyle understanding that it's very likely to
2 be a short one. How do you really think that the death
3 penalty is going to be a deterrent? You must think it is
4 or you wouldn't be proposing a package of bills, one of
5 which adds circumstances to the death penalty.

6 MR. LEWIS: I have the misfortune to work
7 with the death penalty every day, and I'm well aware of
8 the arguments going back and forth about its deterrent
9 value or not. I would just respectfully suggest that
10 there's disagreement.

11 REPRESENTATIVE JOSEPHS: I think you might
12 have to speak louder here.

13 Another question. It seems to me that at
14 least two or perhaps more of these bills have to do with
15 increasing penalties or extending circumstances under
16 which penalties are invoked where we're talking about the
17 killings of government officials, prosecutors. I mean, I
18 don't feel particularly vulnerable walking down the
19 streets in my neighborhood because I'm a government
20 official. Do we have a lot of folks in our category who
21 get killed? Is this a problem?

22 MR. FELDMAN: I'll respond to that. It's
23 primarily aimed at government officials who, in the course
24 of their work, are directly interfacing with drug dealers.
25 And we are talking primarily about prosecutors, law

1 enforcement officials, judges, who very often -- well, I
2 shouldn't say very often, but who are, on occasion,
3 subject to threats, and they have got to be able to
4 believe that their interests are protected as well, and
5 they're out there on the front lines and it's important
6 that we indicate that it's a very serious crime to either
7 assault or kill someone in that capacity. Now, it may
8 well be that you, as a Representative, are not faced with
9 that threat on a day-to-day basis, but I can assure you
10 that those prosecutors who deal with drug offenders on a
11 day-to-day basis have that in their minds.

12 REPRESENTATIVE JOSEPHS: Well, are these
13 bills, which I don't remember enough detail from having
14 read them, are they finely tuned? Are we really talking
15 about people on the front line or are they just sort of
16 across the board?

17 MR. FELDMAN: Essentially, they're finely
18 tuned. There are, on many of these bills, things that if
19 we sat down, we can fine tune more, and I think we need to
20 do that, and that's really why I made my offer at the
21 outset. There are a number of things that we can bring to
22 the table that the Attorney General's representatives and
23 State Police representatives can bring to the table to
24 fine tune any piece of legislation, and certainly these
25 hearings will help to fine tune them as well. But without

1 getting into specific bills, which we really probably
2 don't have the time for today, I would suggest that that
3 offer stands.

4 REPRESENTATIVE JOSEPHS: Do you have any --
5 see any constitutional problems with House Bill 810, which
6 would take away pagers and beepers from students?

7 MR. FELDMAN: My sense is that it would not
8 cause them to be forfeited. They would simply not be able
9 to have them on school property. I do not see any
10 constitutional objections to that.

11 REPRESENTATIVE JOSEPHS: And I'm looking for
12 it here so I can be more accurate, the bill that
13 eliminated intent, negligence, recklessness from the
14 element of a crime when a death is caused through the
15 manufacture of various kinds of particularly dangerous
16 drugs. I think that was part of 1274. I wondered if you
17 see a constitutional problem in that. Either one of you
18 could answer this, I'm sure. Whether you see a
19 constitutional problem.

20 MR. LEWIS: It's obvious we think it's
21 constitutionally sound. If your question is will a
22 constitutional challenge be raised there, probably yes.

23 REPRESENTATIVE JOSEPHS: I don't remember a
24 lot of my criminal law course, but I always thought you
25 had to have some element of mens rea in order to convict

1 somebody. Does this bill do away with that?

2 MR. LEWIS: No, because the underlying
3 predicate of the bill is an unlawful transaction.

4 REPRESENTATIVE JOSEPHS: Um-hum. Okay.

5 And last, last, can you, Mr. Feldman, just
6 tell me very briefly what the mission of the Drug Policy
7 Council is? Where you are in the hierarchy?

8 MR. FELDMAN: Our mission, Representative
9 Josephs, is to attempt to coordinate what State agencies
10 do in the way of implementation of programs in the way of
11 drug and alcohol abuse prevention, treatment, and law
12 enforcement. As a matter of reality, the reality is that
13 the Attorney General, being an independently elected
14 official, our involvement with drug enforcement has been
15 less, I should suggest, than with respect to treatment and
16 prevention areas. But our mission is essentially to make
17 certain that to the best extent possible we harness the
18 resources of various and disparate State agencies and try
19 to assure that we read if not off the same sheet of music
20 and play the same tune at the same time so that we avoid
21 the kind of tripping over each other that we've had
22 historically. I'm not going to sit here and suggest that
23 we have been successful in every combat. We have not.
24 But our primary mission is to bring together the resources
25 of State government in a more effective and efficient

1 manner.

2 We've had our biggest successes in the way
3 of communication, which simply you wouldn't think it would
4 be lacking, but it really does. The fact that the
5 Governor has a cabinet doesn't necessarily mean that all
6 those cabinet officers operate and maintain their agencies
7 in a synchronous fashion, and we've struggled with that
8 and I think we're having some more success particularly in
9 the communication field.

10 REPRESENTATIVE JOSEPHS: Are you in an
11 advisory capacity--

12 MR. FELDMAN: Yes.

13 REPRESENTATIVE JOSEPHS: --or do you have
14 authority?

15 MR. FELDMAN: Yes, primarily advisory.

16 REPRESENTATIVE JOSEPHS: Thank you.

17 Thank you, Mr. Chairman.

18 CHAIRMAN CALTAGIRONE: Thank you.

19 Representative Ritter.

20 REPRESENTATIVE RITTER: Thank you, Mr.

21 Chairman.

22 I just want to first say that I agree 100
23 percent with Representatives Hayden and Hagarty in terms
24 of the prison situation and the mandatory sentencing and
25 how they relate, and I think that it's -- I really think

1 that the legislature is irresponsible in passing all of
2 these mandatory sentencing bills without passing the
3 appropriations that are necessary for the prisons to deal
4 with these people, and while I do support earned time, I
5 don't support good time, as was the distinction that was
6 made by Commissioner Owens I think is a good one, and most
7 of the bills I've seen have been too far to the good time
8 side and not far enough to the earned time side.

9 Everything I've ever seen, and that's not a
10 lot, but dealing with mandatory sentencing and whether or
11 not they are effective has indicated to me that they are
12 not effective in cutting down on the amount of crime
13 associated with drugs, or any other type of crimes for
14 that matter. Now, I'm wondering, with the resources that
15 you have in your two agencies available to you, if there's
16 anything that you can point to, any studies or any type of
17 information that indicate to you that mandatory sentencing
18 has some effect, some positive effect, on reducing crime
19 of any sort, but particularly drug-related crimes. Is
20 there anything? Am I not getting all the correct
21 information I should have when it seems to me that there's
22 no relationship, or can you enlighten me on that?

23 MR. FELDMAN: Well, Representative Ritter, I
24 am aware of some studies. I can't recite them verbatim.

25 REPRESENTATIVE RITTER: No, I understand

1 that. But they do exist somewhere?

2 MR. FELDMAN: Yes, there are some studies
3 that exist. But again, for every study that I can
4 identify that endorses the concept of mandatory
5 sentencing, someone else will come up with one on the
6 other side of the fence, but I'd be happy to share with
7 you the literature we do have. I think it's important,
8 apart from the deterrent effect, to acknowledge the very
9 real importance of posturing. I think it's important that
10 government not appear soft on crime. Appearances are
11 important, too. They have a deterrent effect, I believe,
12 but in and of themselves, they send a message. They send
13 a message that we are either accepting of a particular
14 behavior or we are not, and the more rigid and restrictive
15 and mandatory we get, the stronger the message of
16 deterrence is, even if it may not translate in each and
17 every instance to a deterrent effect, and you have an
18 offender in a given behavior pattern.

19 REPRESENTATIVE RITTER: Well, it seems to me
20 that that's really all it is. This is something --
21 mandatory sentence legislation is something that makes the
22 Governor feel good and the Attorney General and the
23 legislators, makes us feel like we're doing something when
24 in fact we're really doing nothing.

25 MR. FELDMAN: Well, let me add another

1 thing.

2 REPRESENTATIVE RITTER: It's my perception.

3 MR. FELDMAN: Let me revert back to what Mr.
4 Lewis said, and that is that we have been very judicious
5 in our endorsements of mandatory sentencing, and if you
6 really look at the bills that we have endorsed, the
7 frequency with which we endorse mandatory sentencing and
8 the scope of that mandatory sentencing is far more limited
9 than what might at first blush seem.

10 REPRESENTATIVE RITTER: Than what we've got
11 in front of us, just this package?

12 MR. FELDMAN: We really are not trying to
13 sell you mandatory sentencing across the board. We really
14 are not.

15 MR. LEWIS: I'd be happy to provide you with
16 a study that was done by PCCD earlier relating to drunk
17 driving mandatory minimums and what the study concluded
18 basically is that they have a significant impact if they
19 are widely publicized upfront, but as the publicity about
20 them increases, so does their effectiveness.

21 REPRESENTATIVE RITTER: Well, yeah, I can
22 see that. Drunk drivers probably read the newspaper more
23 often than the people that we're talking about. I mean,
24 in terms of the publicity, and I think as Representative
25 Josephs said too, if you're involved in the drug industry

1 and you expect that at any moment you could be shot, it
2 probably doesn't matter to you very much what the
3 government says they're going to do to you if they catch
4 you.

5 MR. LEWIS: It does if it prevents you from
6 earning more money.

7 REPRESENTATIVE RITTER: Well, maybe, I
8 guess. Okay. Thanks.

9 Thank you, Mr. Chairman.

10 CHAIRMAN CALTAGIRONE: Representative Blaum.

11 REPRESENTATIVE BLAUM: Thank you, Mr.
12 Chairman. I would just like to begin by saying, Mr.
13 Feldman, that I think you're doing a great job. I think
14 our district attorneys, who we are going to hear from
15 soon, are doing their very best and absolutely fantastic.
16 I believe we have an Attorney General of Pennsylvania who
17 has raised the consciousness of people and who, in just
18 five months, has done a great job in preparing for this
19 dealing with the drug problem. And I wonder what it's all
20 going to mean because, again, I hate the term "war on
21 drugs" because I don't think there is one.

22 Let's pretend that this stack which
23 Representative Josephs had trouble getting her clip around
24 is law tomorrow. What happens in May of 1990 when we come
25 back to Philadelphia and we're having hearings, what

1 impact are these bills going to have when, as Mr. Reilly
2 said, we're dealing with irrational people, when, as
3 Representative Josephs said, when they're not afraid of
4 being shot, they're not afraid of dealing in the horror of
5 this business? You know, what is going -- what, in these
6 bills, is going to make them think twice? Because when
7 you're making 1,500 bucks a week or a day, to the people
8 involved in this, it must be worth all the risks.

9 As Dave Heckler said earlier, I mean,
10 there's a lot of laws already on the books which are
11 pretty horrible and scare 70 percent of the American
12 people, 80 percent of the American people from ever
13 getting near this business. In joining the fellow who was
14 joining Mr. Reilly who talked of coming up with a new
15 system of measurements, which I think is a great idea,
16 where are we going to be one year from now if all these
17 bills are law and how are we going to measure that
18 progress forward or -- I mean, the worst problem is we
19 could start falling backward. Where are we going to be a
20 year from now if these were all law?

21 MR. FELDMAN: Representative Blaum, I hope
22 that they're not all law because number one, we're not
23 supportive of all of those pieces.

24 REPRESENTATIVE BLAUM: Just the ones you're
25 supportive of. And I'm not disagreeing with that. I'm

1 trying to drill home the absolute tremendous extent of
2 this problem. I mean, you know, I used the sandbagging
3 analogy before. It's like trying to sandbag a tidal wave.

4 MR. FELDMAN: We need to focus on the profit
5 incentive because that clearly, as Mike Reilly and others
6 have testified, is a major motivation for the criminal
7 enterprise that we are all seeking to reduce the impact
8 of.

9 REPRESENTATIVE BLAUM: Well, how do you make
10 cocaine non-addictive? I mean, it is addictive. People
11 who are hooked on this stuff apparently will spend any
12 amount of money. They have to. That's a captive
13 audience. They have to go and buy some every morning.

14 MR. FELDMAN: We need to acknowledge that
15 law enforcement, first of all, and again, I find myself
16 repeating what Mr. Reilly has said in some respect, law
17 enforcement can't do it alone. If we simply rely on the
18 law enforcement initiative, we're doomed to failure. We
19 must address the demand side, and by demand side, I mean
20 we must encourage young people and others at risk of
21 abusing drugs not to do so. We must equip them with the
22 kinds of skills necessary to resist and we must provide
23 effective treatment for those who are already addicted and
24 for those affected by the addictions of friends and loved
25 ones at the same time that we keep the pressure on with

1 effective and efficient law enforcement. That means that
2 we don't slack off when it comes to interdiction, but we
3 also recognize that we can't stop the stuff from pouring
4 into this country. Those who have already testified
5 before us have indicated that, and I would certainly
6 second that.

7 We need to keep the pressure on though and
8 we have to acknowledge that all of these need to work in
9 sync, and we also have to acknowledge that we're not, in
10 many instances, going to see a turnaround overnight. This
11 is -- I won't use the war analogy. I'll call it a game.
12 It's a game of inches in many cases. Inch at a time,
13 block at a time. We have to reclaim our neighborhoods.
14 We're not going to reclaim the whole city of Philadelphia
15 at one time. It can't be done. I stand here or sit here
16 and stake my reputation on the fact that it cannot be done
17 in one fell swoop, but if people get upset enough and if
18 they become activated, immobilized enough, we can reclaim
19 neighborhoods block by block and house by house. That's
20 the way you win a game. And I believe that we will make
21 incremental change between now and May of 1990,
22 Representative Blaum, but we're not going to see a major
23 turnaround between now and then. This crisis that we face
24 is not a crisis that occurred overnight and it's not going
25 to go away overnight. So I would respond to your question

1 in that fashion.

2 REPRESENTATIVE BLAUM: The bills that we
3 have before us today are going to cost some money to
4 implement, now, even the mandatory sentences and the
5 individual cells are going to have to be constructed
6 sooner or later to take care of the people who are going
7 to be arrested under these, including the fellows who are
8 convicted on the third time who get life. And I chuckle
9 when I see that. Is our money being -- are we spending it
10 in the best way? Obviously, these bills are going to cost
11 money. You mentioned addressing the demand side with
12 education, which we're doing; with treatment, which we're
13 doing, and not enough of. I mean, this package that's
14 going to be allotted, the amount of money that's going to
15 be allotted for this argument about drugs is substantial.
16 I mean, are we spending it in the best way?

17 MR. FELDMAN: I think if we intend to build
18 prison cells sufficient to hold all of those who are
19 convicted of drug crimes, we're not spending our money in
20 the best way, no. I do believe, contrary to what was said
21 before, that there was a capital budget bill that did
22 provide a prison in Philadelphia. We just opened last
23 fall at the State Correctional Facility in Graterford a
24 therapeutic community, and our forecasting the opening of
25 a new facility therapeutic community within the confines

1 of the Cresson State Correctional Institution. Beyond
2 that though, I believe that, and Commissioner Owens, I'm
3 certain, has testified to the need for criminal
4 examination, and not only examination but use of
5 alternatives to maximum security incarceration for many
6 people that now occupy jail space in our county facilities
7 and prison space in State Correctional Institutions. We
8 have explored, very creatively I might add, the use of
9 intensive supervision of parolees and the use of
10 electronic surveillance as an alternative to the more
11 extensive incarceration not for violent offenders but for
12 those who with that kind of monitoring may be able to be
13 successfully retained in the community setting.

14 So there are alternatives to the more
15 expensive prisons. We cannot build prisons fast enough.
16 There's, as I believe the Commissioner has already said,
17 approximately, I think, a 130 to 150 net increase in the
18 State correctional population on a monthly basis. There's
19 no way, even if we were to put the money in place today,
20 to have a facility to house those people within two years.
21 It's going to take that long to get a new facility up and
22 off the ground. So we cannot continue, I believe, with
23 all due respect to those who argue to the contrary, to
24 continue to build expensive prisons. We're going to run
25 out of space and we're going to run out of money, and

1 that's not really, I believe, the ultimate answer to our
2 problem anyway. We need social change, attitudinal change
3 about alcohol and other drug addiction. But what we are
4 doing, I believe, is an effective and appropriate
5 balancing act between the various alternatives. We do
6 need correctional space and we need more of it, but we
7 also need to be seriously examining alternatives to
8 incarceration.

9 CHAIRMAN CALTAGIRONE: Dave.

10 REPRESENTATIVE HECKLER: Thank you, Mr.
11 Chairman.

12 I would agree our Subcommittee on Crime and
13 Corrections had an excellent meeting with Commissioner
14 Owens. My recollection is he spoke of, I think 300 beds
15 comes to my mind but maybe that's too many. Maybe it's a
16 fewer facility in the Philadelphia area, however I think
17 he agreed that that capacity is already essentially spoken
18 for. We're not dealing with any of the impact of any of
19 the mandatories from this point forward. I'm happy to
20 hear the dialogue that's going on today. I am concerned
21 that too much of what's taking place in our attempts to
22 deal with this perilously difficult situation is
23 posturing, is taking the easy solutions, and I echo the
24 thoughts that have already been advanced about mandatory
25 sentencing without some very clear idea of where we're

1 going.

2 Let me make a modest proposal. Under the
3 executive branch you have, I believe, the Commission of
4 Sentencing falls within your purview; certainly the
5 Commission on Crime and Delinquency does, as does the
6 Department of Corrections. Some years ago, the
7 legislature established an Advisory Commission on Public
8 Pensions because there was a penchant on the part of the
9 legislature to vote pension increases for various people
10 who maybe asked for them and maybe needed them without
11 having any idea whatsoever of the cost that it was going
12 to impose over time on the taxpayer. We formed a
13 commission to provide us with actuarial notes to do that.
14 I'm not suggesting establishing another department of
15 government. We have the folks in place, I believe, in the
16 executive branch who could provide actuarial notes, if you
17 will, on the anticipated impact of legislation which
18 enhances penalties. I would think that it would be very
19 helpful and desirable for you folks to provide this
20 committee, before we get down to a voting meeting, at the
21 very least with such estimates with regard to the package
22 of bills containing mandatories and enhancements which the
23 Governor is specifically advocating, and possibly also
24 with regard to some of the other bills that fall into that
25 category.

1 I think that it is intellectually dishonest
2 for us to pass these things, as has been said, and just
3 wash our hands of the consequences, and what is more, I
4 think that we're not pulling in harness as any kind of a
5 unified governmental approach to the problem.
6 Representative Hayden has made what I think is a very
7 difficult suggestion in terms of getting especially
8 younger individuals perhaps within the jurisdiction of the
9 juvenile court who are involved in the drug trade into
10 something besides incarceration. I think that there are
11 some practical problems with his specific proposal. I'm
12 not sure I'd want to be the foreman of one of these teams
13 trying to renovate the housing, but I think the concept of
14 either work camps, of some kind of intensive supervision
15 that provides these kids with skills and absolutely
16 monitors them as opposed to lock them up somewhere is
17 something that we will save millions of dollars of
18 taxpayers' money by doing over the long-term.

19 Maybe all this has been done before and
20 talked about before, but we're now here at the crunch with
21 legislative proposals and with a budget proposal that's
22 going to represent the action of the Commonwealth at least
23 over the next fiscal year, and I'm not aware that there's
24 any meaningful approach to those things, and it seems to
25 me that the Governor, through those agencies, can be --

1 can play a role in that. So I don't know that that really
2 requires any response, but I would suggest that at least
3 that it start the note on the sentencing impact.

4 One final point regarding your observations
5 about mandatories. I think you have to be very careful
6 and I think that we in the legislative consideration and
7 the Governor in his pronouncements have to be very careful
8 to maintain the distinction between a general tone that
9 we're going to be tough on drugs and that drug dealing is
10 unacceptable, and therefore anything we pass kind of
11 enhances that general perception. I don't think that
12 means much at all to the kid on the street in particular.
13 I mean, the average child at 17, even we were commenting
14 here even somebody in a suburban middle class neighborhood
15 who's supposed to be goal-oriented has a tough time seeing
16 beyond the weekend, let alone a kid who's working in a
17 Crack house.

18 I think the idea that getting tough on drugs
19 means anything, and I think that relates directly back to
20 the mandatories. We started out with mandatories of five
21 years for using a gun to commit a crime of violence. That
22 is an important PR, true. You can say to people, you
23 stick up a store with a gun, you're going to get five
24 years, no ifs, ands or buts. The impact of these things
25 have become so muddy, the message that we're sending has

1 become so blurred that once again the credibility of the
2 criminal justice system in anybody's mind just evaporates
3 and it becomes just happenstance. If you get caught, bad
4 things are going to happen to you, but who knows? Does it
5 have a deterrent effect? I very much doubt it.

6 So I think you have to make the difference
7 between setting a general tone, which may be good
8 politics, but I don't think it has an impact on the
9 problem and in a few very specific, clear, limited
10 situations sending a message that may have some deterrent
11 effect.

12 Again, I don't think that requires a
13 response, but I think it's important to note.

14 Oh, and to add one other point, Mr.
15 Chairman. Just before this hearing I came from a meeting
16 with a number of police chiefs in my district and the
17 liability problem, while it sort of ends up being a
18 footnote in all the other issues, we're talking about
19 maybe one of the most significant matters before this
20 committee. Bucks County and our district attorney Alan
21 Rubenstein has been very aggressive in getting confiscated
22 money back to local police departments, having them swap
23 off with each other so that people who are not known in
24 one part of the county can go in and make drug buys and
25 conduct enforcement activities. These officers, and the

1 chiefs in particular, are starting to realize that they
2 may be at substantial risk and their municipalities may be
3 at substantial risks because of the limitations in the
4 coverage of their individual municipal liability policies,
5 and that's something that may substantially curtail their
6 ability to participate in those particular kinds of
7 things. Anything that we can do to extend that will be of
8 great importance.

9 Thank you.

10 CHAIRMAN CALTAGIRONE: Thank you.

11 Gentlemen, thank you.

12 MR. LEWIS: Mr. Chairman, thank you.

13 MR. FELDMAN: Thank you.

14 CHAIRMAN CALTAGIRONE: We have Robert
15 Armstrong, the Special Assistant to Mayor Goode for Drug
16 Control, and do you want to bring your assistant with you?

17 MR. ARMSTRONG: Mr. Chairman, good
18 afternoon.

19 On behalf of Mayor Goode and the citizens of
20 Philadelphia, I'm honored to be here today to discuss this
21 very important problem facing our society today, that is
22 the sale and use of illegal drugs. These hearings are
23 critically important because they enable us to sort
24 through the various legislative measures that have been
25 proposed to help stem the tide of drug abuse. Further, we

1 will be in a better position to adopt those and to be most
2 effective in a war on those insidious substances that
3 wreak such massive figures and psychological devastation
4 on our citizens. Since I was given the charge of
5 coordinating the various anti-drug initiatives in this
6 city, I became keenly aware of the need for a coordination
7 of efforts and information sharing. In that spirit, I
8 commend this committee and its chairman for undertaking
9 this comprehensive examination of pending criminal justice
10 and anti-drug legislation.

11 These various measures should be looked at
12 in a systematic fashion and carefully weighed in
13 relationship to each other as a part of an overall arsenal
14 in the war on drugs. I do not intend to recite the awful
15 statistics that indicate how deeply drugs are embedded
16 within our communities today. This committee is certainly
17 aware, better than most, of the hideous cult of drugs
18 taking our children, our families, our workplace
19 productivity, our resources, and our very right to safely
20 walk our streets and feel secure in our own homes. Nor do
21 I specifically endorse any particular piece or proposed
22 legislation. Specific positions on pending legislation
23 are included in a document that I will refer to shortly.

24 I believe many of the items before you have
25 substantial merit and I would therefore prefer to discuss

1 educational programs such as Project Dare, which has only
2 reached a portion of our young people.

3 -- Increased penalties for selling drugs to
4 anyone, not just minors, near schools and any other
5 facility used by young people.

6 -- Prohibition of ownership or possession of
7 certain weapons by persons who have been convicted of a
8 felony.

9 -- Periodic drug testing as a condition of
10 parole.

11 -- Stronger and more enforceable
12 anti-paraphernalia legislation. What kind of message are
13 we sending to our young children when cigarette rolling
14 paper, which is used almost for marijuana nowadays, is
15 available next to the milk cartons in our stores? If
16 store owners will not acknowledge their responsibility to
17 the community, we must then step in ourselves with
18 stricter penalties.

19 -- Comprehensive drug treatment for the
20 incarcerated. We cannot afford to send addicts back in
21 the streets to commit more crime.

22 Many of these items are described in greater
23 detail in the Philadelphia Drug Crisis: A Strategy for
24 the Community Preservation, a two-volume report prepared
25 by the Mayor's Leadership Council and released to the

1 public this past November 1. I would respectfully request
2 that this document be entered into the public record of
3 this hearing.

4 I would also be pleased to provide
5 additional copies to any member, if this committee is so
6 desiring. I would also like to enter into the record a
7 summary of the city's position on most of the bills
8 pending before the Judiciary Committee. This summary was
9 prepared by the Criminal Justice Legislation team,
10 composed of individuals from the police department, the
11 mayor's office, the Criminal Justice Coordinating
12 Commission, and the district attorney's office. This team
13 is presently examining more recently introduced criminal
14 justice legislation, and I will provide this committee
15 with that information upon its completion.

16 At this point, I'd like to conclude my
17 testimony by again expressing my appreciation for this
18 opportunity to be here today.

19 CHAIRMAN CALTAGIRONE: Thank you. Thank you
20 very much.

21 (Exhibits are on file with committee staff.)

22 CHAIRMAN CALTAGIRONE: Questions?

23 BY REPRESENTATIVE HAYDEN: (Of Mr. Armstrong)

24 Q. Mr. Armstrong, do you feel that there would
25 be any merit to someone being in a position at the State

1 level, the term has often been used, the "drug czar" term,
2 to coordinate local law enforcement measures on behalf of
3 the whole drug enforcement issue? Do you think that at
4 the State level that it would be of any value to you here
5 in the city of Philadelphia?

6 A. You're asking if I believe that a State
7 level position similar to the one I have in the city and
8 very similar to the Federal government?

9 Q. Um-hum.

10 A. I believe at the present time it is. I
11 probably minimally share that opinion. After assuming
12 this position, I found out that as a member of the police
13 department, I was a First Deputy Police Commissioner and a
14 police officer for 35 years before taking this, I thought
15 the way was through law enforcement. I failed to realize
16 the importance of prevention, education, and treatment in
17 this matter. And I think that this scourge that is
18 developing today needs someone 7 days a week, 24 hours a
19 day looking into the problem. The district attorney
20 doesn't have the time, the police commissioner doesn't
21 have the time, or anyone who's gainfully employed in
22 another occupation in government or any position. This is
23 a war, and we must utilize all our resources in regards to
24 the combating of it, and I feel that you do need someone
25 to spearhead that attack.

1 Q. Thank you sir.

2 CHAIRMAN CALTAGIRONE: Thank you.

3 Thank you very much for testifying before
4 the committee today. We certainly appreciate it. Will
5 you be or the mayor, either of you, be appearing tomorrow?

6 MR. ARMSTRONG: Tomorrow?

7 CHAIRMAN CALTAGIRONE: Tomorrow morning. We
8 do have the district attorney, Ron Castille, and the
9 Attorney General scheduled for tomorrow morning, and I was
10 just curious if--

11 MR. ARMSTRONG: Mr. Chairman, the mayor
12 would be unable to be here tomorrow and I also am
13 appearing before Senator Rocks at LaSalle University,
14 which is going to tie me up, and I don't know if Mr. Mark
15 Gates from the legislative committee would be able to
16 appear here tomorrow.

17 Would you be able to do that?

18 MR. GATES: Yes.

19 CHAIRMAN CALTAGIRONE: All right, thank you.

20 MR. ARMSTRONG: We appreciate your coming
21 here and listening to our problem. We certainly need all
22 the help we can get. Thank you.

23 CHAIRMAN CALTAGIRONE: Thank you for
24 allowing us the use of the facilities here today.

25 We have the Honorable District Attorney

1 George C. Yatron, the Berks County the district attorney
2 and President of the Pennsylvania District Attorneys
3 Association.

4 MR. YATRON: Good afternoon, Mr. Chairman
5 and members of the committee. My name is George Yatron.
6 I am president of the Pennsylvania District Attorneys
7 Association and District Attorney of Berks County. In my
8 testimony today, I would like to cover three areas that
9 affect law enforcement's war on drugs. Namely, the
10 proposed changes to the new forfeiture law, House Bills
11 845 and 857 that would mandate forfeiture money to be used
12 for community programs, the need for prison expansion, and
13 finally, proposed drug legislation.

14 The current forfeiture law, Act 79 of 1988,
15 effective July 1, 1988, was drafted primarily by the
16 Philadelphia District Attorney's Office and supported by
17 the Pennsylvania District Attorneys Association. These
18 important changes to the forfeiture law made it easier to
19 strip drug dealer's property used in or derived from drug
20 trafficking. However, since 1985, the forfeiture law has
21 always given a district attorney power to control assets.
22 Section 6801(h) states that the district attorney shall
23 utilize forfeited property or proceeds thereof for the
24 purpose of enforcing the provisions of The Controlled
25 Substance, Drug, Device and Cosmetic Act.

1 The General Assembly has wisely decided to
2 use forfeited funds for law enforcement because that is
3 where the crisis is. Everyone benefits from funds used
4 for law enforcement. While neighborhood groups' work is
5 undeniably valuable at fighting drugs, these activities
6 are labor intensive, not cost intensive. They depend on
7 widespread citizen cooperation, vigilance, and providing
8 of information. It is expensive for law enforcement to
9 fight the drug war. We have to pay for additional
10 narcotics officers, expensive surveillance equipment and
11 costly drug analysis equipment. As a frontal assault on
12 drug dealers and possessors through criminal prosecution
13 is the most effective tool in reducing neighborhood crime,
14 I am convinced it would be counterproductive to the
15 interests of Pennsylvanians to require diversion of these
16 limited resources away from law enforcement.

17 Furthermore, the new 1988 Federal Anti-Drug
18 Omnibus Act gives consideration to communities by
19 earmarking over \$400 million in program funding. This
20 Federal money, when appropriated, will be in the
21 Pennsylvania State Treasury. This avenue, with a very
22 large budget and less restrictions, is a more appropriate
23 funding source for community programs.

24 Generally speaking, county or city
25 government should grant and monitor funds to neighborhood

1 groups. District attorneys are simply not in that
2 business. Their expertise is in prosecution, and their
3 resources should not be diverted from that first purpose.

4 While we deeply appreciate and acknowledge
5 the importance of any community effort to rid our
6 neighborhoods of drugs, and we support county and State
7 funding for such efforts, it is the view of the
8 Pennsylvania District Attorneys Association that, given
9 the limited resources, forfeiture funds should continue to
10 be used primarily for law enforcement purposes.

11 The Pennsylvania District Attorneys
12 Association passed a resolution last summer urging the
13 expansion of prison facilities. We recognize that the
14 weakest link in the criminal justice system in
15 Pennsylvania and throughout the country is the overcrowded
16 prison system. The State prison system is now 135 percent
17 over capacity, even with the new prisons. This increase
18 is largely due to increasing drug arrests and convictions.
19 In Philadelphia and certain other large counties, county
20 prison problems are wreaking havoc on the ability to bring
21 criminals to trial and the ability to keep them off the
22 streets.

23 From January 1, 1980 until January 1, 1988,
24 the State prison population increased from 7,806 to
25 16,302. The passage of drug mandatory minimum sentencing

1 and tougher sentencing guidelines will increase the number
2 of prisoners even more. More prisons, both county and
3 State, must be built as soon as possible. If they are
4 not, then the State prison system faces the imminent risk
5 of a prison-cap debacle similar to Philadelphia's Harris
6 v. Pemsley disaster. All our gains in the legislature
7 and courts will be seriously compromised. The pressure to
8 formally and informally discount sentences to reflect
9 prison capacity soon will continue to increase unless
10 appropriate action is taken by the legislature.

11 In closing, I must mention that Ron
12 Castille, Legislative Chairman of the Pennsylvania
13 District Attorneys Association, has prepared a legislative
14 drug package which will be presented by him tomorrow in
15 further detail. This package is supported by the
16 Executive Committee of the Pennsylvania District Attorneys
17 Association, and I expect that the full approval of our
18 organization will be obtained at our annual meeting.

19 On behalf of the Pennsylvania District
20 Attorneys Association, I would like to thank the House
21 Judiciary Committee members for this opportunity to
22 address you on these important issues.

23 CHAIRMAN CALTAGIRONE: Thank you.

24 Are there any questions?

25 REPRESENTATIVE BLAUM: I have one.

1 CHAIRMAN CALTAGIRONE: Yes.

2 BY REPRESENTATIVE BLAUM: (Of Mr. Yatron)

3 Q. Mr. District Attorney, we had some gentlemen
4 from the Crime Commission here early this morning. I
5 don't know if you were here to hear them. They suggested
6 that we should develop a system of measurement to see if
7 what we're doing is having any effect, and one of the
8 suggestions was the environment in our neighborhoods, you
9 know, is it improved after we pass this package of bills
10 and other bills that deal with the problem? That we
11 should begin measuring our success or failure at fighting
12 this problem. If we do come up with that, do you have any
13 ideas as to various measurements that we might use to
14 determine if any of this stuff is working?

15 A. Well, it may be difficult to devise an exact
16 measurement because one of the possibilities is if this
17 drug activity is unchecked, it will not only remain at its
18 present unacceptable level, it will also continue to grow.
19 So even in a situation where it appears that there is no
20 great headway being made, there still may be very
21 worthwhile results occurring because it is being kept, the
22 activity is being kept, in check to some extent. If these
23 actions were not taken, I think it would be fair to say
24 that there would be greater problems. The people who are
25 serving these mandatory sentences, if they were not

1 serving them or if they were released on probation or were
2 serving a minimal sentence, many of them, statistically
3 speaking, would be back dealing drugs again, involving
4 other people in drug activity, and the growth of
5 individuals involved in this activity would be even
6 greater.

7 Q. But don't you think we can put that drug
8 dealer away and 599 more of his successors and there will
9 still be 100 that want that particular job in that
10 particular neighborhood?

11 A. I agree that it's not going to be entirely
12 eliminated in that way, but I think that unless there are
13 these penalties, we are going to have even greater numbers
14 of people involved in this activity and although you have
15 people taking the places of individuals who are selling
16 drugs, you are going to have them working side by side
17 with the prison population being lower and people continue
18 to sell drugs and be involved in other criminal
19 activities.

20 Q. I would ask if your association, if you
21 could take it back with Gary and maybe make some
22 recommendations to this committee as to what criteria in
23 our society we might look to as measurements to see how
24 this fight is doing. I'm not exactly even clear what I'm
25 asking for, but the idea that was raised earlier this

1 morning seemed like something we should do to begin to
2 measure the problem, aside from how many people we're
3 arresting and how many people we're putting in our State
4 prisons.

5 A. Some of the possible measurements that could
6 be taken would be drug-related overdose deaths, also a
7 number of the children who are being born as addicts.
8 That's something that could be measured. We could also
9 take a look at the number of clients that are being served
10 by drug treatment facilities, and in that way you can
11 probably get some measurement on the scope of the drug
12 problem. But I think that to -- even if those numbers
13 increase, we cannot say that some of the legislation which
14 has gone before this and some of the legislation that is
15 being proposed is not needed and is also -- it cannot be
16 said that it is not effective.

17 Q. I'm not suggesting that it is, I just think
18 there's other things we probably can do that maybe we're
19 not to help out.

20 A. Yes.

21 Q. I think this is part of the solution but not
22 nearly all of the solution.

23 CHAIRMAN CALTAGIRONE: Thank you, George.

24 MR. YATRON: Thank you very much.

25 CHAIRMAN CALTAGIRONE: The next presenter

1 will be William Reznor, Pennsylvania State Association of
2 County Commissioners.

3 MR. REZNOR: Good afternoon. My name is
4 Bill Reznor, and I am a Mercer County Commissioner,
5 President of the Mercer County Prison Board, and I serve
6 as the chairman of the Pennsylvania State Association of
7 County Commissioners Jail Overcrowding Task Force. With
8 me today is Stover Clark, who is staff with the
9 Pennsylvania State Association of County Commissioners and
10 assigned to the Jail Overcrowding Task Force organization.

11 On behalf of the Pennsylvania State
12 Association of County Commissioners, I wish to thank
13 Representative Caltagirone and members of the House
14 Judiciary Committee for this opportunity to present
15 testimony. I will try to keep my comments brief to allow
16 for questions at the conclusion.

17 As an elected official and a parent of two
18 children, I am in support of the efforts set forth in this
19 anti-drug legislative package. One of the major, if not
20 the major, problem facing us today is the problem of drug
21 abuse. And while we are in agreement that drugs are a
22 serious problem, I must point out that many of those
23 proposed pieces of legislation will have a dramatic, if
24 not crippling, effect on county jails. As we speak, we
25 are facing a crisis in county jails. As of February 28,

1 1989, there were 15,647 inmates housed in county jails
2 throughout the Commonwealth. This compares to 13,732
3 inmates in February of 1988, only one year earlier.

4 County jails are growing at an annual rate
5 of 14 percent per year, and in contrast, the State prison
6 population is growing at an annual rate of 10 percent. I
7 must point out that dealing with this explosion in the
8 county inmate population falls solely on county
9 governments. Over the past 10 years, Pennsylvania's
10 county governments have spent well over \$200 million to
11 build new and renovate existing jails. Even as the
12 counties continue to build, we are falling behind. We
13 cannot keep pace with the inmate explosion. In 1987, the
14 Pennsylvania Commission on Crime and Delinquency found
15 that the 50 county jails that account for over 90 percent
16 of the statewide inmate population were operating their
17 jails at over 100 percent of capacity. The most crowded
18 jails are found in 10 counties that account for 46 percent
19 of the statewide inmate populations. These jails were
20 operating at an average of 146 percent of capacity.

21 I offer these statistics to make the point
22 that we, the counties, cannot solve this crisis by
23 building our way out. We need other innovative solutions.

24 Why are we facing this crisis? One reason
25 is the counties have less and less control over who is

1 placed in our jails and for how long. During the last
2 decade, the legislature has passed more and more mandatory
3 sentencing requirements as one means of being tough on
4 those who break the law. I am not here today to debate
5 the merits of the mandatory sentences. I am here to tell
6 you that these laws are responsible for filling our jails.

7 To illustrate, in 1980, there were 635 DUI
8 offenders sentenced to county jails throughout the
9 Commonwealth of Pennsylvania. In 1988, that figure had
10 exploded to well over 9,000 sentenced DUI offenders, an
11 increase of 1,400 percent. In the county jails of my
12 region, the northwest corner of the State, 40 percent of
13 all the county sentenced inmates are DUI offenders. I
14 must point out that there has not been the desired
15 significant decrease in alcohol-related highway fatalities
16 anticipated with the passage of the DUI law.

17 I must be honest with you in saying that on
18 the one hand, we all support the intent of this
19 legislation package. However, I would be derelict in my
20 duty if I didn't sound the alarm. The county criminal
21 justice systems, already overburdened, will be pushed to
22 critical overload.

23 I would like to propose several solutions
24 that will work toward easing the jail overcrowding crisis:

25 First, the legislature adopt a policy that

1 any new legislation which has mandatory sentencing
2 requirements include a jail and prison impact statement.
3 This statement will inform us of the potential increase in
4 inmate populations. And most importantly, the legislature
5 must include sufficient appropriations to create the
6 required additional jail and prison space. This must be
7 done for all legislation that is introduced and all
8 amendments that are adopted.

9 Second, the second proposal I would like to
10 offer is that the State and county governments work in
11 partnership to solve the problems of jail overcrowding.
12 The State Association of County Commissioners is proposing
13 a partnership approach in the development of a regional
14 jail as one means of dealing with this crisis. Regional
15 jails offer a cost-efficient method to increase jail
16 space. The Commonwealth would assist financially in the
17 construction and operation of these facilities. Regional
18 jails would only be used to house county sentenced inmates
19 with terms no longer than two years. I must point out
20 that this proposal does not relieve the counties of the
21 responsibilities of operating their individual county
22 jails. County jails would revert back to their intended
23 use - serving as a short-term holding facility for those
24 offenders awaiting adjudication and for special
25 populations, such as work release.

1 Three, as I stated earlier, building alone
2 will not solve our problems. We must treat jail space as
3 a limited resource and incarcerate only those that are
4 truly a threat to society. The counties need State
5 appropriations and legislation that will allow those
6 counties, who so choose, to develop solutions to the jail
7 crisis.

8 The association requests the legislature
9 appropriate funds that will assist the counties in the
10 follow areas:

11 -- Establishing minimum security facilities
12 are for low-risk offenders, such as DUI.

13 -- Creating more work release facilities
14 that will enable county sentenced inmates, who are
15 eligible, to pay for their housing, pay off court costs
16 and fines, and maintain an income to support their
17 families.

18 -- Finally, adopting other legislation that
19 can assist in inmate reduction and control, such as the
20 earned time bill introduced by Representative Kosinski,
21 intensive forms of probation, and electronic monitoring.

22 County jails are the gatekeepers of the
23 criminal justice system. All offenders, regardless of the
24 offense, who cannot make bail are housed in the county
25 jail. Any increase in enforcement and prosecution, such

1 as outlined in the proposed legislative package, will
2 directly impact the county jails.

3 Another area of concern is the growing
4 number of inmates sentenced to county jails who should be
5 sentenced to a State correctional facility. Many judges
6 hesitate in sending a first offender into the State
7 system, even though the mandatory sentence has a maximum
8 term of more than two years. In 1987, well over 1,000
9 sentenced inmates who should have been housed in a State
10 correctional facility were instead serving their time in
11 county jails.

12 If we are to work in partnership to solve
13 the problem of drug abuse in the Commonwealth, we must
14 also work in partnership in dealing with the jail and
15 prison overcrowding crisis. The longer we delay, the
16 closer we come to catastrophe.

17 More and more counties are coming under
18 Federal court order to reduce jail populations. As our
19 inmate populations continue to explode, our jail and
20 prison administrators find it more and more difficult to
21 manage correctional facilities.

22 I am now very briefly going to change hats
23 for a moment, taking off my Prison Board hat and replacing
24 it with my drug and alcohol administrator's hat. As I
25 stated earlier that the county criminal justice system is

1 overloaded, this statement also holds true for the county
2 drug and alcohol systems. This year, the Governor's war
3 on drugs includes only a 2.2 percent increase in the funds
4 available for county drug and alcohol treatment. Addicts
5 untreated commit crime. The jail and prison inmates who
6 do not receive treatment are more likely to commit new
7 crimes upon release.

8 County drug and alcohol programs must
9 receive additional funds to treat the disease of drug and
10 alcohol addiction. To eradicate drug and alcohol abuse, a
11 better balance between law enforcement and drug and
12 alcohol treatment and prevention must be established.
13 Both the supply and the demand side of the equation must
14 be addressed. To quote the Pennsylvania Commission on
15 Crime and Delinquency's 1988 report, "Other communities
16 throughout the State are confronted with a similar drug
17 problem, the likes of which will not be solved through law
18 enforcement alone. Demand reduction, in the long term, is
19 the only answer to supply reduction," end quote.

20 In closing, I wish to thank Representative
21 Caltagirone and the members of the House Judiciary
22 Committee for this opportunity to present our comments on
23 this proposed legislative package and to give you a status
24 report of the jail overcrowding crisis.

25 Thank you very much.

1 ACTING CHAIRMAN HAYDEN: Thank you.

2 Questions?

3 REPRESENTATIVE HECKLER: Yes.

4 ACTING CHAIRMAN HAYDEN: Representative
5 Heckler.

6 REPRESENTATIVE HECKLER: Thank you, Mr.
7 Chairman.

8 BY REPRESENTATIVE HECKLER: (Of Mr. Reznor)

9 Q. I'm wondering, Mr. Reznor, the experience
10 I've had in Bucks County just up the river here is that
11 the county made some conscious choices some years ago to
12 avoid putting money into a new prison for some time and
13 put it instead into a rehab center to pursue some
14 alternatives and try and keep their full-time, most
15 intensively supervised population down. I know John
16 Dawson, the district attorney out your way, is a very
17 progressive individual. Just looking at, first of all,
18 from Crawford County's perspective, have you looked to
19 those kinds of alternatives which are within your
20 authority to deal with some of those problems?

21 A. Well, in Mercer County--

22 Q. I'm sorry. I apologize. Wrong county.

23 A. We have looked at a variety of
24 considerations to avoid the jail overcrowding. We have
25 looked at whether we can use home confinement and some

1 other programs, and quite frankly, there's nothing on the
2 books that says you can't do it, but everything on the
3 books is going to say you can do it. And we have some
4 judges who are very receptive to the "tough on crime" who
5 are concerned about using alternatives. We have looked,
6 on the other hand, and we feel very strongly that the
7 regional jail concept, in other words, if every county
8 goes out and builds a structure, you're going to have a
9 lot of architects happy, contractors happy, and maybe
10 judges happy, but you're not going to necessarily be doing
11 any justice to the long-term requirement of having inmates
12 incarcerated someplace, and the appropriate place, in our
13 belief, is when you have a consortium of counties or a
14 region that can go together and handle a place that can
15 locate inmates who are sentenced. We don't want the
16 sheriff's deputies having to drive them back and forth
17 between there and the courthouse every day, but the
18 regional approach seems to be our best effort at trying to
19 keep building at a minimal level while at the same time
20 give ourselves some flexibility.

21 But we also believe that the State, maybe
22 through no intention of its own, but certainly in the
23 early '80's when mandatory DUI sentencing came along, and
24 in our county, that was coupled with the regional jail
25 being shut off to county jails as a place of direct

1 incarceration. We wound up having our populations
2 actually double in a very short period of time, and we
3 really didn't have -- it really wasn't the county
4 commissioners' or the judges' or the district attorneys'
5 fault, it was basically the legislature believed, and I
6 think correctly so, that there should be some mandatory
7 sentencing, and if they're going to do that, our only
8 point was there should be some funding along with it, and
9 we believe that the State, if the State is willing to go
10 along with us on these regionalized prisons where it was
11 some kind of a formula, 80 percent State, 20 percent
12 counties, or some percent, obviously we're going to go say
13 that. The State may change that formula, but our basic
14 belief is that we're in this situation and we're willing
15 to work with the State. We can't, by our own initiative
16 and with our own limitations on taxing, I won't get into
17 that one, come up with the revenues necessary to build the
18 jails in these counties to do it.

19 REPRESENTATIVE JOSEPHS: We tried. We did
20 our best.

21 BY REPRESENTATIVE HECKLER: (Of Mr. Reznor)

22 Q. Well, let me follow up on that then. Do you
23 presently, and I apologize for crossing you up with
24 Crawford County, do you presently have -- where are the
25 folks who are serving the weekend mandatory DUI sentences

1 spend their time?

2 A. In our jail.

3 Q. Okay, so they're in the county prison. How
4 about the mandatory 30-day or some of the other short
5 sentences? Also in the county jail?

6 A. They're in our jail.

7 Q. Is it your understanding that there is any
8 legislative authorization which is required for the
9 regional jail concept?

10 A. No, we basically understand that we have the
11 authorization to create an authority if we so desire, but
12 I think what we're looking for is some money.

13 Q. Right. Right.

14 A. And that's why it requires a little bit of
15 legislative--

16 Q. Well, as a supporter of tax reform, I wish
17 that the voters had seen fit to give you some latitude
18 that way, but, well, the one final question that I have
19 then, and perhaps to staff, is there legislation pending,
20 I seem to recall that there is legislation kicking around
21 somewhere, which makes explicit the authority to have
22 these in-home means, the radio transmitters or whatever.

23 MR. CLARK: I believe there's a piece in
24 your committee that's been introduced by George Saurman
25 that authorizes, and also sets up pilot projects I think

1 in a couple counties, for the use of electronic monitoring
2 as an alternative for very low-risk offenders. But,
3 again, some counties will not choose to use it unless they
4 see that authorization.

5 MR. REZNOR: And I think, too, the Jail
6 Overcrowding Task Force has been in operation now for
7 about two years, and in its very early stages, part of its
8 commission really looked at those pieces of legislative
9 initiatives that we felt were imperative, and most of the
10 information from most of the counties seemed to indicate
11 that what they really wanted was the ability to do
12 something they wanted to do, so it was a lot of "may"
13 legislation as opposed to "shall."

14 REPRESENTATIVE HECKLER: Sure.

15 MR. REZNOR: But clearly they wanted that
16 authority. And many counties will not use it at all.

17 REPRESENTATIVE HECKLER: Well, again, that's
18 going to be a matter principally in the hands of your
19 judges, but it certainly is clear to me that that's an
20 option that should exist.

21 Let me make the observation, for what it's
22 worth, that based on the experience I've had in Bucks
23 County, I would be reluctant to see any county funded for
24 new prison construction that hasn't taken the initiative
25 to establish minimum security kinds of facilities like our

1 rehab center. You're dealing with a lot of prisoners who
2 are appropriate for that kind of facility, and it's
3 extremely cost effective.

4 MR. REZNOR: If I could just comment on that
5 observation. We are in the process of converting a
6 warden's residence into a minimum security work release
7 area, and it will be able to house between 10 and 15
8 people. I must tell you, however, that not all of those
9 are going to be DUI offenders who are in there. I think
10 you have a philosophical view starting to be felt by the
11 courts. They are saying, you know, this person may be an
12 ideal candidate for DUI, for work release, but is he
13 really getting the message that he did something wrong? I
14 mean, all right, I understand -- but I understand the
15 message that you're saying. We are, and most counties are
16 trying to make available work release areas for minimum
17 security prisons, but I must tell you that we are very
18 concerned about even that.

19 Example: Optional costs of a jail is where
20 the costs of a jail are at, and if you can't locate
21 something on the existing grounds and you have to go off
22 grounds, the costs go up staggeringly high to put in
23 another facility a block down the road and staff it with
24 what the State standards are for staffing. In other
25 words, we are a licensed facility by the Commonwealth of

1 Pennsylvania and certified by the Commonwealth of
2 Pennsylvania, so we have to have someone awake and alert
3 and on duty all times, and that's fine, at least one or
4 two guards, and in our county where our guards are covered
5 by the Teamsters Union contract, we pay a very good wage,
6 and we're paying around \$26,000 plus benefits to the
7 corrections officers that watch our prisoners. Well, if
8 you establish another facility a block or two away that
9 has the need for five more corrections officers, you're
10 not talking about an inexpensive proposition.

11 REPRESENTATIVE HECKLER: Thank you.

12 ACTING CHAIRMAN HAYDEN: Any other
13 questions?

14 BY MS. WOOLEY: (Of Mr. Reznor)

15 Q. Regarding the establishment of minimum
16 security facilities, have the county commissioners thought
17 about the concept of private prisons?

18 A. (Indicating in the affirmative.)

19 Q. Has there been any formal position taken for
20 the use of private prisons for minimum security inmates?

21 A. To be very candid with you, the
22 privatisation issue has come up, it has been discussed at
23 length, and there has not been a final position taken.
24 The excuse has been that there has been a moratorium
25 placed on private jails within the Commonwealth of

1 Pennsylvania, and until there's a moratorium lifted or
2 until there's some regulations promulgated that indicate
3 how counties would operate or could operate or could
4 contract for privatisation, we really didn't feel that we
5 were in a position to try to tell the State--

6 Q. Well, then I guess I should ask the next
7 question. If the legislature were to -- there's some
8 disagreement in terms of whether a moratorium exists, but
9 if the legislature were to in fact authorize and set up a
10 licensing structure for minimum security private prisons
11 for special needs dealing with possibly DUI offenders, is
12 there significant interest?

13 A. I think that there is interest, but let me
14 just go over a couple of issues very quickly. I think
15 we're concerned because the judges have indicated to us
16 their concerns about putting someone into a facility that
17 is not run specifically and directly by elected officials.
18 We are certainly not going to do anything that would hold
19 us at risk with the courts, so certainly if we could clear
20 that issue up, that issue, coupled with the one that there
21 will be some counties that are very highly union-intense
22 counties where there will be a concern of some of the
23 commissioners to be viewed as union busting, if that were
24 the intent. Now, I won't say that that's going to be
25 across the map, but it would certainly be some of the

1 concerns we would have.

2 Q. Okay. Thank you.

3 ACTING CHAIRMAN HAYDEN: Thank you. Thank
4 you for coming such a great distance.

5 MR. REZNOR: Thank you very much.

6 ACTING CHAIRMAN HAYDEN: The next witness is
7 Mr. Jules Epstein, from the Defender Association of
8 Philadelphia.

9 MR. EPSTEIN: Good afternoon. On behalf of
10 the Defender Association, I'd like to express our thanks
11 for the opportunity to address this committee today. For
12 those of you not familiar, let me just explain, the
13 Defender Association is nonprofit corporation under annual
14 contract to the city of Philadelphia to provide
15 representation for indigent adults and juveniles accused
16 of crimes or delinquent acts.

17 What I'd like to do, rather than address any
18 specific piece of legislation, is summarize the written
19 submission that we have presented to this committee. Our
20 view, having reviewed every piece of legislation that's
21 the subject of these hearings, is that their general
22 thrust is a call for increased ranges of penalties and
23 increased utilization of mandatory sentences, and our
24 conclusion, and one that we believe is amply supported by
25 national data, is that that will not work. Not only will

1 it not work to ameliorate the drug problem, it will have
2 serious and immediate collateral consequences in many
3 areas.

4 To give you a little background, I'll ask
5 you to bear with me while I just recite a couple of
6 statistics. In 1983, of approximately 17,000 people,
7 treated for all categories of substance abuse in
8 Philadelphia County, 195 were admitted to treatment for
9 cocaine Crack derivative abuse. About out of the same
10 general population, 17,000 in fiscal year 1988, 7,657 of
11 the roughly 17,000 people treated were treated for cocaine
12 Crack derivative abuse. The importance of that cannot be
13 gainsaid because that came in a period of already
14 toughened penalties and increased prosecution.

15 Perhaps the more drastic and disturbing
16 figure is that, and this comes from the coordinating
17 Office of Drug and Alcohol Abuse Programs, for the entire
18 Philadelphia County population, we have 380 inpatient
19 treatment beds, and as of March 31st of this year, the
20 waiting list for those beds were 1,776 names.

21 Anecdotally, because our office has a
22 substantial and very well-organized social services
23 department that tries to place people, we can tell you
24 that waiting lists, for example, at Eagleville Hospital,
25 at Horizon House or other drug programs, run four to six

1 months, that we have clients sitting in jail who have been
2 sentenced by a judge to parole conditioned upon admission
3 into an inpatient program who sit in jail because there is
4 no inpatient program. All of this showing that there may
5 be a grave misdirection of emphasis here, and secondly,
6 again, that during the time of increasing penalties and
7 increased focus, the increased guidelines hasn't made a
8 bit of difference.

9 Let me also explain to you something about
10 costs. This data again comes from this coordinating
11 Office of Drug and Alcohol Abuse Programs. The annual
12 cost of outpatient methadone maintenance is \$2,979. The
13 annual cost of outpatient drug counseling is \$1,949. The
14 annual cost of an inpatient bed is approximately \$18,000.
15 Now, that last figure is significant because it roughly
16 parallels the cost of one year's incarceration. The
17 difference is this: Inpatient bed programs can be as low
18 as 28 days, albeit as high as 6 months, so if you take the
19 same dollar figure and either invest in a bed of inpatient
20 or a bed of incarceration, with the inpatient, especially
21 with the 28-day program and using \$16,000 as an annual
22 cost of incarceration, you can treat 11 people inpatient
23 for the cost of incarcerating 1 person for 1 year.

24 It's beyond question, and I've heard the
25 figure of 135 or 137 percent as to the overcrowding, the

1 overcapacity figure of Pennsylvania State prisons. What
2 is less clear but what is clearly demonstrable is that
3 there is a cause and effect nationally and statewide
4 between prison overcrowding and the increased drug
5 prosecution. Here is the data -- here are the data,
6 pardon me. States, in other words taking the 50 States,
7 in 1979 had 17,572 inmates incarcerated for narcotics
8 offenses. In 1986, the same 50 States had 36,000 people
9 incarcerated for narcotics offenses. The Federal picture
10 is even more startling. In 1980, 22 percent of all
11 inmates admitted to Federal prisons were admitted as
12 convicted narcotics offenders. By 1986, that had risen to
13 34 percent. As of May 2nd of this year, out of a prison
14 population, Federal population, of 48,039 inmates, 44.1
15 percent were convicted of narcotics offenses.

16 As to projections, because one of the things
17 that was talked about here, I like the term a prison or
18 jail impact statement, the United States Sentencing
19 Commission did one and said the following: That if the
20 sentencing trends set in the period 1982 to 1986 continue,
21 the Federal prison population is estimated to increase to
22 somewhere between \$61,000 and \$78,000 with an asterisk,
23 and the asterisk is critical, if the provisions of the
24 1986 Federal drug abuse laws were fully implemented, they
25 said it would go up higher. How much so? Between \$86,000

1 and \$108,000 by 1997.

2 Two conclusions flow from these statistics.
3 Number one is, there has been a radical increase in
4 incarceration of drug offenders nationally, yet there has
5 been no impact, no impact whatsoever, on drug availability
6 on the streets. There has never, to my knowledge as a
7 criminal defense attorney here in Philadelphia, not in the
8 last six or so years, been a cocaine crisis where all of a
9 sudden the supply was radically constricted, where all of
10 a sudden the price went up. Prices are cheap. Supplies
11 are plentiful. So the implementation of a variety of
12 harsher or mandatory penalty schemes has not done what it
13 is supposed to do.

14 There is another problem, and that is, what
15 would happen besides prison overcrowding? I would point
16 out, as has already been stated here today, that not one
17 of the pieces of legislation proposing increased sentences
18 provides a single dollar for prison space. Forget prison
19 space, it provides not a single dollar for treatment of
20 inmates.

21 Number two, the court crisis that we in
22 Philadelphia encounter daily will grow expeditiously. I
23 apologize that in my initial submission I did not have the
24 data. I got it this morning and I appended it, it's
25 stapled on at the last page. Bear with me for the

1 following. In 1983 in the Court of Common Pleas of
2 Philadelphia County, drug cases made up 3.82 percent of
3 the case level. In 1988, out of disposed cases, the
4 number was 19.3 percent. Court administration currently
5 estimates that 30 percent of the active felony caseload in
6 Philadelphia is narcotics. As to the backlog, and that's
7 my first set of statistics at the top, there are currently
8 9,837 cases in a pretrial status, not counting another 500
9 or so that are pre-arraignment, in other words post-
10 preliminary hearing but pre-arraignment. The estimate I
11 received from the individual from court administration
12 said he felt court administration could function smoothly
13 at somewhere between 5,000 and 6,000 cases. So we are
14 4,000 cases over what this court system, in its most
15 optimistic lights, could cope with.

16 An additional point, and I say this not to
17 be belligerent or threatening but to be practical. For
18 every increase in drug penalties, the time and costs of
19 every drug prosecution will increase dramatically. I, as
20 a defense attorney, who I have an ethical responsibility
21 to represent to each and every client, will put the
22 Commonwealth to its test on each and every facet. There
23 will be three-day jury trials instead of one-hour non-jury
24 what we call bench or waiver trials here in Philadelphia
25 or many more of stipulated trials where there's not really

1 a contesting in the facts or guilty pleas because if
2 somebody's going away for a mandatory offense and has
3 nothing to lose, he or she has everything to gain by
4 exercising his or her legitimate rights. I don't want to
5 make it sound like gamesmanship. They're legitimate
6 rights, but they are going to be forced to be exercised.

7 As to recommendations, number one, of all
8 the legislation, we endorse specifically Bill 845
9 regarding its use of confiscated drug moneys. It is
10 terribly important to get the money into the communities.
11 I don't want you to think that we are a beneficiary of
12 that, we are not, if it were passed. But for treatment,
13 for education, for drug prevention, that's where the money
14 ought to be spent. It is our position, and I believe this
15 has been reflected by many of your comments, that drug
16 laws as they already stand, that sentencing options as
17 they already exist, and sentences practices as they go on
18 through the Commonwealth are already more than
19 substantial. Judges know how to deal with the big people.
20 The real problem is if you ever go into a courtroom and
21 watch, they're not catching and prosecuting the big
22 people. That may get done to some extent in Federal
23 court, and of course I think the figures demonstrate that
24 even their supply problem is just so overwhelming that it
25 doesn't make much of a difference.

1 One of the bills of the many that is before
2 this committee, and ultimately before the legislature,
3 proposes a 10- to 20-year sentence for anyone engaged in
4 scheme of profit. Well, as I read that bill, that applies
5 to every single person who engages in a drug sale that's
6 more than, "Hi, I'm junkie. I have a packet. I'll give
7 you one of mine for \$10." So you would be talking about
8 10, 20 years for the hundreds of people who are processed
9 monthly in Philadelphia County alone, if that particular
10 piece of legislation is passed.

11 I would urge, and the association would
12 urge, the following: If new sentencing measures are
13 needed, we need measures that ensure treatment and that
14 work to repay and rebuild the communities that are
15 damaged. The sentencing problem right now is that anyone
16 convicted of a drug offense, and we make no bones about
17 it, it harms the community and causes much of my
18 clientele, my business, which I don't mind having taken
19 away, is that somebody's arrested, is convicted, and they
20 remove him or her from that community. No reparations are
21 made to the community, 10 new people spring up to assume
22 that individual's corner, and it's that same community
23 that pays the \$16,000 or \$25,000, or whatever the annual
24 cost of incarceration is.

25 That's the bottom line. Thank you for your

1 kind attention.

2 ACTING CHAIRMAN HAYDEN: Any questions?

3 I have a question about the treatment
4 recommendation.

5 BY ACTING CHAIRMAN HAYDEN: (Of Mr. Epstein)

6 Q. I think a number of us on the committee are
7 certainly predisposed toward dealing with the treatment
8 perspective and certainly the Governor, although it's not
9 contained specifically in the legislation, has made
10 recommendations for additional treatment money, but I'm
11 wondering if through your experiences with the Defenders
12 Association, including your social services department, if
13 you have found any treatment options or treatment
14 alternatives which were more effective than others. I
15 know there are certain limitations as to where you can
16 place people because of your budget and because you're
17 depending upon the Department of Public Welfare to some
18 extent, but have you found any that have been more
19 effective than others?

20 A. The answer is, I'm not well equipped to tell
21 you that. What little I can say is the following: A.
22 there's no question but that it's the person who's
23 motivated for treatment who does best. And that's just a
24 given that anyone who deals with treatment will tell you.
25 I think that the major problem, and there is a high

1 failure rate for inpatient, there's no doubt about it, is
2 to go into an inpatient for 28 days and then move back to
3 a house that's a block away from Eighth and Butler and the
4 particular social milieu and problems that that entails.
5 And all that I can suggest from that extrapolation, and
6 it's admittedly hypothetical, is that for any inpatient,
7 there has to be the longest term outpatient follow-up. I
8 have, personally, because of my workload with the
9 Defenders Association, much more involvement with dealing
10 with sex offenders, and I know that for every person that
11 I've spoken with and every program I've researched,
12 everyone says inpatient or in-house treatment is good only
13 as long as there's long-term follow-up. I don't have hard
14 data, but I have no doubt that that combination would be
15 much more effective in the drug area as well. But I asked
16 among our people in terms of our social services division
17 and really couldn't come up with more than that.

18 I can only say the real problem is there's
19 one statistic that I quote in there from Federal
20 Congressional hearings that it may be as high nationally
21 as 90 percent of people who go in seeking treatment are
22 often turned away, so there may be a well-motivated group
23 out there of hurting people who are looking for that help.

24 ACTING CHAIRMAN HAYDEN: Thank you. Thank
25 you for your testimony.

1 MR. EPSTEIN: Thank you all again very much.

2 ACTING CHAIRMAN HAYDEN: Our next witness is
3 Miss Deborah Beck, President of the Drug and Alcohol
4 Services Provider Organizations of Pennsylvania.

5 MS. BECK: It's getting late. I had a
6 terribly organized presentation to give, but you guys got
7 me all charged up. I'm really excited by the kind of
8 discussion going on here. I thought I was going to play
9 the heavy by talking about how law enforcement wasn't
10 enough, it isn't enough and cannot be sufficient to
11 address this problem, but I've seen an awful lot of
12 courage here because I think it flies against what is
13 acceptable culturally to say that, and I think it takes a
14 lot of courage, and I'm really pleased by the level of
15 dialogue. You've also taken me off the hook. It's very
16 nice.

17 So I have all these disorganized notes and I
18 want to respond to some things that were just stated.

19 We spend less than 1 percent of what drug
20 and alcohol problems cost us nationally do we spend on
21 prevention, education, and treatment, and people say, gee,
22 the prevention work, this treatment work, I don't think
23 we've ever tried it. The annual estimated costs of
24 untreated drug and alcohol addiction annually is \$176
25 billion, and that's just the stuff we can measure. \$176

1 billion, and that is the price tag of denial.
2 Pennsylvania's share of that, if you prorate it, is
3 somewhere between \$8 billion and \$10 billion annually we
4 will waste on not treating drug and alcohol addiction.

5 Pennsylvania reflects the national trends.
6 We're a leader in many ways, but we are still spending
7 less than 1 percent of that amount on prevention,
8 education, and treatment, and I've distributed some
9 materials, you have this one, you have a graph. It says,
10 "One Reason Why U.S. Drug Policy Fails," and you see that
11 as we increase expenditure on interdiction, for some
12 reason we tend to decrease spending on treatment. And
13 there are also other graphs that will show you that as we
14 increase spending on interdiction, the street price of
15 cocaine has dropped in this country, friends. It has
16 dropped.

17 I think if you look at the graph, and I
18 think David is distributing them, you will see how we got
19 in this mess. As we have spent money on prevention and
20 treatment, it has been clearly effective to some degree in
21 addressing the problem, because as we've withdrawn that
22 funding, you'll see that there's an explosion of drug and
23 alcohol problems in the cities and around the nation, and
24 I would suggest looking at those kind of graphs.

25 A couple other comments from early on. I

1 nearly stood up and applauded, I almost couldn't contain
2 myself, when several of you said that consequences -- that
3 someone with an active addiction doesn't calculation
4 consequences. Several of you questioned what about the
5 death penalty, what about mandatory sentencing? And I
6 can't applaud you enough for the correctness of your
7 thinking. I'm a drug and alcohol clinician. I have been
8 one since 1971, and I listen very carefully to my
9 patients. I'm in a skid row drug and alcohol program, I
10 listen very carefully, how did you get here and what might
11 have made a difference? And if locking people up is going
12 to make a difference, we wouldn't have this problem today.
13 My guys were locked up, my men and women, 70 percent of
14 them had been locked up, had been locked up repeatedly.
15 So go ahead, do what you must with mandated sentencing,
16 but please do not be misled. It is basically irrelevant
17 to treating addiction, to getting someone to stop using
18 drugs and alcohol. Law enforcement is not enough unless
19 combined with treatment.

20 One of you mentioned motivation. Law
21 enforcement, combined with treatment, is very effective.
22 Using the law enforcement system as a 1-2 punch to move
23 someone into the treatment system is very effective. I
24 would not suggest treatment in place of law enforcement.
25 I do not suggest that at all. But law enforcement without

1 treatment doesn't work. We know that, and I think law
2 enforcement people who practice in the streets law
3 enforcement in Pennsylvania will tell you that's true
4 because they try to bring people to our treatment settings
5 all the time.

6 Your question, mandated sentencing, is there
7 research that shows it makes a difference? I don't think
8 there is. Mandated sentencing is very effective with
9 social drinkers. The DUIs who have been affected by
10 mandated sentencing are those who are not addicted
11 usually, and I think that's worthwhile. I think the
12 mandated sentencing has really attuned the social drinker
13 to other issues. The studies cited, by the way, seem to
14 indicat that for the 70 percent that are already addicted,
15 the mandated sentencing has had no impact. But I think it
16 goes on and on. What happens is we are talking about
17 messages here a few minutes ago, what kind of messages are
18 being sent by mandated sentencing, I think we've got to
19 look at the messages a little more broadly. What other
20 messages are we sending? Mandatory sentencing, but if you
21 reach out for help and you buy the culture's push to just
22 say no to drugs and alcohol, I'm going to turn you away,
23 I'm going to turn you away from treatment, and you're
24 going to go into withdrawal and you're going to go out and
25 do what you have to do to keep from dying from withdrawal,

1 and I'm going to pound you over the head again with a
2 mandated sentence and say, give that stuff up and when you
3 reach out for help, I'm going to say, "Just Say No."

4 "Just Say No." It doesn't work that way. I wish it did.

5 I guess the bottom line is, those of us on
6 the clinical front, if we thought building prisons was
7 going to solve this problem, we'd be helping you build
8 them -- I would with my bear hands, because since 1971, I
9 have seen more human suffering than anyone should have to
10 see. The suffering of the families and the suffering of
11 the alcoholic and the addict, but the suffering of the
12 children is inexcusable. If we could build our way out of
13 this, I think we would have done it long ago. I would
14 help you build prisons if I thought that would work.

15 My special plea to you then today is that
16 you in the legislature have a special responsibility, and
17 it's to do more than react to a crisis and instead plan on
18 a broader basis, and I hope that you will do that. I hope
19 you will rise above the fear and pain that is out there
20 pounding at your doors and do some long-term planning,
21 because I think that has not happened.

22 I'm a clinician, I'm not a diplomat, so I
23 may say some things that are offensive to you, but I've
24 got to tell you, slogans to sanctions and back will not
25 cut it. It never has before and it will not again. I

1 have lived through three wars on drugs since 1971 and I
2 have seen us go off on a toot after the latest alphabet
3 soup drug, and we keep mobilizing muscle and mass
4 resources, and what we will not do is address the
5 crumbling infrastructure. What we will not do is the drug
6 work of prevention, education, and treatment. We have
7 never done it thoroughly in the United States of America.
8 Slogans to sanctions and back. I know that's not politic
9 to say, friends, but a lot of you have been saying some
10 things that aren't politic to say, and I applaud your
11 courage. It's easy for me, I don't have to run for
12 elected office.

13 Again, law enforcement is not enough. Law
14 enforcement's important. It is a critical holding action.
15 Please see it as a critical holding action. I would like
16 to say, I know Mr. Feldman addressed the issue of danger
17 to governmental officials who are involved in drug
18 enforcement. You ought to add drug and alcohol clinicians
19 to that list if you're going to pass that bill. You got
20 to understand, my best customers are the best customers of
21 the street dealers. Okay? We're the front line also.
22 It's an interesting kind of way to look at it.

23 I have this fantasy, this recurring wild
24 fantasy, you know, that someone will stand up and say,
25 "I'm soft on drugs." I keep waiting to hear that. It

1 hasn't been said yet. Instead, we're into
2 tougher-than-thou proposals. You know what I mean? I'm
3 going to go up by one more year, I'm going to go up by two
4 more years, and honest to God, if it worked, God bless
5 you. If it worked, it would be wonderful. But it won't
6 do it. The first thing that goes is the ability to
7 calculate consequences.

8 How do I know that law enforcement doesn't
9 work? I know from empirical data. Again, over 70 percent
10 of the folks in my facility had been arrested, and that
11 was not the occasion necessarily for them to seek
12 treatment, except where court officials sentenced them to
13 treatment in addition to whatever else was happening.
14 Again, law enforcement by itself will not do it.

15 I want to take you through one kind of head
16 set. This is the kind of stuff you get from clinicians.
17 I also want to encourage you in your public policy
18 deliberations to talk to recovering alcoholics and
19 addicts. There is tremendous wisdom there, but for some
20 reason we keep not tapping into that when we plan public
21 policy. You've got to develop a relationship though
22 because individuals may be too polite to tell you the
23 truth. Think about this for just a minute. What happens
24 when you arrest a pusher? First of all, who is the pusher
25 who gets arrested? Eighty percent of the pushers who get

1 arrested are already untreated alcoholics or addicts.
2 They got sloppy. That's why they got caught. I think
3 someone else already alluded to that. What happens when
4 you arrest a pusher? What happens to my clients, if I'm
5 the pusher? What happens to my clients? Well, first of
6 all, there's an increase in street violence until people
7 decide who's in charge of that corner again. You've been
8 reading about that. So arresting pushers arguably
9 increases street violence. That's an oddity.

10 What happens if you arrest all the pushers?
11 It drives the price of cocaine up, which is great - now I
12 have to steal more to buy. A new pusher will take my
13 place. Some clients, in withdrawal, will reach out for
14 help, and I know where there's been a big bust in the
15 State, I even know the next morning when I pick up my
16 answering machine and get my messages. I know when a bust
17 took place because there's a certain number of alcoholics
18 and addicts who reach out for help at that point, try to
19 seek help, and our response to them is, fine, that's
20 wonderful, we're going to put you on a 5,000-person
21 waiting list. There's a waiting list of 5,000 people
22 statewide, minimum, for drug and alcohol treatment. These
23 are people who want to say no and we can't respond.

24 That waiting list, you need to think about
25 the waiting list. What does it mean to have a

1 5,000-person waiting list? I'm too scared to go into
2 withdrawal, I'm going to commit a crime. I don't know a
3 drug addict or alcoholic who hasn't almost died in
4 withdrawal at some point, has empirical evidence that that
5 happens. I'm going to domestically abuse my family. If
6 I'm into crime, I'll commit three crimes a day.
7 Minimally, I'm going to overuse health care, and I may run
8 over you with my car.

9 That waiting list is not static. Drug and
10 alcohol counselors hold their breath every day in this
11 State because we know some of the people you read about in
12 the newspaper the next day and wonder how it happen.
13 Those people often are untreated alcoholics and addicts
14 sitting on our waiting lists.

15 "Just Say No" and slogan campaigns and signs
16 are all right as organizing symbols, but it's a tragedy
17 when they disguise cuts, and I want you to know that the
18 "Just Say No" campaign disguised Federal funding cuts to
19 prevention, education, and treatment. I think that's a
20 travesty. It shouldn't be allowed to happen.

21 The pusher comes out of prison -- by the
22 way, drug addicts and alcoholics use in prison. I have to
23 keep saying that because I keep finding out people don't
24 know that. We detox people coming out of prison. It's
25 not an indictment of the prison system. No way can you

1 control that totally. There's just no way in those kinds
2 of settings. I'll use while I'm in and I'll come out and
3 I'll start selling again to your kids. You've got to
4 break the cycle by doing treatment. Not one addict will
5 give up an active addiction because you arrested a pusher.
6 Please understand that. Arrest all the pushers you want.
7 I believe in the holding action of the criminal justice
8 system, but do understand that not one addict is going to
9 give up an active addiction because you arrested the
10 pusher.

11 What about interdiction? Building walls
12 around the United States or Pennsylvania. You've got to
13 know we produce illegal drugs in Pennsylvania. You know,
14 we make them here. The thing is, they're not real popular
15 because it costs too much. If we keep the illegal stuff
16 out from out of the country, what's going to happen is
17 something very different, and maybe we want to do this -
18 buy Pennsylvanian. Perhaps that's the route we're going.

19 Again, a little more from the clinical
20 front. If you go to drug and alcohol treatment centers,
21 and I recommend you do, I think most of you have been,
22 Ask. Eighty percent of folks in the treatment centers are
23 the children of alcoholics or addicts. So if you ever
24 wanted to know where alcoholics and addicts came from,
25 they come from the homes of alcoholics and addicts. That

1 suggests a policy direction. Other people use and abuse
2 drugs but then give them up. They respond to the
3 prevention education methods, to the dangers of cocaine
4 and PCP and give it up. Alcoholics and addicts who have
5 children, the children don't do that. Again, the largest
6 source of supply for alcoholics and addicts is created and
7 sustained in the home of untreated alcoholics and addicts.

8 The largest demand for drugs in the culture
9 comes from untreated alcoholics and addicts. How can we
10 reduce demand with a 5,000-person waiting list? And I
11 guess that is our bottom line. I want to add another
12 thing though. Watch out for public policy. From our
13 perspective, it's important that we watch out for public
14 policy proposals and insist on a war on drugs, not
15 alcohol. I've never met a heroin addict who wasn't
16 addicted to booze first. That's not popular to say. In
17 fact, it's kind of a status thing. I think it's important
18 that policy reflect clinical reality or it's likely to go
19 astray. The same guy who used heroin in the early
20 60's is the same guy using LSD in the late '60's is the
21 same guy using PCP in the '70's and '80's and is now
22 turning to Crack. If you reduce availability for Crack,
23 and there will be a life after Crack, he or she is going
24 to reach for the next alphabet soup drug, and again, we're
25 not going to get at this. The constant is there will

1 always be another drug. I think what we must change is
2 our response to it. We'd better stop mobilizing in
3 response to specific drugs and instead plan for the
4 future.

5 What do we need? I believe we need to
6 maintain law enforcement, absolutely. This is not an
7 anti-law enforcement rap. The drug and alcohol treatment
8 community works very comfortably with law enforcement.
9 However, we've got to address that waiting list. It's a
10 time bomb going off in our backyard, and it's going off in
11 our backyards every week. All you've got to do is pick up
12 the papers. We've got to get people into treatment. Some
13 of you received and all of you received a request from our
14 association for an increase in funding. You need to know
15 that the war on drugs, the Federal Omnibus Drug Act,
16 hasn't begun to offset the Federal funding cuts for the
17 last six to eight years. We're still catching up.

18 We need K through 12 curriculum. It's not
19 happening. There is not K through 12 prevention
20 education curriculum in this State. I think we've got to
21 get a holding action with law enforcement, we've got to
22 get them into treatment simultaneously, and at the same
23 time, we've got to be doing K through 12 curriculum
24 prevention education in the schools around the State. If
25 we don't, I guess we should probably not pester you

1 because if things continue as they are, we'll be at work a
2 long time. I don't have to worry about being unemployed.

3 I want to close with a special plea to you.
4 I think you, as legislators and staff, have a special
5 opportunity, and I think you also have a special
6 responsibility, and that is to see beyond the crisis
7 moment and the crisis management we always seem to be in.
8 I think it's important that resources keep pace. One of
9 you used the word "rhetoric." I think it was you,
10 Representative Heckler. I hope resources keep pace with
11 rhetoric. I would really like to see that happen.

12 Something else I would love to see happen.
13 This is the Judiciary Committee and there are all these
14 bills and there's many more bills that are criminal
15 justice oriented. Many of the fine working proposals
16 coming also out of the Senate. I would like to see 200
17 bills also in the Pennsylvania legislature for
18 deliberation like this that are prevention, education, and
19 treatment. I haven't seen that kind of an aggressive
20 plan. I would like to see a package of bills geared to
21 prevention, education, and treatment, to reducing the
22 demand side, to breaking the multi-generational cycle. We
23 can't spend our way out of this.

24 In the package of clips, I think the last
25 clip is an article, someone who was in Bolivia. The drug

1 cartel was offering to buy out the national debt. Now, we
2 can't compete with that. We can't compete with that,
3 except by reducing the demand, and it works. Reducing
4 demand works. We have evidence of that in the United
5 States.

6 I appreciate your time.

7 ACTING CHAIRMAN HAYDEN: Thank you.

8 Questions?

9 BY REPRESENTATIVE HECKLER: (Of Ms. Beck)

10 Q. Ms. Beck, I agree with most of what I heard
11 you say today, however one thing distressed me, and that
12 is that we do not have in place a K through 12 curriculum.
13 Unless I miss-remembered, I thought that we had passed
14 legislation some time ago now specifically mandating its
15 development?

16 A. Yeah, let me speak to that. That was House
17 Bill 209. I believe everybody here was a cosponsor of the
18 bill who was in the legislature at that time. The bill
19 required, as it left the House of Representatives, K
20 through 12 curriculum, the curriculum to be approved by
21 the Office of Drug and Alcohol Programs. The Senate
22 removed both of those provisions. It is no longer K
23 through 12, nor is the curriculum approved by the Office
24 of Drug and Alcohol Programs. Geez, it's hard to keep up
25 on drug and alcohol. I have to work at it full time. You

1 need every act to at least be improving the quality.

2 You've got no quality control and it's not K
3 through 12, which means it's up to the political whim of
4 local school districts. Who wants to be the first school
5 district to say, "Geez, I got a K through 12 curriculum in
6 place"? I mean, does that mean you have a problem over
7 there? You know, there's a negative stigma for doing
8 that. It's one of the reasons we wanted the K through 12
9 requirement in the first place. It was taken out in the
10 Senate.

11 Q. And are you aware of -- so something passed,
12 it's at least optional with the school districts. Do you
13 have any kind of data on what the response has been?

14 A. Yeah. You have to read through the data.
15 There are lots of statements about 50 percent or something
16 of the schools have programs in place, but the fact is, in
17 many schools it's being used in one class or one grade for
18 10 or 15 minutes, and we know from the psychology of
19 advertising that a prevention message needs to be
20 reinforced at age-appropriate levels all the way through,
21 particularly when kids are being bombarded with the use
22 and abuse -- you know, we teach chemical abuse in the
23 United States, and also 1 in 4 kids is growing up in a
24 home of an alcoholic or an addict, and going home and
25 having that message undone anyway. So it needs to be

1 constantly reinforced, it needs to be a student assistance
2 program, and what we've got out there is -- even the
3 schools that have put it in fully, and there are some,
4 there could be a change in administration and it would be
5 gone. I don't think it should be left to local -- I hate
6 to say political whim. That sounds negative. It takes a
7 lot of nerve to say, "I'm going to put a program in,"
8 because everyone else in the area points fingers at you
9 and says, "Well, you've got a bad problem there," when in
10 fact everyone does.

11 Q. Thank you.

12 ACTING CHAIRMAN HAYDEN: Thank you. Thank
13 you for your testimony.

14 MS. BECK: Thank you very much.

15 ACTING CHAIRMAN HAYDEN: Our next witnesses
16 are Miss Barbara Smith and Melvin Metelits from the
17 Regional Council of Neighborhood Organizations.

18 I just would note that after these
19 witnesses, there is one final witness, which is Mr.
20 Montgomery from the Pennsylvania Department of Labor.

21 MR. METELITS: Well, Mr. Chairman and
22 members of the Judiciary Committee, my name is Melvin
23 Metelits, and I'm a 35-year career teacher in the inner
24 city in Philadelphia. I am here to support House Bill
25 845, and I'm here to support all of the amendments

1 recommended by the Regional Council of Neighborhood
2 Organizations, that is that 70 percent of seized funds go
3 to community groups. Among the other amendments, offering
4 homes seized to nonprofit community organizations first
5 and that there be a public accounting of funds seized.

6 Now, as a public school teacher for 35
7 years, most all of which has been in the inner city, I, as
8 I'm sure you are aware of the longstanding unmet needs of
9 inner city children, they are the most victimized by crime
10 and bad housing, medical problems, unemployment. This is
11 no secret, and it's not new. But there are two new recent
12 factors which have compounded for us an already
13 unmanageable situation and has made it intolerable.

14 The first factor is the Philadelphia budget
15 cuts, which is the local version of what the kinder and
16 gentler society is doing for the already poor in our
17 country. And the second factor is, of course, the drug
18 problem itself. Now, you know, teachers have always been
19 faced with discipline problems. That's not new. But
20 somehow, those of us who have sunk into schools and
21 education have always been able to get a handle on a child
22 somehow by appealing to a child's sense of the future, but
23 what we're facing now, and you can imagine the magnitude
24 of problems created when children who come from
25 drug-ridden homes where they are disturbed, disorganized,

1 they have no sense of the future, they have no sense of
2 restraint, and they have no care or concern about what
3 happens to them. In short, we who are facing this in the
4 inner city are coming across a new set of discipline
5 problems that I have not seen in 35 years.

6 Now, the problem is that drugs goes -- the
7 problem of drugs goes way beyond the user or abuser and
8 way beyond the dealer. It's now an indented part of
9 society that nobody can escape from. The other day I was
10 listening to public radio and I heard the prison experts
11 testify. In effect, they said that despite the public
12 clamor for more prisons and greater law enforcement, and
13 they said this to a man, that we should not depend upon
14 these alone to contain the drug problem, that that will
15 not be a solution, it will be a great expense and a
16 disappointment.

17 Now, this is precisely why I think that the
18 opponents of Bill 845 are extremely narrow in their
19 approach to fighting drugs because they see only the
20 enforcement side of the fight back against drugs. Now,
21 the Reverend Jesse Jackson has become identified with a
22 rallying cry, which is, "Down with dope, up with hope."
23 Now, it is a hope aspect of the fight back against drugs
24 that Bill 845 speaks to and to which I and many others who
25 live and work in the most drug-infested areas of the city

1 ardently support because our bottom line, and everybody is
2 talking about bottom lines, so I guess that's the lingo,
3 so I will say that too, our bottom line is that we must
4 show children that there is a better way to live.

5 Now, how do you do that? You don't do it
6 just by rounding people up and throwing them in jail and
7 then having them come back and facing the same conditions
8 which were responsible for getting them there in the first
9 place. A community panel authorized to spend money seized
10 from drug busts surely knows what children need, and here
11 are some few little suggestions. Selling houses seized to
12 nonprofit community groups for rehab centers, counseling,
13 recreation centers, or even badly needed businesses and
14 services. How about repairing and staffing and adding
15 programs to already existing recreation centers, which the
16 current budget in Philadelphia is going to slash more?
17 How about creating community jobs to clean up the streets?
18 Everybody complains that the city stinks, and it's true.
19 Raze irreparable buildings or rehab those units that are
20 still useful. How about organizing low- or no-cost child
21 care centers so that working becomes meaningful and
22 possible for people who want to work? How about
23 organizing after school programs so that school age
24 children are kept busy and productive with sports, music,
25 dance, science, crafts?

1 These are only a few suggestions, and these
2 are suggestions that you would not have to spend much
3 money on if 70 percent of this money is turned over to
4 community panels with proper local supervision. And that
5 money could go back into developing the community.

6 Now, I could go on with suggestions, but
7 that just proves that any conscientious community group or
8 board could expand and improve on these ideas. I say and
9 we say, let's give the next generation the right and the
10 opportunity to keep drugs out of their lives. Let's give
11 productive and constructive citizens the opportunity to
12 organize in their own best interests. Let's offer hope as
13 an alternative to dope, and I think we can do that by
14 supporting Bill No. 845 and all of the proposed
15 amendments.

16 Thank you.

17 ACTING CHAIRMAN HAYDEN: Sir, can I ask you
18 with which particular neighborhood organization you are
19 personally affiliated?

20 MR. METELITS: Well, I am here at the
21 request of the Frederick Douglass Elementary School Home
22 and School Association, which is located at 22nd and
23 Norris Streets, in the heart of Philadelphia.

24 ACTING CHAIRMAN HAYDEN: Thank you.

25 Any questions from members of the committee?

1 (No response.)

2 ACTING CHAIRMAN HAYDEN: Thank you for your
3 testimony.

4 MS. SMITH: I'm Barbara Smith, Executive
5 Director of the Pennsylvania Jobs With Peace Campaign, and
6 Jobs With Peace has been working 18 months in Mantua, West
7 Philadelphia; a small tiny section of West Philadelphia
8 referred to as the bottom.

9 One of the statistics about the bottom is
10 they have the highest infant mortality rate for a
11 population of 12,000 in the country. In Mantua, where
12 we've been organizing a peace group in, on their issue of
13 taking back the streets, there's a community effort called
14 "Mantua Against Drugs," and it's been very effective. It
15 is now a model that's spread in our city and throughout
16 the country.

17 In 1987, just in Mantua in that particular
18 drug coalition, we were involved with 1,300 arrests,
19 narcotics arrests, just the west division in one year.
20 One of the raids that I participated with that I put my
21 life on the line with police, with other community people,
22 just before the Christmas holidays brought in \$30,000 I
23 saw with my own eyes, and all kinds of drugs,
24 paraphernalia, the works. In that house there were
25 children -- there's layers of this thing when you're

1 really engaged in a battle of taking back your streets.
2 There were children left in there that we had to provide
3 services for. There was the rehabilitation of the house
4 itself, the sealing it off from it being re-opened back
5 into a Crack house. That money, just that money alone,
6 could have provided opportunities for someone who's
7 working within this drug unit to contribute in their
8 neighborhood, to live in a house and to raise children
9 decently.

10 And my daughter's a 15-year-old, we lived in
11 Mantua, I taught school in Mantua, I'm back there
12 organizing now, is also marching with other youth in that
13 neighborhood who want a better opportunity. They have
14 nothing. We meet every Tuesday for 18 months now around
15 the clock. There is no funding. We wear helmets that
16 came out of our pockets. The brooms and the things that
17 we need to clean the neighborhoods come from our homes.
18 My tires have been slashed. My life has been threatened.
19 Other members, the same thing, but we feel if we don't get
20 into this fight and if we don't cooperate with our police,
21 other officials and concerned citizens, we are never going
22 to win this war from the top down. And so I want you to
23 know that we are out there at the bottom and engaged in
24 war not for money.

25 The point of this all with Bill 845 is there

1 is an opportunity there for restoration of this
2 neighborhood, because that is a part of it, "Mantua
3 Against Drugs."

4 Now that we've cleared the field some, what
5 is Mantua for? We're for a better life for our children.
6 We are for youth employment opportunities. Not a house, a
7 home. Build homes, not bombs. Jobs With Peace comes in
8 with that message. What is a home? A home sustains a
9 real life, bread and butter, a roof that doesn't leak, a
10 school that you relate to down the street, employment
11 opportunities, et cetera, et cetera.

12 If there is a panel of accountability about
13 some of this money that we are out there putting our lives
14 on the line to take back our streets, if there is a
15 committee that's set up that for 18 months now we have
16 been sophisticated enough to win some of this war, they
17 ought to be a part of a committee that says what happens
18 to those moneys that go out of the community. It ought to
19 come back. It ought to be building houses, it ought to be
20 buying uniforms for baseball teams, it ought to be helping
21 our community. And I think that this legislation deserves
22 a chance, and I think it would really provide more of a
23 complete circle of the things that are happening all
24 across this city, and particularly in Mantua.

25 Thank you.

1 REPRESENTATIVE BLAUM: What is your name,
2 again?

3 MS. SMITH: Barbara Smith.

4 REPRESENTATIVE BLAUM: What is your address
5 of Jobs For Peace?

6 MS. SMITH: 924 Cherry Street, Philadelphia.
7 19107.

8 REPRESENTATIVE BLAUM: Thank you.

9 CHAIRMAN CALTAGIRONE: Our last witness is
10 Mr. Richard Montgomery.

11 MR. MONTGOMERY: Thank you, Mr. Chairman,
12 and members of the Judiciary Committee. It's an honor for
13 me to be here today. I come here from in a number of
14 different perspectives and wear a number of hats. I work
15 for the Department of Labor and Industry and am in Drug
16 and Alcohol. I also live in Kensington, a few blocks from
17 the area where drugs are sold in a carnival-type
18 atmosphere. We often get more drug dealers on the street
19 than they have people here in the room. If you haven't
20 seen it, it's really some experience. People standing,
21 waving down cars, and it's quite something in the area
22 around Fifth and Butler and Sixth and Seventh and Eighth
23 and Butler.

24 I also have extensive work as a clinician in
25 the field with hands-on experience with drug addicts and

1 alcoholics. And in addition, I'm also in recovery myself
2 from a drug addiction which included alcoholism. So I
3 have a good bit of experience dodging the legislation that
4 the people here have been putting together for quite a
5 while. I'm 13 years in continuous sobriety, though. And
6 I'm also a third generation addict, so I'm a good example
7 of the genetic studies that have shown that alcoholism and
8 drug dependencies run in families.

9 I acquired my addiction on the battlefield
10 in Vietnam. I acquired my addiction to drugs other than
11 alcohol on the battlefield after I had been wounded with a
12 machine gun and had what they call a comminuted fracture
13 of my left femur. The bone in my leg was reduced the
14 powder, and I was given morphine right away and introduced
15 shortly after to tranquilizers for my nerves and sleeping
16 pills, and when I became very depressed, antidepressants
17 to relieve the anxiety.

18 Like I said, it's been over 13 years since
19 I've been continuously sober and working in the field of
20 addiction. A number of the bills that were before this
21 committee made a distinction between alcoholism and other
22 drug dependencies, and scientifically, that's not the way
23 to go. People need to understand that alcohol is a drug,
24 and we've known for years that the chemical formula for
25 alcohol is C_2H_5OH , and if you take the water out of

1 alcohol, you have ether, and that a person on an operating
2 table who is being administered ether goes through very
3 similar stages to a person who is sitting in a bar and
4 drinking shots of whiskey or whatever.

5 There's recent experiments that have neuro
6 transmitters that show the comparison even more. It's now
7 scientists who have been studying drug and alcohol have
8 come up with a unified concept of addiction. It's alcohol
9 addict. The neuro transmitters, there's 15 billion
10 neurons in our brains, and the way the neurons interact
11 with each other is that a neuron will release a chemical
12 into the synapse that separates it from the next neuron,
13 and that will attach to the other neuron, the neuron that
14 is next to it, and alcohol attaches to the same neurons or
15 the same receptors in the brain as other opiate drugs.

16 The Russians, there was a delegation from
17 Russia here last week and KYW Radio mentioned that the
18 physicians were really taken by the large role that people
19 in recovery have been playing in helping other people
20 recover from drug and alcohol problems, and they have
21 recently, you may know that Rick Esterling from the Carron
22 Foundation has been selected to develop the first
23 treatment model, American treatment model for the Soviets
24 in Moscow. And one of the things that he'll be doing is
25 encouraging them to utilize recovering people, include

1 recovering people in their treatment facilities.

2 I was very aware of, having worked in the
3 field in the private sector for quite some time, I was
4 aware of the large role of recovering people in the
5 private sector, but I was very surprised when I came into
6 government to find that people in recovery seem to be
7 conspicuous by their absence in drug and alcohol programs.
8 And I would just like to throw that into the collective
9 unconscious to think of including people who are
10 recovering in all areas. But if you want to keep drugs
11 out of prisons, you know, if you ask people who have been
12 smuggling them in and are now in recovery and they're not
13 addicted anymore, you're likely to find some answers. And
14 one of the things in the treatment centers is the
15 recovering people are very good at making room searches
16 and knowing where look.

17 There was a good bit of talk about
18 treatment, and I am a very big believer in treatment, and
19 there was a number of studies that show that there is a
20 back side to treatment, that there's a number of insurance
21 studies that show that other health utilization costs go
22 down, but also with offenders, there's also more prison
23 cells available. You know, when you get somebody help and
24 it works, and so I just think it's a good reason for
25 emphasizing treatment for offenders.

1 It just seems like there's some target
2 populations that it doesn't seem like -- well, between
3 1985 and 1986, there were 17,785 people from Philadelphia
4 who went into treatment for drug and alcohol problems. Of
5 those, 79 percent were unemployed. All right? And also
6 80 percent of all the people who went into treatment with
7 drug dependency were single. It seems like there's --
8 well, I would just suggest that maybe targeting those two
9 groups along with people in jail with education programs.

10 I'd also like to invite, I go to a meeting
11 frequently in Glenside where there are a number of people
12 who are recovering from Crack addiction, a large number of
13 offenders who are now in the early stages of recovery and
14 are getting on the right track, and I think to know the
15 enemy, you know, when you know and talk to people and
16 they're not all hypothetical, it's not all, you know,
17 statistics that we're seeing on TV but people that you can
18 talk to in flesh and blood, I think can give you a better
19 sense for strategy. And there's a meeting at 6:00 o'clock
20 in Glenside, anybody that would be interested, tomorrow
21 evening. That's one particular one that I think might be
22 good for someone who would like to get a little more
23 education in drugs and alcohol. And there's one a couple
24 blocks away from here every day at 1:00 o'clock where they
25 get 200 or 300 people. It's an open meeting, 200 and 300

1 people mostly that are all recovering, but that's at 17th
2 and Sansom, and it's called Mustard Seed, and I'd like to
3 invite people there, too.

4 ACTING CHAIRMAN HAYDEN: Thank you.

5 MR. MONTGOMERY: I just came from Harrisburg
6 also from another meeting and I think a few minutes isn't
7 enough, but I'm here to learn and hopefully we'll learn
8 together. Like I said, going to a hearing for me where I
9 don't have to worry about going to jail is something
10 different, and it's good to be here.

11 ACTING CHAIRMAN HAYDEN: Thank you for your
12 testimony and your observations.

13 Anybody have any questions for Mr.
14 Montgomery?

15 REPRESENTATIVE JOSEPHS: Well, if I may?

16 ACTING CHAIRMAN HAYDEN: Go ahead.

17 BY REPRESENTATIVE JOSEPHS:

18 Q. The kind of legislation that we're talking
19 about, what effect, if any, would that have had on your
20 behavior during the years when you were addicted?

21 A. Well, I didn't pay much attention to
22 legislation when I was in my addiction. There is a
23 chemical that -- well, I'm trying to say this real
24 briefly. When we think of our brain, our brain is a sea
25 of chemicals and electricity, all right? And in order to

1 study the chemical and electrical processes of the brain,
2 we need to have warm brains, okay? And there was a woman
3 studying brain cancer in Houston and she was having a
4 difficult time finding people who were willing to
5 relinquish their brains while they were still warm, and so
6 someone brought her to Skid Row, a Skid Row hospital, and
7 she was able to get all the brains she needed, and she
8 found in the primitive section of the brain a chemical
9 which she thought was morphine. She thought she had
10 discovered a morphine epidemic, but what that chemical
11 actually was was alcohol that had been -- and these people
12 were all alcoholics, and the way they were metabolizing
13 the alcohol was ending up as a chemical that is more
14 addictive than morphine. And they can take that chemical
15 out of the brain of an alcoholic and put it into an animal
16 that has been specially bred so it wouldn't drink under
17 any circumstances and it becomes a compulsive addict.
18 And, you know, addicts don't drink because they want to or
19 use drugs because they want to, they use it because they
20 have to. If they don't have it, their whole body craves
21 it.

22 So when it comes to legislation, really,
23 you're not going to have much effect on an addict. I
24 think in terms of education and treatment and prevention,
25 that's where the war is going to be won.

1 Q. Thank you. Thank you very much for coming
2 and giving us so much of your personal and private life
3 and feelings. I appreciate it. I think we all do.

4 A. Thanks.

5 ACTING CHAIRMAN HAYDEN: Thank you.

6 That concludes our scheduled testimony for
7 today. The hearings are scheduled to continue tomorrow
8 morning, same place, 9:30 a.m.

9 There being no other business, this meeting
10 is adjourned.

11 (Whereupon, the proceedings were concluded
12 at 4:55 p.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.



ANN-MARIE P. SWEENEY

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Ann-Marie P. Sweeney
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STATEMENT SUBMITTED BY
MICHAEL J. REILLY
CHAIRMAN
PENNSYLVANIA CRIME COMMISSION

TO THE

THE HOUSE JUDICIARY COMMITTEE

MAY 18, 1989

PHILADELPHIA, PENNSYLVANIA

THERE IS NO DOUBT THAT THE SCOURGE OF DRUG ABUSE HAS AFFECTED VIRTUALLY ALL ASPECTS OF OUR LIVES TODAY, AND THAT THERE IS A SERIOUS THREAT TO THE QUALITY OF LIFE IN VIRTUALLY EVERY CITY, TOWN, VILLAGE, AND HAMLET IN THE COMMONWEALTH. THE EFFORTS OF THIS COMMITTEE, THE GOVERNOR, THE ATTORNEY GENERAL, THE LEGISLATURE, AND THE DISTRICT ATTORNEYS ARE CERTAINLY WELCOME. LET ME ATTEMPT TO BRIEFLY ADDRESS SOME OF THE ISSUES THAT THE PENNSYLVANIA CRIME COMMISSION BELIEVES ARE RELEVANT TO THE PROBLEM OF DRUG CONTROL.

LEGISLATIVE INITIATIVES

BEFORE YOU TODAY ARE APPROXIMATELY 40 BILLS, ALL OF WHICH ARE DESIGNED TO STRENGTHEN AND ENHANCE LAW ENFORCEMENT IN ITS "WAR AGAINST DRUGS." THESE BILLS, SOME OF WHICH FOCUS ON THE DEMAND SIDE OF THE SUPPLY/DEMAND EQUATION, AND OTHERS WHICH ADDRESS SUPPLY-RELATED ISSUES, CERTAINLY WILL PROVIDE THE LAW ENFORCEMENT COMMUNITY WITH NEW TOOLS TO ATTEMPT TO RESTRICT THE GROWTH OF THIS MOST LUCRATIVE INDUSTRY. FOR EXAMPLE, THE CONTINUING CRIMINAL ENTERPRISE BILL AND THE ATTORNEY GENERAL'S PROPOSED LEGISLATION TO REFORM OUR CIVIL RICO LAW, REPRESENT LEGAL TOOLS WHICH ALLOW AN ATTACK ON THE CRIMINAL ORGANIZATIONS THAT ARE ACTIVE IN THIS MARKET. THE BILLS WHICH ADDRESS INCREASED SANCTIONS FOR CERTAIN CATEGORIES OF DRUG TRAFFICKERS, WILL HOPEFULLY REMOVE CAREER CRIMINALS FROM THE STREETS. THE

"USER RESPONSIBILITY" BILLS ARE DESIGNED TO FOCUS ON THE DEMAND SIDE OF THE SUPPLY/DEMAND EQUATION -- A MOST CRITICAL COMPONENT OF ANY DRUG CONTROL PROGRAM.

PERHAPS IT IS APPROPRIATE TO ADDRESS THE ISSUE OF SANCTIONS FIRST. CERTAINLY WITH PUBLIC OUTRAGE AT ITS HIGHEST PEAK, IT IS NECESSARY TO MANDATE HARSHER SENTENCES FOR TWO REASONS: FIRST TO MORE SEVERELY PUNISH CERTAIN CLASSES OF OFFENDERS; AND SECOND IN THE HOPE THAT THESE MORE SEVERE SANCTIONS WILL DETER OTHERS. LET ME SUGGEST THAT WHILE SEVERITY IS CERTAINLY A FACTOR IN DETERRENCE, CERTAINTY AND SWIFTNES OF PUNISHMENT ARE MORE IMPORTANT. CLEARLY, THE PRACTICAL IMPLICATIONS OF LONGER PRISON SENTENCES ARE CROWDED PENAL INSTITUTIONS, LENGTHY COURT DELAYS, AND A DECREASE OF GUILTY VERDICTS OR PLEAS. ABSENT CREDIBLE SANCTIONS -- THAT IS, SANCTIONS THAT ARE CERTAIN TO BE IMPOSED IN RELATIVELY SHORT PERIODS OF TIME -- LEGISLATING MORE SEVERE SENTENCES MAY NOT HAVE THE DESIRED DETERRENT EFFECT.

FOR EXAMPLE, THE NEW YORK STATE LEGISLATURE IN RESPONSE TO THE "HEROIN EPIDEMIC" IN THE SIXTIES, MANDATED THE MOST SEVERE PENALTIES IN THE NATION FOR TRAFFICKING IN HEROIN. IT APPEARS THAT THERE WAS NO SIGNIFICANT DETERRENT EFFECT FROM THE PASSAGE OF THESE LAWS. I ENCOURAGE THIS COMMITTEE TO STUDY THE FINDINGS OF A 1973 REPORT WHICH EXAMINES THE NEW YORK EXPERIENCE.¹

1. THE DRUG ABUSE COUNCIL. A PERSPECTIVE ON "GET TOUGH DRUG LAWS. WASHINGTON, D.C. MAY 1973.

DEVELOPMENT OF ENFORCEMENT STRATEGIES

THE LEGISLATION BEING PROPOSED IS ONE STEP, ALBEIT A NECESSARY AND WELCOMED STEP IN ADDRESSING WHAT HAS QUICKLY BECOME A MOST FEARED EPIDEMIC. NONETHELESS, WHEN THE LEGISLATURE HAS COMPLETED ITS TASK, IT WILL BE UP TO THE EXECUTIVE INSTITUTIONS OF GOVERNMENT TO IMPLEMENT THE LAW. THE STRATEGIES THAT DEVELOPED FROM THIS LEGISLATION ARE AS IMPORTANT AS THE LEGISLATION ITSELF. HEALTHY DIALOGUE, DEBATE, EXPERIMENTATION, AND RESEARCH IS REQUIRED IN ORDER TO ALLOW THE ASSESSMENT OF THE EFFECTIVENESS OF THIS LEGISLATION AND LAW ENFORCEMENT STRATEGIES EMPLOYED IN DEALING WITH THE DRUG PROBLEM. TWO, THREE, OR FOUR YEARS FROM NOW, YOU THE LEGISLATURE WILL ASK LAW ENFORCEMENT, "WHAT HAS BEEN ACCOMPLISHED WITH THE MONEY YOU WERE GIVEN?" IT IS CRITICAL THAT MEASURES OF EFFECTIVENESS BE DEVELOPED AND PUT IN PLACE EARLY IN THE IMPLEMENTATION OF THESE NEW LAWS AND STRATEGIES.

USER FOCUSED STRATEGIES

IN DEVELOPING AND IMPLEMENTING USER-FOCUSED STRATEGIES TO IMPACT ON DEMAND, SUCH TACTICS AS VEHICLE FORFEITURE, DRIVERS LICENSE REVOCATIONS AND URINE TESTING WHILE ON BAIL OR AS A CONDITION OF BAIL, BECOME EXTREMELY IMPORTANT. EMPLOYING THESE STRATEGIES ALLOWS LAW ENFORCEMENT TO IMPACT THE DEMAND FOR DRUGS. MAKING IT MORE DIFFICULT TO PURCHASE DRUGS THROUGH AGGRESSIVE

PATROL TACTICS IN KNOWN AND WELL-DEFINED DRUG AREAS, IMPOSING LICENSE REVOCATIONS ON THOSE USING OR POSSESSING DRUGS, OR FORFEITING THE VEHICLES OF THOSE WHO ARE IN POSSESSION OF DRUGS WHILE IN A MOTOR VEHICLE, MAKES THE USE OF DRUGS A BIT RISKIER, AND MAY BE MORE EFFECTIVE IN REDUCING DEMAND THAN THE MORE EXPENSIVE AND OFT-TIMES UNWORKABLE SANCTION OF IMPRISONMENT. LEGISLATIVE BILLS 556, 1274, AND 1278, PROVIDE FOR SUCH SANCTIONS, AT A MINIMAL EXPENSE TO THE CRIMINAL JUSTICE SYSTEM.

RETAIL-LEVEL ENFORCEMENT

LET ME BEGIN BY SAYING, CHASING "MR. OR MS. BIG" IS BY FAR THE MOST SATISFYING ACHIEVEMENT FOR LAW ENFORCEMENT. SOCIETY DEMANDS THAT WE STOP THE DRUGS FROM ENTERING THE COUNTRY, THE STATE, AND THE COMMUNITY. IT IS WIDELY BELIEVED BY THE PUBLIC THAT CAPTURING AND INCAPACITATING "MR. OR MS. BIG" THE SUPPLY OF DRUGS WILL BE SUBSTANTIALLY AND MEASURABLY DIMINISHED. WE IN LAW ENFORCEMENT ARE NOT FOOLED BY THIS MYTH THAT THE BEST USE OF OUR RESOURCES IS CHASING "MR. OR MS. BIG."²

THE EVIDENCE DOES NOT SUPPORT THIS RATIONALE, FOR A NUMBER OF VERY LOGICAL REASONS. I SHALL RETURN TO THIS POINT LATER, HOWEVER.

2. SEE NATIONAL INSTITUTE OF JUSTICE PUBLICATION, STRATEGIES IN STREET LEVEL DRUG ENFORCEMENT, WASHINGTON, D.C., MAY 1989.

WHEN WE APPEARED BEFORE THE JOINT JUDICIARY COMMITTEE IN HARRISBURG ON APRIL 25, 1989, AND PRESENTED OUR ANNUAL REPORT, THE COMMISSIONERS STATED THEN AND I REPEAT, THE EVIDENCE SEEMS TO SUPPORT THE EFFICACY OF RETAIL LEVEL ENFORCEMENT. TO SOME, PARTICULARLY THOSE WHO LIVE IN DRUG-INFESTED COMMUNITIES, THIS STATEMENT IS SELF-EVIDENT. TO OTHERS, IT REPRESENTS AN ACKNOWLEDGMENT OF FAILURE. STILL OTHERS MAY SEE IT AS HERESY. "MR. OR MRS. BIG," IT IS NOBLY ARGUED, IS THE HEAD OF THIS OCTOPUS, AND IF DECAPITATED, THE TENTACLES WILL CEASE TO FUNCTION. THE ONLY PROBLEM IS THE OCTOPUS HAS MANY HEADS, AND THERE ARE MANY OCTOPI.

AGAIN, LET ME MAKE IT QUITE CLEAR: THERE IS SUFFICIENT EVIDENCE WHICH DEMONSTRATES THAT A COMMUNITY IS MORE LIKELY TO BENEFIT FROM A PROACTIVE RETAIL LEVEL ENFORCEMENT PROGRAM THAN ONE DIRECTED AT MULTI-KILO COURIERS. BY THIS I MEAN THAT COMMUNITY RESIDENTS ARE LIKELY TO SEE REAL AND TANGIBLE BENEFITS FROM A FOCUSED, AGGRESSIVE RETAIL LEVEL PROGRAM.³

CRIMES OF VIOLENCE AND PROPERTY CRIME MAY DECREASE, AND FEAR IS REDUCED, THEREBY RETURNING THE STREETS TO THE LAW-ABIDING CITIZENS WHO ARE THEN ENABLED TO TAKE BACK THEIR COMMUNITY.

3. BOCKLET, R. "OPERATION PRESSURE POINT" IN LAW AND ORDER, FEBRUARY, 1987, PP. 48-52; KLEIMAN, MARK A.R. "CRACKDOWNS: THE EFFECTS OF INTENSIVE ENFORCEMENT ON RETAIL HEROIN DEALING" IN STREET LEVEL ENFORCEMENT: EXAMINING THE ISSUES, WASHINGTON, D.C. NATIONAL INSTITUTE OF JUSTICE, 1988; NEW YORK TIMES, "DOZENS ARRESTED IN RAIDS ON A CAPITAL HILL DRUG RING," MAY 17, 1989, P. A-12.

THIS DOES NOT MEAN THAT LAW ENFORCEMENT SHOULD ABANDON ORGANIZATION-FOCUSED ENFORCEMENT PROGRAMS. TO BELIEVE THAT THE AVAILABILITY OF DRUGS WILL BE SIGNIFICANTLY DIMINISHED BY TARGETING MULTI-KILO TRAFFICKERS IS DEMONSTRABLY INCORRECT.

ORGANIZATION-FOCUSED ENFORCEMENT

HOWEVER WE STRONGLY BELIEVE RICO PROSECUTIONS, ASSET FORFEITURES, AND CONTINUING CRIMINAL ENTERPRISE PROSECUTIONS CAN AND DO AFFECT THE GROWTH OF CRIMINAL ORGANIZATIONS, WHICH HAVE THE CAPACITY TO CORRUPT AND WITH LITTLE FEAR OF PROSECUTION, VIOLENTLY ELIMINATE COMPETITORS. FOCUSING FINITE INVESTIGATIVE RESOURCES ON CRIMINAL ORGANIZATIONS, THAT ENGAGE IN THE TRAFFICKING OF DRUGS, AMONG OTHER ILLICIT VENTURES, IS A WORTHWHILE GOAL. THE OBVIOUS REWARDS FOR SUCH AN INVESTMENT ARE FORFEITURES, INCAPACITATION OF CAREER CRIMINALS, AND THE DISMANTLING OF A CRIMINAL ORGANIZATION WHICH MAY OR DID HAVE A CAPACITY TO SYSTEMICALLY CORRUPT LAW ENFORCEMENT, AND/OR ELIMINATE COMPETITORS VIOLENTLY WITH LITTLE FEAR OF PUNISHMENT.

MEASURES OF EFFECTIVENESS

I WOULD BE NEGLIGENT IF I DID NOT RETURN TO A VERY IMPORTANT ISSUE THAT THIS LEGISLATURE WILL BE FACED WITH IN THE NEXT COUPLE OF YEARS: ASSESSING THE PERFORMANCE OF LAW ENFORCEMENT IN DEALING WITH THE NARCOTICS PROBLEM. THE ULTIMATE GOAL OF THESE BILLS IS TO IMPROVE THE QUALITY OF LIFE OF THE CITIZENS -- ALL CITIZENS --

IN THIS COMMONWEALTH. THE MONIES THAT ARE BEING ALLOCATED MUST ULTIMATELY BE JUXTAPOSED AGAINST THE RESULTS -- AND I DON'T MEAN ARREST OR SEIZURE STATISTICS. AS THIS LEGISLATURE GOES FORWARD IN ADDRESSING THE PROBLEM, IT SHOULD REQUIRE THE DEVELOPMENT AND IMPLEMENTATION OF PERFORMANCE STANDARDS THAT CAN BE USED TO MEASURE SUCCESS.

PREVENTION AND TREATMENT

LET ME CLOSE BY STATING: THE CONTROL OF DRUG ABUSE IN OUR SOCIETY MUST BEGIN WITH PREVENTION PROGRAMS AND BE FOLLOWED BY TREATMENT PROGRAMS. LAW ENFORCEMENT IS ADDRESSING NOT ONLY A CRIMINAL PROBLEM, BUT A SOCIAL AND PUBLIC HEALTH PHENOMENA AS WELL. WHILE ENFORCEMENT MAY ADD TO THE PREVENTION OF DRUG ABUSE, AND MAY EVEN ENCOURAGE USERS TO SEEK TREATMENT, MORE MUST BE DONE IN BOTH PREVENTION AND TREATMENT. MONEY ALLOCATED IN THESE AREAS IS MONEY WELL INVESTED.

THANK YOU.

**TESTIMONY BEFORE THE PENNSYLVANIA HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE**

MAY 18, 1989

Presented by

**Christopher A Lewis
Executive Deputy General Counsel
Governor's Office of General Counsel**

I'D LIKE TO THANK THE COMMITTEE FOR INVITING ME HERE
TODAY TO PRESENT GOVERNOR CASEY'S INITIATIVES ON DRUG LAW
ENFORCEMENT. MY NAME IS CHRISTOPHER LEWIS I'M THE EXECUTIVE
DEPUTY IN THE GOVERNOR'S OFFICE OF GENERAL COUNSEL WITH ME
TODAY IS BRUCE FELDMAN, WHO IS THE EXECUTIVE DIRECTOR OF THE
GOVERNOR'S DRUG POLICY COUNCIL

GOVERNOR CASEY HAS RECOGNIZED DRUGS AND ADDICTION AS THE
SINGLE GREATEST THREAT TO FAMILY LIFE IN PENNSYLVANIA TODAY
IN HIS BUDGET MESSAGE TO THE GENERAL ASSEMBLY, IN FEBRUARY,
THE GOVERNOR ANNOUNCED THE FIRST COMPREHENSIVE ATTACK ON DRUG
ABUSE EVER PROPOSED BY A PENNSYLVANIA GOVERNOR THAT ATTACK
HAD THREE COMPONENTS

- TOUGHER LAW ENFORCEMENT, TO CUT THE SUPPLY
OF DRUGS;
- EXPANDED ANTI-DRUG EDUCATION, TO CUT THE
DEMAND FOR DRUGS; AND
- EXPANDED TREATMENT PROGRAMS, TO CUT THE BALL
AN CHAIN OF DRUG ADDICTION

YOUR COMMITTEE HAS CRITICAL RESPONSIBILITY FOR THE FIRST
COMPONENT--THE PASSAGE OF EFFECTIVE LEGISLATION TO ENHANCE
DRUG LAW ENFORCEMENT AND THAT IS THE ISSUE I WILL ADDRESS
TODAY

THE PROBLEM OF DRUGS IS NOT A PARTISAN ISSUE, IT IS A
PEOPLE ISSUE THAT AFFECTS EVERY ASPECT OF OUR SOCIETY THE
GENERAL ASSEMBLY AND MEMBERS OF THIS COMMITTEE HAVE WORKED
HARD TO STRENGTHEN OUR DRUG LAWS LAST YEAR, THE GENERAL
ASSEMBLY ENACTED, AND THE GOVERNOR SIGNED INTO LAW, NEW
MANDATORY MINIMUM SENTENCES AND ASSET FORFEITURE LAWS IN HIS
BUDGET MESSAGE, FOLLOWING DISCUSSIONS WITH ATTORNEY GENERAL

ERNIE PREATE, THE GOVERNOR RECOMMENDED THIS YEAR THAT WE
DOUBLE STATE SPENDING FOR DRUG LAW ENFORCEMENT

NOW, AT THE GOVERNOR'S REQUEST, TWO BILLS HAVE BEEN
INTRODUCED IN THE HOUSE OF REPRESENTATIVES THAT CALL FOR
SWEEPING CHANGES IN THE PENALTIES APPLICABLE TO DRUG
TRAFFICKING THOSE BILLS ARE HOUSE BILL 1274 AND HOUSE BILL
1275 MY PURPOSE HERE TODAY IS TO URGE THIS COMMITTEE TO GIVE
THOSE BILLS ITS EXPEDITIOUS AND UNQUALIFIED ENDORSEMENT

IN DISCUSSING THESE TWO BILLS, I WOULD LIKE TO BEGIN
WHERE I KNOW THE GOVERNOR WOULD BEGIN--WITH THE NEED TO
PROTECT THE MOST VULNERABLE IN OUR SOCIETY, OUR CHILDREN

SCARCELY A WEEK GOES BY WITHOUT THE NEWSPAPERS REPORTING
ANOTHER CHILLING EXAMPLE OF THE DEVASTATION THAT "CRACK" HAS
INFLICTED ON OUR CHILDREN HERE, IN PHILADELPHIA, CHILDREN
FIVE AND SIX YEARS OF AGE HAVE BEEN SHOT DOWN IN COLD BLOOD,
KILLED OR PARALYZED FOR LIFE SOME HAVE BEEN ENSLAVED IN
"CRACK HOUSES", DEALING DRUGS FOR HOURS ON END--WITHOUT FOOD,
WATER OR SANITARY FACILITIES "CRACK" IS INSTANTLY AND

INSIDIOUSLY ADDICTIVE WITHOUT EFFECTIVE DETERRENENTS, TOO MANY
OF OUR CHILDREN WILL BE TRAPPED INTO A BLEAK LIFE OF
ADDICTION, POVERTY AND DESPAIR

HOUSE BILLS 1274 AND 1275 ARE DESIGNED TO REMOVE OUR
CHILDREN FROM THE BATTLEGROUND OF THE DRUG WAR FIRST, HOUSE
BILL 1274 EXPANDS THE APPLICATION OF MANDATORY MINIMUM
SENTENCING FOR TRAFFICKING DRUGS TO MINORS LAST YEAR, WITH
THE HELP OF THIS COMMITTEE, THE GOVERNOR SIGNED INTO LAW A
BILL CREATING DRUG-FREE SCHOOL ZONES UNDER THE LAW, ANYONE
CONVICTED OF SELLING DRUGS TO A MINOR WITHIN ONE THOUSAND FEET
OF A PUBLIC OR PRIVATE SCHOOL, COLLEGE OR UNIVERSITY MUST
RECEIVE A MANDATORY MINIMUM SENTENCE OF AT LEAST THREE YEARS
OF IMPRISONMENT

THE LAW HAS A SIGNIFICANT LOOPHOLE IT COVERS DRUG SALES
TO MINORS, BUT NOT DRUG SALES TO ADULTS, LIKE UNDERCOVER
POLICE OFFICERS CONSEQUENTLY, THE POLICE CANNOT USE
UNDERCOVER "BUY/BUST" OPERATIONS TO INVOKE THE LAW

HOUSE BILL 1274 CLOSES THIS LOOPHOLE BY MAKING THE
MANDATORY MINIMUM SENTENCE APPLICABLE TO ALL DRUG SALES WITHIN
THE ONE THOUSAND FOOT DRUG-FREE SCHOOL ZONE

OUR CONCERN FOR CHILDREN CANNOT STOP AT THE SCHOOLS. THE
MOST DESPICABLE AND OFFENSIVE PRACTICE OF DRUG DEALERS TODAY
IS THE PROFLIGATE USE OF CHILDREN AS EMPLOYEES IN THE DRUG
TRADE WE CANNOT ALLOW DRUG TRAFFICKERS TO CONTAMINATE AND
CORRUPT OUR YOUNG HOUSE BILL 1275 WILL MAKE IT A FELONY,
PUNISHABLE BY A PRISON SENTENCE MAXIMUM OF AT LEAST TEN YEARS
AND A FINE OF \$300,000, TO EMPLOY ANY MINOR IN THE DRUG TRADE
IN ANY WAY--AS A SELLER, AS A COURIER OR EVEN AS A LOOKOUT

THE GOVERNOR ALSO RECOGNIZES THAT CHILDREN THEMSELVES
MUST FACE A MEANINGFUL AND REALISTIC SANCTION FOR INVOLVEMENT
WITH DRUGS TO THIS END, HOUSE BILL 1274 REQUIRES THE
MANDATORY SUSPENSION OF THE DRIVER'S LICENSE OF ANYONE UNDER
THE AGE OF 18 WHO IS CONVICTED OF ANY DRUG RELATED OFFENSE
LET ME REPEAT THAT, ANY DRUG RELATED OFFENSE WHETHER OR NOT
THE MINOR IS DRIVING AT THE TIME IS IRRELEVANT IF YOU ARE A

MINOR AND ARE CAUGHT WITH DRUGS, YOUR LICENSE WILL BE
SUSPENDED IF YOU ARE NOT OLD ENOUGH TO HOLD A DRIVER'S
LICENSE, THE SUSPENSION PERIOD WILL WAIT UNTIL YOU ARE OLD
ENOUGH TO OBTAIN A LEARNER'S PERMIT AND WILL GO INTO EFFECT AT
THAT TIME. USERS MUST BE LOSERS

HOUSE BILL 1274 ALSO CONTAINS NEW CRIMINAL PENALTIES FOR
MAKING PROPERTY AVAILABLE FOR USE AS A "CRACK HOUSE" IF YOU
FEED OFF THE DRUG TRADE BY KNOWINGLY ALLOWING YOUR PROPERTY TO
BE USED AS A "CRACK HOUSE", A SHOOTING GALLERY, A DRUG
WAREHOUSE OR MANUFACTURING LABORATORY, YOU WILL FACE A PENALTY
OF ONE YEAR IN PRISON, A FINE OF \$100,000 OR BOTH

IF YOU FORTIFY A "CRACK HOUSE", OR KNOWINGLY ALLOW
SOMEONE ELSE TO FORTIFY THE PROPERTY, YOU WILL FACE A PENALTY
OF TWO YEARS IN PRISON, A FINE OF \$300,000 OR BOTH
BARRICADING PROPERTY TO KEEP THE POLICE OUT WILL NOT BE
TOLERATED

FINALLY, IF YOU ARE THE CRIMINAL WHO ACTUALLY OPENS AND USES THE PROPERTY AS A "CRACK HOUSE", YOU WILL FACE A PENALTY OF THREE YEARS IN PRISON, A STIFF FINE OF \$300,000 OR BOTH

EACH OF THESE PENALTIES IS ON TOP OF AND IN ADDITION TO ANY OTHER PENALTIES THAT THE DEALER WOULD FACE FOR DRUG TRAFFICKING THE MESSAGE OF THESE PROVISIONS IS UNMISTAKABLE OWNERS AND OPERATORS OF DRUG HOUSES WILL NOT BE ALLOWED TO AVOID CRIMINAL RESPONSIBILITY FOR THEIR ROLE IN THE DRUG BUSINESS

AS THIS COMMITTEE KNOWS, DRUG ADDICTION HAS MANY TRAGEDIES BUT NONE IS MORE DEEP OR SAD THAN THE RAPIDLY GROWING PROBLEM OF MATERNAL ADDICTION JUST THIS WEEK, NEW STATISTICS WERE RELEASED SHOWING THAT THE CITY OF PHILADELPHIA'S INFANT MORTALITY RATES HAVE RISEN TO THE HIGHEST LEVELS SINCE 1972 AND MOST OF THE INCREASE IS DUE TO "CRACK" OUR HOSPITAL'S NURSERIES ARE CROWDED WITH THE DRUG WAR'S MOST INNOCENT VICTIMS--NEWBORN INFANTS WHO ARE ADDICTED

BEFORE BIRTH TO THE ILLEGAL DRUGS THEIR MOTHERS ABUSED DURING PREGNANCY.

AS PART OF HIS COMPREHENSIVE ATTACK ON DRUG ABUSE, GOVERNOR CASEY HAS PIONEERED A STATEWIDE NETWORK OF TREATMENT CENTERS FOR ADDICTED MOTHERS WITH YOUNG CHILDREN TO COMPLEMENT THIS EFFORT, HOUSE BILL 1274 WILL MAKE IT A SEPARATE CRIME, WITH A MANDATORY MINIMUM SENTENCE, FOR ANYONE TO SELL ILLICIT DRUGS TO PREGNANT WOMEN

THROUGHOUT THE COMMONWEALTH, THE USE OF HIGHLY POTENT DRUGS SUCH AS "CRACK", "CHINA WHITE" AND "BAD HEROIN", HAS RESULTED IN A SPATE OF DEATHS UNDER CURRENT LAW, SELLERS CANNOT BE HELD CRIMINALLY LIABLE FOR THESE DEATHS WITHOUT A FINDING OF INTENT, KNOWLEDGE, RECKLESSNESS OR NEGLIGENCE HOUSE BILL 1275 WILL CREATE A NEW OFFENSE FOR SALES OF DRUGS THAT RESULT IN THE DEATH OF THE USER UNDER THE BILL, THOSE SALES WILL BE PUNISHABLE AS A FIRST DEGREE FELONY, WITH A MAXIMUM PRISON TERM OF TWENTY YEARS AND A FINE A \$100,000

THOSE ARE THE HIGHLIGHTS OF THE GOVERNOR'S LEGISLATIVE
DRUG LAW ENFORCEMENT INITIATIVES HOWEVER, I DON'T WANT TO
LEAVE THIS COMMITTEE WITH THE IMPRESSION THAT THEY ARE THE
ONLY INITIATIVES THAT THE GOVERNOR WILL SUPPORT THE GOVERNOR
HAS ALSO ENDORSED MANY RECOMMENDATIONS MADE BY THE ATTORNEY
GENERAL, MEMBERS OF THE LEGISLATURE AND THIS COMMITTEE BRUCE
FELDMAN, WHO WILL BE FOLLOWING ME SHORTLY, WILL DISCUSS THOSE

I WOULD LIKE TO CLOSE MY REMARKS BY DIRECTING THE
COMMITTEE'S ATTENTION TO A BILL THAT IS NOT PENDING BEFORE IT
BUT IS NEVERTHELESS VITAL TO THE DRUG LAW ENFORCEMENT EFFORT
I AM NOW SPEAKING OF HOUSE BILL 1355, WHICH WILL AMEND THE
STATE'S MILITARY CODE TO ALLOW VOLUNTEERS FROM THE STATE
NATIONAL GUARD TO ENGAGE IN SPECIAL STATE ANTI-DRUG DUTIES

UNDER CURRENT LAW, THE NATIONAL GUARD MAY BE ORDERED AT
THE DISCRETION OF THE GOVERNOR TO SERVE SPECIAL STATE DUTY
BUT UNDER THE MILITARY CODE, ONLY COMMISSIONED OFFICERS ARE
ENTITLED TO PAY AND ALLOWANCES FOR SPECIAL STATE DUTY

NONCOMMISSIONED OFFICERS AND ENLISTED MEN ARE NOT AUTHORIZED TO RECEIVE COMPENSATION IN ADDITION, SPECIAL STATE DUTY IS LIMITED TO CERTAIN EMERGENCIES

HOUSE BILL 1355 WILL EXPAND THE TYPES OF STATE DUTY THAT GUARDSMEN CAN SERVE AND WILL ALLOW ALL GUARDSMEN TO BE PAID TO THE EXTENT THAT THE GENERAL ASSEMBLY APPROPRIATES FUNDS TO SUPPORT SUCH DUTY AN ANNUAL SEPARATE LINE ITEM APPROPRIATION WOULD BE REQUIRED THIS WILL ALLOW THE GUARD TO ASSIST THE STATE POLICE AND OTHER LAW ENFORCEMENT AGENCIES, ON A LIMITED BASIS, IN ANTI-DRUG ACTIVITIES FOR WHICH FEDERAL FUNDS ARE UNAVAILABLE

THE AGENDA FOR STATE GOVERNMENT IS LONG AND COMPLEX BUT FREEING OUR CITIZENS FROM THE RAVAGES OF DRUGS IS THE MOST IMPORTANT TASK WE FACE OVER THE NEXT DECADE ON BEHALF OF GOVERNOR CASEY, I URGE YOU TO APPROVE THESE LEGISLATIVE INITIATIVES AS SWIFTLY AS POSSIBLE

**TESTIMONY BEFORE THE PENNSYLVANIA HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE**

May 18, 1989

Presented by

**Bruce A. Feldman, Executive Director
Governor's Drug Policy Council
Office of the Governor**

THANK YOU FOR EXTENDING THE INVITATION TO APPEAR BEFORE YOU THIS AFTERNOON TO DISCUSS DRUG LAW ENFORCEMENT LEGISLATIVE INITIATIVES. I AM BRUCE FELDMAN, EXECUTIVE DIRECTOR OF GOVERNOR CASEY'S DRUG POLICY COUNCIL. MY COLLEAGUE, CHRISTOPHER LEWIS, JUST PRESENTED AN OUTLINE OF THE GOVERNOR'S LEGISLATIVE GOALS. I OFFER OUR OBSERVATIONS ABOUT OTHER BILLS PENDING IN YOUR COMMITTEE WHICH, WHEN PASSED, WILL ENHANCE PENNSYLVANIA'S ABILITY TO ADDRESS THE DRUG ABUSE CRISIS THAT BRINGS US TOGETHER TODAY.

FIRST, HOWEVER, I WISH TO PUT MY REMARKS INTO PERSPECTIVE AND TO COMMEND THIS COMMITTEE FOR ACKNOWLEDGING THE SERIOUSNESS AND COMPLEXITY OF OUR DRUG ABUSE CRISIS. I DELIBERATELY USE THE TERM "CRISIS" TO CONVEY A SENSE OF EXTREME URGENCY. I CANNOT OVERSTATE THE MAGNITUDE OF OUR PREDICAMENT. MR. LEWIS NOTED THE SAD REALITY THAT OUR CHILDREN ARE BEING KILLED OR MUTILATED IN THE VIOLENT FRENZY OF DRUG DEALING. OUR LOVED ONES, OUR NEIGHBORS AND FRIENDS ARE FALLING VICTIM TO THE SCOURGE OF DRUG ABUSE. THIS WAR AGAINST DRUGS IS OUR WAR, A WAR IN WHICH WE MUST STAND UNITED, OR RISK FALLING, ONE BY ONE.

WE ARE UNITED BEHIND THE LEGISLATIVE AGENDA UNDER DISCUSSION. THE DRUG BILLS BEFORE YOU COMPRISE NOT JUST GOVERNOR CASEY'S #1 AGENDA. AND OWNERSHIP ISN'T VESTED SOLELY WITH ATTORNEY GENERAL PREATE. NOR ARE THESE BILLS AUTHORED OR SPONSORED BY JUST A FEW MEMBERS OF THE HOUSE AND SENATE. WE ARE TESTIFYING TODAY AND TOMORROW TO PENNSYLVANIA'S LEGISLATIVE STRATEGY FOR ASSAILING DRUG ABUSE. THERE IS NO SINGLE AUTHOR -- WE ARE TALKING ABOUT EVERYBODY'S AGENDA. ALL PENNSYLVANIANS ARE

STAKEHOLDERS IN THE BILLS BEFORE THIS COMMITTEE. I'D LIKE TO SHARE WITH YOU NOW OUR THOUGHTS ABOUT A FEW OF THESE BILLS.

ONE OF LAW ENFORCEMENT'S FRUSTRATIONS IS THAT PENNSYLVANIA IS THE ONLY MIDDLE ATLANTIC JURISDICTION THAT PROHIBITS THE COMPUTERIZATION OF DRUG INTELLIGENCE AND INVESTIGATIVE INFORMATION. SECTION 9106 OF THE CRIMINAL HISTORY AND RECORDS INFORMATION ACT IMPAIRS OUR ABILITY TO WORK CLOSELY WITH OUR NEIGHBORING STATES, AND TO USE TECHNOLOGY TO OUR ADVANTAGE WITHIN THE COMMONWEALTH. YOUR HELP IS NEEDED TO REMOVE THIS IMPEDIMENT TO EFFICIENT DRUG LAW ENFORCEMENT. HOUSE BILL 1274 PROPOSES TO ELIMINATE THIS PROHIBITION BY DELETING SECTION 9106 IN ITS ENTIRETY. A COMPARABLE PROPOSAL ADVANCED BY ATTORNEY GENERAL PREATE -- HOUSE BILL 1283 -- EXPRESSLY PROHIBITS COMPUTERIZATION OF DRUG TREATMENT INFORMATION. WE AGREE THAT DRUG TREATMENT INFORMATION GENERALLY SHOULD BE EXCLUDED FROM LAW ENFORCEMENT DATA BASES. HOWEVER, THE DEPARTMENT OF CORRECTIONS AND THE BOARD OF PROBATION AND PAROLE, FOR EXAMPLE, HAVE A NEED TO COMPUTERIZE INFORMATION ABOUT DRUG TREATMENT RENDERED TO THEIR RESPECTIVE POPULATIONS. THE BOTTOM LINE IS THAT WE SUPPORT EITHER BILL SO LONG AS THE EXPRESS PROHIBITION OF HOUSE BILL 1283 DOESN'T RESTRICT CRIMINAL JUSTICE AGENCIES FROM COMPUTERIZING THEIR LEGITIMATELY MAINTAINED TREATMENT RECORDS.

THE GOVERNOR ENDORSES SEVERAL BILLS PROMOTED BY MR. PREATE TO LIMIT THE VIOLENCE ASSOCIATED WITH DRUG TRAFFICKING, E.G.,

DEATH PENALTY AMENDMENTS; INCLUSION OF CERTAIN DRUG OFFENSES IN SECOND DEGREE MURDER; ASSAULT ON GOVERNMENT OFFICIALS; AND POSSESSION OF FIREARMS DURING THE COMMISSION OF CERTAIN DRUG OFFENSES:

◆ HOUSE BILL 1276 EXPANDS THE CIRCUMSTANCES FOR WHICH THE DEATH PENALTY MAY BE INVOKED, TO INCLUDE KILLINGS OF GOVERNMENT OFFICIALS, PROSECUTORS, INFORMERS, ETC. AND KILLINGS COMMITTED IN FURTHERANCE OF A DRUG CRIME.

◆ HOUSE BILL 1281 PROVIDES THAT DRUG FELONS WHO CAUSE SOMEONE'S DEATH WHILE COMMITTING A DRUG OFFENSE WILL BE GUILTY OF SECOND DEGREE MURDER AND RECEIVE A MANDATORY SENTENCE OF LIFE IMPRISONMENT.

◆ HOUSE BILL 1288 EXPANDS THE CLASS OF INDIVIDUALS AGAINST WHOM AGGRAVATED ASSAULT CHARGES MAY BE BROUGHT - TO INCLUDE GOVERNMENT OFFICIALS, PROSECUTORS, INFORMERS, ETC.

◆ HOUSE BILL 1289 IMPOSES A MANDATORY MINIMUM SENTENCE FOR DRUG DISTRIBUTORS AND MANUFACTURERS WHO POSSESS FIREARMS DURING THE COMMISSION OF DRUG OFFENSES.

WE ALSO FAVOR SEVERAL OTHER LEGISLATIVE INITIATIVES PROMOTED BY THE ATTORNEY GENERAL:

◆ HOUSE BILL 1277: FINANCIAL TRANSACTIONS THAT ATTEMPT TO CONCEAL ILLICIT PROCEEDS, AVOID CURRENCY REPORTING REQUIREMENTS OR PROMOTE OTHER UNLAWFUL ACTIVITY BECOME DISTINCT CRIMINAL OFFENSES UNDER THIS BILL.

◆ HOUSE BILL 1279: STREET DEALERS AVOID MANDATORY PRISON SENTENCES BY ENGAGING IN A SERIES OF DRUG SALES INVOLVING QUANTITIES SLIGHTLY BELOW THRESHOLDS ESTABLISHED FOR SUCH MANDATORY SENTENCES. THE BILL IMPOSES MANDATORY SENTENCING UPON CONVICTION OF THREE OR MORE DRUG SALES VIOLATIONS WITHIN 90 DAYS.

◆ HOUSE BILL 1284: CLARIFIES CIVIL LIABILITY OF MUNICIPAL POLICE OFFICERS ENGAGED IN STATE LAW ENFORCEMENT AGENCY TASK FORCE OPERATIONS, BY ELIMINATING A BARRIER TO LOCAL POLICE INVOLVEMENT.

◆ HOUSE BILL 1298 CONTAINS TWO PROVISIONS SUPPORTED BY GOVERNOR CASEY -- THE FIRST PROVIDES FOR MANDATORY LIFE IMPRISONMENT AFTER A THIRD DRUG TRAFFICKING OFFENSE. THE SECOND IMPOSES A MANDATORY MINIMUM FINE OF \$500 FOR CONVICTION OF ILLEGAL DRUG POSSESSION, CREATING A DETERRENT TO CASUAL DRUG USERS.

WE ARE IN HARMONY WITH AND ENDORSE CERTAIN OTHER LEGISLATIVE CONCEPTS CONTAINED IN BILLS REFERRED TO THE HOUSE JUDICIARY COMMITTEE. FOR EXAMPLE:

◆ HOUSE BILL 176. POSSESSION OF FIREARMS SHOULD BE PROHIBITED FOR THOSE COMMITTING DRUG LAW OFFENSES AS WELL AS OTHER VIOLENT CRIMES.

◆ HOUSE BILL 810. YOUNG PEOPLE ENGAGE IN COMMERCIAL DRUG ENTERPRISE WHILE ON SCHOOL PROPERTY THROUGH THE USE OF PAGERS AND BEEPERS. STUDENTS MUST BE PROHIBITED FROM EMPLOYING SUCH DEVICES, ALTHOUGH WE MUST SAFEGUARD THE LEGITIMATE USE OF MEDICAL MONITORING AND TRANSMITTAL DEVICES.

◆ HOUSE BILL 962. PUBLICATION OF THE ARREST AND OTHER LAW ENFORCEMENT RECORDS OF MINORS MAY DETER VIOLATIONS OF THE CONTROLLED SUBSTANCES ACT, AND WE ENCOURAGE SUCH PUBLICATION SO LONG AS IT IS CONFINED TO FELONY DRUG VIOLATIONS.

◆ HOUSE BILL 964. MAKES IT A FELONY TO FURNISH CONTRABAND ALCOHOL AND OTHER DRUGS TO PRISON INMATES. WE SUPPORT THIS UPGRADE IN OFFENSE AS ONE WAY OF ADDRESSING THE SERIOUS CONTRABAND PROBLEM THAT MANIFESTS ITSELF IN OUR STATE PRISONS AND COUNTY JAILS. WE RECOMMEND THAT INTRODUCTION OF SUCH CONTRABAND INTO MENTAL HEALTH INSTITUTIONS REMAIN A MISDEMEANOR.

◆ HOUSE BILL 965. ENHANCED FINES AND SENTENCES FOR DRUG KINGPINS IS JUSTIFIABLE, AND WE SUPPORT THE PROVISIONS OF THIS BILL TO THE EXTENT THAT THEY ARE CONFINED TO THE LEADERS AND FINANCIERS OF CRIMINAL ENTERPRISES.

◆ HOUSE BILL 1157. GOVERNOR CASEY SUPPORTS A REASONABLE FORM OF EARNED TIMED LEGISLATION AS ONE EFFECTIVE WAY OF REDUCING THE STRAIN ON THE LIMITED CAPACITY OF OUR PRISONS AND JAILS.

◆ HOUSE BILL 1360. THIS BILL EXPANDS THE JURISDICTION OF THE MINOR JUDICIARY TO INCLUDE MISDEMEANOR DRUG OFFENSES. THE PROPOSAL APPEARS TO OFFER SOME RELIEF TO THE COURTS OF COMMON PLEAS, AND WE ENCOURAGE SERIOUS CONSIDERATION OF THIS PROPOSAL.

A PANOPLY OF LEGISLATIVE OPTIONS IS BEFORE YOU, PRESENTING A DIFFICULT SERIES OF CHOICES. THESE MANY OPTIONS OFFER CRITICAL IMPROVEMENTS TO PENNSYLVANIA'S STATUTORY SCHEME. THEY ARE AN IMPORTANT ADJUNCT TO THE PROGRAMS THAT GOVERNMENTS IMPLEMENT IN OUR WAR AGAINST DRUG ABUSE. GOVERNOR CASEY HAS SAID THAT FREEING

THE PEOPLE FROM THE RAVAGES OF DRUG ABUSE IS THE MOST IMPORTANT TASK OF GOVERNMENT NOW AND FOR THE COMING DECADE. AS WE ENTER THE 1990'S AND APPROACH THE 21ST CENTURY, LET US RESOLVE TO WORK TOGETHER UNFAILINGLY TO BRING AN END TO THIS GREATEST THREAT TO FAMILY LIFE AND HUMAN POTENTIAL THAT WE HAVE EVER CONFRONTED. OUR FUTURE AND THAT OF OUR CHILDREN AND OUR CHILDREN'S CHILDREN IS AT STAKE. WE MUST FIGHT THE GOOD FIGHT...AND WE MUST WIN...

MAY YOU BE ENLIGHTENED BY THESE HEARINGS AND DISCOVER THE PATIENCE AND UNDERSTANDING NEEDED TO CHOOSE FROM AMONG THE MANY OPTIONS BEFORE YOU.

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May 18, 1989

**TESTIMONY OF GEORGE C. YATRON, PRESIDENT
PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION
DISTRICT ATTORNEY OF BERKS COUNTY
BEFORE THE HOUSE JUDICIARY COMMITTEE**

My name is George C. Yatron and I am President of the Pennsylvania District Attorneys Association and District Attorney of Berks County.

In my testimony today I would like to cover three (3) areas that effect law enforcement's war on drugs: namely, the proposed changes to the new Forfeiture Law (House Bills 845 and 857) that would mandate forfeiture money be used for community programs; the need for prison expansion and finally proposed drug legislation.

I. Forfeiture Funds

The current Forfeiture Law, Act 79 of 1988, effective July 1, 1988, was drafted by the Philadelphia District Attorney's Office and supported by the Pennsylvania District Attorneys Association. These important changes to the Forfeiture Law made it easier to strip drug dealers of property used in or derived from drug trafficking. However, since 1985 the Forfeiture Law has always given a District Attorney power to control assets. Section 6801(h) states that the District Attorney "shall utilize forfeited property or proceeds thereof for the purpose of enforcing the provisions of The Controlled Substance, Drug, Device and Cosmetic Act."

The General Assembly has wisely decided to use forfeited funds for law enforcement because that is where the crisis is. Everyone benefits from funds used for law enforcement. While neighborhood groups' work is undeniably valuable in fighting drugs, these activities are labor intensive, not cost intensive. They depend on widespread citizen cooperation, vigilance, and providing of information. It is expensive for law enforcement to fight the drug war. We have to pay for additional narcotics officers, expensive surveillance equipment and costly drug-analysis equipment. As a frontal assault on drug dealers and possessors through criminal prosecution is the most effective tool in reducing neighborhood crime, I am convinced it would be counterproductive to the interests of Pennsylvanians to require diversion of these limited resources away from law enforcement.

Furthermore, the new 1988 Federal Anti-Drug Omnibus Act gives consideration to communities by earmarking over 400 million dollars for program funding. This federal money, when appropriated, will be in the Pennsylvania State Treasury. This avenue, with a very large budget and less restrictions, is a more appropriate funding source for community programs.

Generally speaking, county or city government should grant and monitor funds to neighborhood groups. District Attorneys are simply not in that business. Their expertise is in prosecution, and their resources should not be diverted from that first purpose.

While we deeply appreciate and acknowledge the importance of any community effort to rid our neighborhoods of drugs, and would

support county or state funding for such efforts, it is the view of the Pennsylvania District Attorneys Association that, given the limited resources, forfeiture funds should continue to be used primarily for law enforcement purposes.

II. Prison Expansion

The Pennsylvania District Attorneys Association passed a resolution last summer urging the expansion of prison facilities. We recognized that the weakest link in the criminal justice system in Pennsylvania (and throughout the country) is the overcrowded prison system. The state prison system is now 135% over capacity, even with the new prisons built by Governor Thornburgh. This increase is largely due to increasing drug arrests and convictions. In Philadelphia and certain other large counties, county prison problems are wreaking havoc on the ability to bring criminals to trial and the ability to keep them off the streets.

From January 1, 1980 to January 1, 1988, the state prison population increased from 7,806 to 16,302. The passage of drug-mandatory minimum sentencing and tougher sentencing guidelines will increase the number of prisoners even more.

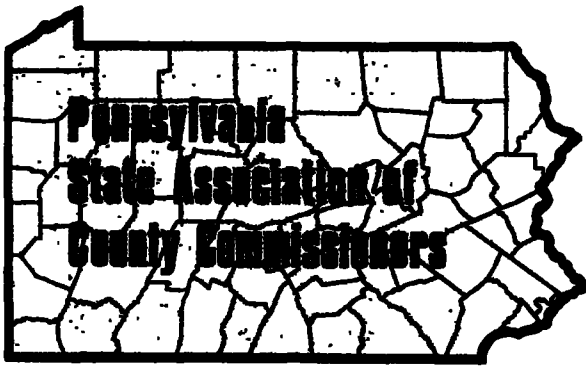
More prisons, both county and state, must be built as soon as possible. If they are not, then the state prison system faces the imminent risk of a prison-cap debacle similar to Philadelphia's Harris v. Pemsley disaster. All our gains in the legislature and courts will be seriously compromised. The pressure to formally and informally "discount" sentences to

reflect prison capacity, will continue to increase unless appropriate action is taken by the Legislature.

III. Proposed Drug Legislation

In closing, I must mention that Ronald D. Castille, Legislative Chairman of the Pennsylvania District Attorneys Association has prepared a legislative drug package which will be presented by him tomorrow in further detail. This package is supported by the Executive Committee of the Pennsylvania District Attorneys Association and I expect that the full approval of our organization will be obtained at our annual summer meetings.

On behalf of the Pennsylvania District Attorneys Association, I would like to thank the House Judiciary Committee Members for this opportunity to address them on these important issues.



Adams
Allegheny
Armstrong
Beaver
Bedford
Berks
Blair
Brookfield
Butts
Butler
Cambria
Cameron
Carbon
Centre
Chester
Clarke

Clearfield
Clinton
Columbia
Crawford
Cumberland
Dauphin
Delaware
Elk
Erie
Fayette
Forest
Franklin
Fulton
Greene
Huntingdon
Indiana
Jefferson

Juniata
Lackawanna
Lancaster
Lawrence
Lebanon
Lehigh
Luzerne
Lycoming
McKean
Mercer
Mifflin
Monroe
Montgomery
Montour
Northampton
Northumberland
Perry

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TESTIMONY TO HOUSE JUDICIARY COMMITTEE MAY 18, 1989
PRESENTED BY MERCER COUNTY COMMISSIONER WILLIAM REZNOR
CHAIRMAN, PENNSYLVANIA STATE ASSOCIATION OF COUNTY
COMMISSIONERS JAIL OVERCROWDING TASK FORCE

GOOD AFTERNOON - MY NAME IS BILL REZNOR. I AM A MERCER COUNTY COMMISSIONER, PRESIDENT OF THE MERCER COUNTY PRISON BOARD, AND SERVE AS THE CHAIRMAN OF THE PENNSYLVANIA STATE ASSOCIATION OF COUNTY COMMISSIONERS JAIL OVERCROWDING TASK FORCE.

ON BEHALF OF THE PENNSYLVANIA STATE ASSOCIATION OF COUNTY COMMISSIONERS, I WISH TO THANK REPRESENTATIVE CALTAGIRONE AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE FOR THIS OPPORTUNITY TO PRESENT TESTIMONY.

I WILL KEEP MY COMMENTS BRIEF TO ALLOW FOR QUESTIONS AT THE CONCLUSION.

AS AN ELECTED OFFICIAL, AND A PARENT OF TWO CHILDREN, I AM IN SUPPORT OF THE EFFORTS SET FORTH IN THIS ANTI-DRUG LEGISLATIVE PACKAGE. ONE OF THE MAJOR, IF NOT THE MAJOR, PROBLEM FACING US TODAY IS THE PROBLEM OF DRUG ABUSE. WHILE WE ARE IN AGREEMENT

THAT DRUGS ARE A SERIOUS PROBLEM, I MUST POINT OUT THAT MANY OF THESE PROPOSED PIECES OF LEGISLATION WILL HAVE A DRAMATIC, IF NOT CRIPPLING, EFFECT ON OUR COUNTY JAILS.

AS WE SPEAK, WE ARE FACING A CRISIS IN OUR COUNTY JAILS.

AS OF FEBRUARY 28, 1989 THERE WERE 15,647 INMATES HOUSED IN COUNTY JAILS. THIS COMPARES TO 13,732 INMATES IN FEBRUARY 1988. COUNTY JAILS ARE GROWING AT AN ANNUAL RATE OF 14% PER YEAR. IN CONTRAST, THE STATE PRISON POPULATION IS GROWING AT AN ANNUAL RATE OF 10%.

I MUST POINT OUT THAT DEALING WITH THIS EXPLOSION IN THE COUNTY INMATE POPULATION FALLS SOLELY ON COUNTY GOVERNMENTS. OVER THE PAST TEN YEARS, PENNSYLVANIA COUNTY GOVERNMENTS HAVE SPENT WELL OVER 200 MILLION DOLLARS TO BUILD NEW, AND RENOVATE EXISTING, JAILS.

EVEN AS THE COUNTIES CONTINUE TO BUILD, WE ARE FALLING BEHIND. WE CAN NOT KEEP PACE WITH THE INMATE EXPLOSION. IN 1987, THE PENNSYLVANIA COMMISSION ON CRIMES AND DELINQUENCY FOUND THAT THE 50 COUNTY JAILS THAT ACCOUNT FOR OVER 90% OF THE STATEWIDE INMATE POPULATION WERE OPERATING THEIR JAILS AT OVER 100% OF CAPACITY. THE MOST CROWDED JAILS ARE FOUND IN TEN COUNTIES THAT ACCOUNT FOR 46% OF THE STATEWIDE INMATE POPULATION; THESE JAILS WERE OPERATING AT AN AVERAGE OF 146% OF CAPACITY.

I OFFER THESE STATISTICS TO MAKE THE POINT THAT WE, THE COUNTIES, CAN NOT SOLVE THIS CRISIS BY BUILDING OUR WAY OUT. WE NEED OTHER INNOVATIVE SOLUTIONS.

WHY ARE WE FACING THIS CRISIS?

ONE REASON IS THE COUNTIES HAVE LESS AND LESS CONTROL OVER WHO IS PLACED IN OUR JAILS, AND FOR HOW LONG. DURING THE LAST DECADE, THE LEGISLATURE HAS PASSED MORE AND MORE MANDATORY SENTENCING REQUIREMENTS AS ONE MEANS OF GETTING TOUGH ON THOSE WHO BREAK THE LAW. I AM NOT HERE TO DEBATE THE MERITS OF MANDATORY SENTENCES; I AM HERE TO TELL YOU THAT THESE LAWS ARE RESPONSIBLE FOR FILLING OUR JAILS.

TO ILLUSTRATE, IN 1980 THERE WERE 635 DUI OFFENDERS SENTENCED TO COUNTY JAILS THROUGHOUT PENNSYLVANIA. IN 1988, THAT FIGURE HAD EXPLODED TO WELL OVER 9000 SENTENCED DUI OFFENDERS. AN INCREASE OF 1400%. IN THE COUNTY JAILS OF MY REGION, THE NORTHWEST CORNER OF THE STATE, 40% OF ALL THE COUNTY SENTENCED INMATES ARE DUI OFFENDERS. I MUST POINT OUT THAT THERE HAS NOT BEEN THE DESIRED SIGNIFICANT DECREASE IN ALCOHOL RELATED HIGHWAY FATALITIES ANTICIPATED WITH THE PASSAGE OF THE DUI LAW.

I MUST BE HONEST WITH YOU IN SAYING THAT ON THE ONE HAND, WE ALL SUPPORT THE INTENT OF THIS LEGISLATIVE PACKAGE; HOWEVER, I WOULD BE DERELICT IN MY DUTIES IF I DIDN'T SOUND THE ALARM; THE COUNTY CRIMINAL JUSTICE SYSTEMS, ALREADY OVERBURDENED, WILL BE PUSHED TO CRITICAL OVERLOAD.

I WOULD LIKE TO PROPOSE SEVERAL SOLUTIONS THAT WILL WORK TOWARD EASING THE JAIL OVERCROWDING CRISIS:

1) THE LEGISLATURE ADOPT A POLICY THAT ANY NEW LEGISLATION WHICH

HAS MANDATORY SENTENCING REQUIREMENTS INCLUDE A JAIL AND PRISON IMPACT STATEMENT. THIS IMPACT STATEMENT WILL INFORM US OF THE POTENTIAL INCREASE IN INMATE POPULATIONS. AND MOST IMPORTANTLY, THE LEGISLATURE MUST INCLUDE SUFFICIENT APPROPRIATIONS TO CREATE THE REQUIRED ADDITIONAL JAIL AND PRISON SPACE. THIS MUST BE DONE FOR ALL LEGISLATION THAT IS INTRODUCED AND ALL AMENDMENTS THAT ARE ADOPTED.

2) THE SECOND PROPOSAL I WOULD LIKE TO OFFER IS THAT THE STATE AND COUNTY GOVERNMENTS WORK IN PARTNERSHIP TO SOLVE THE PROBLEM OF JAIL OVERCROWDING. THE STATE ASSOCIATION OF COUNTY COMMISSIONERS IS PROPOSING A PARTNERSHIP APPROACH IN THE DEVELOPMENT OF REGIONAL JAILS AS ONE MEANS OF DEALING WITH THIS CRISIS. REGIONAL JAILS OFFER A COST EFFICIENT METHOD TO INCREASE JAIL SPACE. THE COMMONWEALTH WOULD ASSIST FINANCIALLY IN THE CONSTRUCTION AND OPERATION OF THESE FACILITIES. REGIONAL JAILS WOULD ONLY BE USED TO HOUSE COUNTY SENTENCED INMATES WITH TERMS NO LONGER THAN TWO YEARS. I MUST POINT OUT THAT THIS PROPOSAL DOES NOT RELIEVE COUNTIES OF THE RESPONSIBILITY OF OPERATING THEIR INDIVIDUAL COUNTY JAILS. COUNTY JAILS WOULD REVERT BACK TO THEIR INTENDED USE; SERVING AS SHORT TERM HOLDING FACILITIES FOR THOSE OFFENDERS AWAITING ADJUDICATION AND FOR SPECIAL POPULATIONS, SUCH AS WORK RELEASE.

3). AS I STATED EARLIER, BUILDING ALONE WILL NOT SOLVE OUR PROBLEMS. WE MUST TREAT JAIL SPACE AS A LIMITED RESOURCE AND INCARCERATE ONLY THOSE THAT ARE TRULY A THREAT TO SOCIETY. THE COUNTIES NEED STATE APPROPRIATIONS AND LEGISLATION THAT WILL

ALLOW THOSE COUNTIES, WHO SO CHOSE, TO DEVELOP SOLUTIONS TO THE JAIL CRISIS.

THE ASSOCIATION REQUESTS THE LEGISLATURE APPROPRIATE FUNDS THAT WILL ASSIST THE COUNTIES IN THE FOLLOWING AREAS:

- ESTABLISHING MINIMUM SECURITY FACILITIES FOR LOW RISK OFFENDERS, SUCH AS DUI.
- CREATING MORE WORK RELEASE FACILITIES THAT WILL ENABLE COUNTY SENTENCED INMATES, WHO ARE ELIGIBLE, TO PAY FOR THEIR HOUSING, PAY OFF COURT COSTS AND FINES, AND MAINTAIN AN INCOME TO SUPPORT THEIR FAMILIES.
- ADOPTING OTHER LEGISLATION THAT CAN ASSIST IN INMATE REDUCTION AND CONTROL: SUCH AS THE EARNED TIME BILL INTRODUCED BY REPRESENTATIVE KOSINSKI, INTENSIVE FORMS OF PROBATION, AND ELECTRONIC MONITORING.

COUNTY JAILS ARE THE GATE-KEEPERS OF THE CRIMINAL JUSTICE SYSTEM. ALL OFFENDERS, REGARDLESS OF THE OFFENSE, WHO CANNOT MAKE BAIL ARE HOUSED IN THE COUNTY JAIL. ANY INCREASE IN ENFORCEMENT AND PROSECUTION, SUCH AS THOSE OUTLINED IN THE PROPOSED LEGISLATIVE PACKAGE, WILL DIRECTLY IMPACT THE COUNTY JAILS.

ANOTHER AREA OF CONCERN IS THE GROWING NUMBER OF INMATES SENTENCED TO COUNTY JAILS WHO SHOULD BE SENTENCED TO A STATE CORRECTIONAL FACILITY. MANY JUDGES HESITATE IN SENDING A FIRST OFFENDER INTO THE STATE SYSTEM, EVEN THOUGH THE MANDATORY SENTENCE HAS A MAXIMUM TERM OF MORE THAN TWO YEARS. IN 1987, WELL OVER 1000 SENTENCED

INMATES WHO SHOULD HAVE BEEN HOUSED IN A STATE CORRECTIONAL FACILITY, WERE INSTEAD, SERVING THEIR TERMS IN COUNTY JAILS

IF WE ARE TO WORK IN PARTNERSHIP TO SOLVE THE PROBLEM OF DRUG ABUSE IN THE COMMONWEALTH, WE MUST ALSO WORK IN PARTNERSHIP IN DEALING WITH THE JAIL AND PRISON OVERCROWDING CRISIS. THE LONGER WE DELAY, THE CLOSER WE COME TO CATASTROPHE.

- MORE AND MORE COUNTIES ARE COMING UNDER FEDERAL COURT ORDER TO REDUCE JAIL POPULATIONS.

- AS OUR INMATE POPULATIONS CONTINUE TO EXPLODE, OUR JAIL AND PRISON ADMINISTRATORS FIND IT MORE AND MORE DIFFICULT TO MANAGE CORRECTIONAL FACILITIES.

I AM GOING TO CHANGE HATS FOR A MOMENT, TAKING OFF MY PRISON BOARD HAT AND REPLACING IT WITH MY DRUG AND ALCOHOL ADMINISTRATOR'S HAT. I STATED EARLIER THAT THE COUNTY CRIMINAL JUSTICE SYSTEM IS OVERLOADED, THIS STATEMENT ALSO HOLDS TRUE FOR THE COUNTY DRUG AND ALCOHOL SYSTEMS.

THIS YEAR, THE GOVERNOR'S WAR ON DRUGS INCLUDES ONLY A 2.2% INCREASE IN THE FUNDS AVAILABLE FOR COUNTY DRUG AND ALCOHOL TREATMENT. ADDICTS UNTREATED COMMIT CRIME. THE JAIL AND PRISON INMATES WHO DO NOT RECEIVE TREATMENT ARE MORE LIKELY TO COMMIT NEW CRIMES UPON RELEASE.

COUNTY DRUG AND ALCOHOL PROGRAMS MUST RECEIVE ADDITIONAL FUNDS TO TREAT THE DISEASE OF DRUG AND ALCOHOL ADDICTION. TO ERADICATE DRUG AND ALCOHOL ABUSE A BETTER BALANCE BETWEEN LAW ENFORCE-

MENT, AND DRUG AND ALCOHOL TREATMENT AND PREVENTION MUST BE ESTABLISHED. BOTH THE SUPPLY AND DEMAND SIDE OF THE EQUATION MUST BE ADDRESSED. TO QUOTE THE PENNSYLVANIA CRIME COMMISSION'S 1989 REPORT, "OTHER COMMUNITIES THROUGHOUT THE STATE ARE CONFRONTED WITH A SIMILAR DRUG PROBLEM, THE LIKES OF WHICH WILL NOT BE SOLVED THROUGH LAW ENFORCEMENT ALONE. DEMAND REDUCTION, IN THE LONG TERM, IS THE ONLY ANSWER TO SUPPLY REDUCTION".

SEVERAL MEMBERS OF THE COUNTY COMMISSIONERS JAIL OVERCROWDING TASK ARE HERE AND AVAILABLE TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.

IN CLOSING, I WISH TO THANK REPRESENTATIVE CALTAGIRONE AND THE MEMBERS OF THE HOUSE JUDICIARY COMMITTEE FOR THIS OPPORTUNITY TO PRESENTS OUR COMMENTS ON THIS PROPOSED LEGISLATIVE PACKAGE, AND TO GIVE YOU A STATUS REPORT ON THE JAIL OVERCROWDING CRISIS.

Jules Epstein

DEFENDER ASSOCIATION OF PHILADELPHIA

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Benjamin Lerner
Defender

May 15, 1989

REMARKS OF DEFENDER ASSOCIATION OF PHILADELPHIA ON PROPOSED LEGISLATION BEFORE THE HOUSE JUDICIARY COMMITTEE CONCERNING CONTROLLED SUBSTANCES

Introduction

The Defender Association of Philadelphia is a non-profit corporation that provides representations to indigents accused of crime in the city and county of Philadelphia. In addition to representing literally tens of thousands of adults and juveniles at trial and delinquency proceedings annually, the Defender Association utilizes its own substantial social services staff, with psychiatric and psychological consultants, to identify and seek treatment for those clients with substance abuse problems.

The interest of the Defender Association in the various proposed statutes is manifold. A substantial portion of the Association's clientele is indigent and will be impacted by passage of any of the proposed legislation; a substantial proportion of the Association's clientele will continue to be denied treatment for substance abuse, a problem left unaddressed by the various proposals; and the Defender Association wishes to see legislation that will in fact operate to diminish the problems caused by substance abuse.

The thrust of the proposed legislation is to increase available penalties and utilization of mandatory sentencing. However well-intended, it is clear that such an approach carries with it no likelihood of success in attacking the problems of drug availability and drug abuse. Additionally, several unintended but inescapable consequences will flow from the enactment of such legislation, including prison overcrowding (and an immense financial burden to the Commonwealth); an exacerbation of the delay already plaguing the Philadelphia judicial system, if not its complete collapse; and the continued failure to provide treatment for those addicted and education to prevent anyone further from abusing drugs. These concerns are addressed in detail below.

A. Background: The Dimensions of Drug Abuse in Philadelphia

In the 1983 fiscal year, of approximately 17,000 people treated for all categories of substance abuse, 195 were admitted to treatment for cocaine. In the 1988 fiscal year, out of the same overall number of individuals treated, 7,657 were admitted to treatment for cocaine abuse.¹

Shockingly, the number of available beds in drug-free residential programs has remained essentially constant over the past several years. Currently, there are 380 such beds available in Philadelphia; as of March 31, 1989, the waiting list for these beds had 1,776 names. These figures mirror the national dilemma: according to one source, 90% of those who voluntarily seek treatment for addiction are turned away.² Additionally, many clients of the Defender Association, convicted of drug offenses and ordered to undergo treatment by the sentencing judge, wait in prison because of this backlog. Eagleville Hospital was reported to have a current waiting list of four months; the Horizon House program had a four to six month delay for those applicants without insurance.³

The cost of providing treatment is relatively low, certainly as contrasted with the cost of incarceration. Outpatient methadone maintenance costs \$2,979 per individual annually; outpatient drug counseling costs \$1,949 per individual annually; and inpatient non-hospital residential treatment costs \$18,000 annually per bed. With programs ranging from 28 day stays through six month residencies, the cost per individual is at most only 55% of the cost of incarcerating a prisoner for one year and, for programs with a 28-day stay, the cost per individual is one-eleventh that of incarcerating that individual for one year.⁴ Put more simply, for the cost of incarcerating one inmate, between two and eleven individuals can receive in-patient treatment.

¹ These figures, and all others pertaining to the dimension of the Philadelphia drug abuse problem and the availability and cost of treatment resources, were provided by the Coordinating Office of Drug and Alcohol Abuse Programs.

² Testimony of Linda Lewis of the Alcohol, Drug Abuse and Mental Health Administration before the House of representatives Select Committee on Narcotics Abuse and Control (May, 1988).

³ The figures concerning Eagleville Hospital and Horizon House were provided by the Social Services division of the Defender Association.

⁴ This analysis is based upon an approximate cost of incarceration in a state prison of \$16,000 annually. The focus on one year's incarceration came as a result of the inclusion in many pieces of proposed legislation of mandatory incarceration for at least that amount of time.

The proliferation of drugs and the already-toughened drug laws have also had a marked impact on the judiciary. In Philadelphia there has been a dramatic upsurge in both the number and percentage of felony cases involving drug possession and delivery, and it is estimated that 20% of the current caseload involves drug prosecutions.'

B. The Costs, Consequences and Failures of Increased Penalties

It is beyond question that Pennsylvania, like many other jurisdictions, is already faced with a prison overcrowding problem of crisis proportions. As of December, 1987, prisons in Pennsylvania were filled to 131% of capacity. What bears study is the clear relationship, across the nation, between increased prosecutions for drug offenses and prison overcrowding.

Nationally, the number of state prison inmates incarcerated for drug offenses more than doubled in the past ten years, increasing from 17,572 in 1979 to 36,000 in 1986.'

The picture in federal prisons is even more compelling. In 1980, 22% of all inmates admitted to federal prison were incarcerated for drug offenses. In 1986, 34% of all inmates admitted to federal prison were convicted of drug offenses. As of May 2, 1989, out of a total federal prison population of 48,039, 44.1% had been sentenced under the federal Drug Abuse Act of 1970.'

Most disturbing are the projections for future incarceration levels prepared by the United States Sentencing Commission. The Commission's first conclusion is that, if the sentencing trends set in the period 1982-1986 continue, the federal prison population will increase to a point between 61,000 and 78,000 by 1997. The Commission further concluded that, if the provisions of the 1986 federal drug laws were fully implemented, the federal prison population would increase further, to between 86,000 and 108,000 inmates.

Two conclusions flow ineluctably from these statistics. First, prison population will continue to grow, and outpace the

' No specific data are available from the Court of Common Pleas of Philadelphia County; these estimates are from the Defender Association's felony caseload supervisors.

' This statistic is from the Bureau of Justice Statistics' "Survey of State Prison Inmates."

' These and the following statistics pertaining to federal prison population and overcrowding were provided, except where otherwise noted, by the federal Data Center & Clearinghouse for Drugs & Crime.

building of new prison space. Second, such patterns of incarceration have had no impact whatsoever on the availability of drugs, particularly cocaine and the "crack" derivative. No shortage of the drugs has been reported at any time in the past several years; similarly, no price crunch or squeeze has resulted from such law enforcement. The drugs remain available, plentiful, and cheap.

The proposed legislation being considered by this committee will have precisely the effect on prison population engendered by the comparable federal legislation. Prison overcrowding will explode.* Equally significantly, there is no provision in any of the sentencing bills either for the necessary appropriations to support such a prison expansion or for any form of drug treatment or counseling for those incarcerated.

Other collateral but substantial consequences of increased incarceration will result immediately. First, for every increase in the use of mandatory sentencing or harsher penalties, the number of demands for jury trials will increase, bogging down an already overburdened court system. Greater and greater amounts of time will be consumed on each case, as lawyers litigate suppression motions, challenge chemical analyses, and otherwise put the government to its proof on each and every contested issue.

Secondly, with the substantial commitment of financial resources to prison facilities that these bills necessitate, less and less money will be available for drug treatment and preventive education. Yet it is precisely such education that has the greatest success in reducing the demand for drugs.

C. Recommendations

A clear and unequivocal legislative response to the crisis in our cities caused by drug abuse and addiction is essential. However, the increase in penalties in Pennsylvania over the past several years has had no impact on the availability or abuse of drugs, and no proof exists to substantiate a claim that further increasing penalties will turn the tide.

Current law already provides judges with a wide range of sentences, allowing lengthy periods of incarceration for those

* Examining many of the proposed pieces of legislation demonstrate this clearly. Under House Bill 965, any person who "engag[es] for profit in a scheme or course of conduct to unlawfully manufacture, distribute, dispense or import or transport a controlled substance" is required to serve a minimum of ten (10) years incarceration. This bill, by its broad language, applies to every person convicted of any participation whatsoever in a drug sale.

charged with drug offenses. Adding further penalties, and/or mandating their imposition, will overcrowd the prisons, with the concomitant safety risks, without making a dent in the problem of drug trafficking.

Education, treatment and greater police presence and community activism will, dollar for dollar, have a much greater impact on drug abuse than all the mandatory sentences imaginable.' To do otherwise may appease the public's legitimate and visceral outcry, but will generate only fiscal crises and leave the drug problem with no end in sight. If new sentencing measures are needed, they are those which would ensure treatment and require the offender to work to offset the damage done to his/her community, and not those which remove the offender but leave ten new drug sellers stepping into their place, as the community continues to suffer and pay the bill for incarcerating the offenders.

Respectfully submitted,

Jules Epstein
Assistant Defender

' To this end, the Defender Association endorses House Bill 845, which allocates confiscated money, in part, to community organizations and treatment facilities.

Nothing's working

It's time to recognize that in the war against drugs, our information is inadequate

Spending a couple of days last week at a conclave of the nation's top drug-fighters in Washington has led to two disheartening observations. The first is that nothing America is doing is working. The second, which is closely linked to the first, is that we don't have any idea what might work because we just don't know enough about the problem.

"From these two points flow a policy recommendation that sounds incredibly trite at a time when there is great pressure for someone to sound the trumpet and order a charge. Just the same, it may just be that the right thing for this nation to do at this point is: Study the problem.

The depths of our ignorance are truly astonishing, if not necessarily surprising. One Washington-based criminologist notes that the nation spends 10 times as much researching the causes of tooth decay as it does probing the causes of crime, including drug-related violence.

No one has effectively traced the patterns by which drug abuse has spread across the country, and how it is related to crime and other sociopathic behavior. The two basic sources of information about the spread of drugs at present are both seriously flawed. One is a statistically deficient annual study of American households. The other is a survey of high school seniors that, by its very design, omits those students who have dropped out, and who presumably are those most likely to find their way into the drug culture.

The results of these surveys have incongruously indicated that drug use is going down when all other evidence shows it is spreading ever farther, into even the most rural corners of the country, and exploding to terrifyingly new levels of violence in the cities.

Dr. Charles F. Shuster, director of the National Institute on Drug Abuse (NIDA), acknowledges that Congress did appropriate \$10 million last year to expand and improve this kind of research, but that amounts to peanuts compared to what a single pharmaceutical company might spend in a single year looking for a new product breakthrough.

Unsurprisingly, given that level of effort, there have been no recent pharmacological breakthroughs in

the effort against drugs. As yet there is no known drug that will counter the neurological effects of crack, or cocaine. The country's drug experts still don't fully understand what creates drug dependency for cocaine and crack users, and know even less about the new generation of synthetic drugs now coming on the market. Significant advances in treatment have also proved elusive.

Worse still, there is no nationally recognized system for separating the good programs from the bad. Nor is there an effective effort to recruit, train and adequately compensate drug counselors. One official jeeringly showed help wanted ads for counselors that said, in big type, "NO EXPERIENCE NECESSARY."

Law-enforcement solutions have proved problematic. Simply arresting drug dealers didn't help much in Washington. District of Columbia Assistant Police Chief Max J. Krupo says that nearly 50,000 drug offenders were arrested between August 1986 and last fall in a special crack-down — with little effect on drug traffic in the city. One problem: Only about 3,000 of those arrested went to jail. Prison overcrowding in Washington is so bad, the chief said, that police officers have been known to load prisoners into vans and drive them around the Washington Beltway until space is available. "I'm not kidding," said Chief Krupo.

Building more prisons, California is learning, is an awesomely expensive undertaking. State law there bars officials from releasing inmates to meet a population cap, as has been done in Philadelphia. As a result, the state has spent \$3.2 billion since 1983 on adding prison space, with another \$17 billion in prison construction scheduled for completion by 1994. (By contrast, Pennsylvania spent only \$92 million in the last two years to construct new prisons.)

New laws mandating death sentences for drug kingpins involved in murders have, as yet, produced no perceptible results, except to hamper efforts to extradite accused dealers from countries that don't have the death penalty.

These failures on the home front have led to unremitting pressure on Congress and the White House to spend money to block the drug influx from foreign countries, most of which is flown in. "Our police cars don't fly, you know," cracks J. Thomas Cochran, executive director of the U.S. Conference of Mayors. However, the nation's expensive interdiction program has had, to date, no perceptible impact on the availability of drugs.

It is, in short, a distressing and depressing state of affairs, enough to make William J. Bennett, the nation's new drug czar, panic and do the wrong thing. Mr. Bennett, who must produce a plan by September for mounting another offensive, has already given broad hints that he will follow the traditional path of spending the lion's share of scarce anti-drug funds for tougher law enforcement, with some experiments in such things as military-style boot camps for drug offenders.

To win his war, Mr. Bennett needs to recognize the need for better intelligence about the enemy, and new weapons against addiction. Otherwise, the traditional tactics of concentrating resources on the same law-enforcement and interdiction tactics that have been used in the past will continue to go about as far as they have up to now — nowhere.

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Page 10-A

OUTPOSTS

Every week *Outposts* examines contemporary ideas that are changing our lives and expanding our intellectual frontiers. This week, Jerome Miller argues that rehabilitation of criminals can work. Miller, director of the National Center on Institutions and Alternations, formerly headed the Pennsylvania and Massachusetts state prison corrections systems and the Illinois Department of Children and Family Services.

CRIMINOLOGY

Is Rehabilitation a Waste of Time?

By Jerome Miller

LAST ONE gloomy winter afternoon in 1960, New York sociologist Robert Martinson hurried himself through a ninth-floor window of his Manhattan apartment while his teenage son looked on. Martinson had become the leading debunker of the idea that society could "rehabilitate" criminals. His melancholy suicide was to be a metaphor for what would follow in American corrections.

The question that obsessed Martinson still haunts debates on the purposes of corrections. It surfaced recently in the controversy over Maryland's Patuxent Institution; and it underlies drug czar William Bennett's plan for more prisons and Mayor Marion Barry's call for 2,000 more cells. They embody the now-popular assumption that rehabilitation is pointless. Policy initiatives emphasize more cells for more inmates, and the main federal "message" to cities, as Attorney General Richard Thornburgh succinctly put it, is "Do the crime, you do the time."

But the present fixation on punishment and deterrence may prove a costly mistake. In fact, there is considerable evidence that rehabilitation which adheres to certain principles can be dramatically successful (see box). And we'd better start learning what those standards are. The currently fashionable notion of more "hard time" for more offenses could bankrupt many state and local budgets while guaranteeing even higher recidivism rates.

Martinson's skepticism about rehabilitation derived from his role in co-authoring a 1975 survey of 231 studies on offender rehabilitation spanning the previous 30 years. Titled "The Effectiveness of Correctional

Treatment," it became the most influential influential criminology study of the past half century.

The time was ripe: From 1963 to 1973, murder, assault and burglary rates doubled while robberies tripled. Martinson's views were enthusiastically embraced by the national media, often under the headline, "Nothing Works." Ironically, all the alleged and drug was over something that scarcely existed. Even at the height of the so-called "rehabilitative era," a corrections department spending more than 8 percent of its budget on treatment was unusual. But the attack was taken up by liberals and conservatives alike—many of whom felt that belief in rehabilitation, as Harvard's James Q. Wilson put it, "rests on naively optimistic but heroic assumptions about the nature of man."

But as Berkeley criminologist Elliott Currie would later explain, "programs cited by Martinson and other critics as evidence that rehabilitation did not work were often not only underfunded and understaffed, but typically staffed by poorly trained and often uninterested people. These overly critics of rehabilitation made little effort to separate reasonably serious and intensive programs from those—vastly more common—that at best offered minimal counseling or tutoring to people who were otherwise allowed to languish in the enforced bleakness of institutions or in the shattered, dead-end communities from which they had come."

The classic 30-year "Cambridge-Somerville Youth Study" is a premier example. In the Harvard-sponsored program began in 1937, researchers followed 220 boys for 30 years. The boys were assigned to 10 "counselors" who had no training in mental health or psychotherapy and were told to do "whatever they thought best." Each youth was seen only five times annually during the early years of the project. Not surprisingly, the program

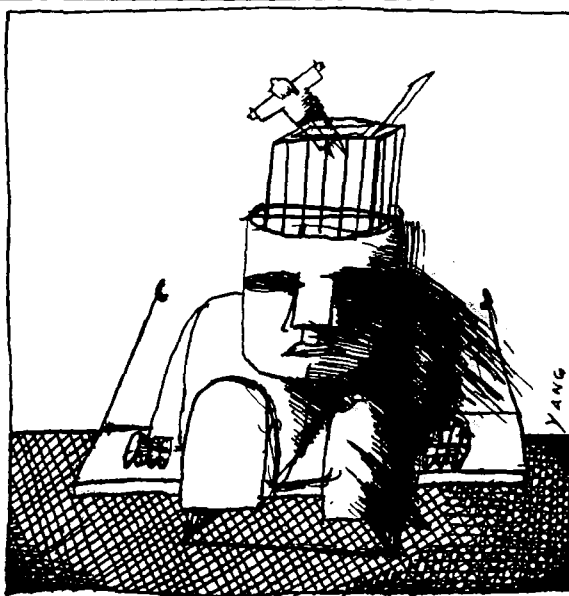
had little effect on subsequent criminal behavior.

Problems of Perspective

Part of the problem in evaluating rehabilitation is deciding what constitutes success. For example, in studying the effectiveness of family therapy with hard-core delinquents (each having 20 or more previous convictions), one survey found that after 15 months, 60 percent of those in therapy had re-offended. However, 90 percent of the matched "no-therapy" control group re-offended. A medical procedure that suppressed symptoms in 40 percent of a group of chronically ill patients, 93 percent of whom deteriorated without treatment, would be seen as a virtual triumph in corrections, however, such results are usually regarded as failure.

Moreover, simply reading in some communities increases the likelihood of being labeled a recidivist. Nearly half (46 percent) of the boys in some areas will appear in juvenile court during their teen years. Among young black men in certain parts of the country, seven out of 10 can anticipate being arrested at least once. Though this may suggest failure, it may not measure individual criminal behavior. Indeed, among chronic delinquents the simple fact of re-arrest may be less important than whether the young offender is winding down his criminal activity.

But the biggest problem in getting a fair hearing for rehabilitation is that so many efforts have failed spectacularly. A team of researchers from the Academy for Contemporary Problems found that the "velocity of recidivism" among youthful offenders actually increased with each trip to a state reform school for rehabilitation. Rand Corp. researchers reported similar patterns among adults.



Nonetheless, some theorists insist that the very fact that a prison is dangerous and violent makes it rehabilitative. It's a variation on the "Scared Straight" theory. Unfortunately, repeated studies have shown that it doesn't work.

The Inexpensive Cure

So, if the presently popular notion, "we can't have a complete cure," why not simply lock up all offenders? Simon Dinitz from the Academy for Contemporary Problems' "Dangerous Offenders Project" considered that draconian option. He estimates that incarcerating every first-time felony offender for five years would likely yield no more than a modest 7.3 percent decrease in crime rates. But U.S. prisons (already overcrowded) would have to increase their populations 300 to 500 percent, entailing construction costs of \$130 billion and increasing annual operating budgets from \$12 billion to between \$39 billion and \$60 billion. And even that would not guarantee that crime rates would stay down for long. Those in prison are often replaced by others waiting in the wings (particularly among drug offenders). More cynically, such a policy would yield 3 to 5 million slightly more hardened ex-convicts dumped into the streets every five years.

The most unusual case for incarceration was made late last year by Richard B. Abel, an assistant attorney general in the Justice Department. Writing in *Policy Review*, and using figures compiled by a Justice economist, Abel concluded that we save \$40 million annually in crime costs for every 100 offenders who are incarcerated—based on the extraordinary assumption that a typical offender commits 187 crimes per year at an average \$2,300 per crime, or \$430,100 annually.

Calling these estimates "not merely wrong, but ludicrously wrong," University of California researchers Franklin Zimring and Gordon Hawkins noted that at a rate of 187 crimes per offender per year, putting a half-million more persons in prison would lower the number of crimes nationally by almost 50 million—that makes the nation safer, since there are about 45 million crimes reported annually. By Abel's calculations, in fact, crime must have disappeared sometime in late 1985 as a result of the doubling of prison and jail populations from approximately 300,000 in 1978 to about 800,000 in 1986. Nonetheless, President Bush—who pledged during the campaign to double the federal prison budget over four years—has used the same argument.

All this suggests that we are willing to invest large sums in variations on themes of restriction and deterrence. Yet Canada's psychologist Paul Gendreau and University of Ottawa sociologist Robert Ross, citing sophisticated new mathematical analyses of the data on rehabilitation, concluded that "the (substantiated) claims for effective rehabilitation of offenders far outdistanced those of the major competing ideology, applied deterrence or punishment."

Actually, Something Works

As early as 1976, a Rand Corp. report had suggested that the "nothing works" conclusion was probably premature. Three years later, the National Academy of Sciences panel concluded that "when it is asserted that 'nothing works,' the panel is uncertain as to just what has been given a fair trial." And now, in their latest survey of the rehabilitative literature, from 1980 to 1987, Gendreau and Ross found "reductions in recidivism, sometimes as substantial as 80 percent had been achieved in a considerable number of well-controlled studies. Effective programs were conducted in a variety of com-

munity and (to a lesser degree) institutional settings, involving pre-delinquents, hard-core adolescent offenders and recidivist adult offenders, including criminal heroin addicts." The literature of the '80s demonstrates that a number of techniques can reduce recidivism among both property and violent offenders. These include substance-abuse treatment (combining intensive counseling with drug screening), family therapy, individual therapy, stress management, and—particularly with young offenders—assigning "advocates" to work with individuals on a daily basis, including crisis intervention at odd hours. In Massachusetts, Harvard researchers found that reconvictions fell among older former reform-school youth when a range of such alternatives was available. In those regions of the state where no such array existed, recidivism remained the same or increased.

Educational programs for hard-core adult offenders have also shown promising results. Inmates of a Canadian federal prison, many with long and serious criminal histories, were assigned randomly either to normal prison on routine, or to a special humanities program stressing individual tutoring using Socratic dialogue. In a report prepared for the Canadian government, psychologists U.S. Ayres and his colleagues found that after 20 months of post-prison follow-up, the recidivism rate of those in the program was 14 percent as compared to a 52-percent rate for those randomly assigned to prison routines.

Discovering what works is less a matter of deciding on a specific treatment technique than of creating programs that are intensive, intensive, intensive, last a reasonable period of time and focus on high-risk offenders. (In fact, programs directed at low-risk offenders can sometimes be counter-

productive if they are allowed to pick up antiscocial skills and attitudes from higher-risk persons.) Canadian psychologist D.A. Andrews and J. Keeling found that effective therapy promoted personal attitudes, rewarded non-criminal pursuits, made use of a wide range of community resources, taught skills for handling relapse and treated the offender with respect and empathy—many of the very qualities that characterize effective psychotherapy with non-offenders.

Ironically, even Martinson himself changed his mind on the efficacy of rehabilitation. In a 1978 article in the *Harvard Law Review*, he wrote the "startling results are found again and again . . . for treatment programs as diverse as individual psychotherapy group counseling, intensive supervision and what we have called individual help." The man who started it all had come full circle. But by then so was he apparently.

And apparently they still aren't. On Jan. 18, the U.S. Supreme Court confirmed the abandonment of rehabilitation. In *Milvane v. U.S.*, the Court upheld federal sentencing guidelines which all but remove rehabilitation from serious consideration. The dissonant reverberation from a decade earlier has become the national norm. As a result, federal prison populations are expected to double.

And a program for detainees at four sites in Michigan—where college students trained as paraprofessionals gave six to eight hours of counseling per week to each youth—reduced recidivism rates by nearly a third. All this suggests that the most successful agents in rehabilitation may not be those in the roles familiar to American psychiatry, psychology and social work. Such professionals typically have preferred to work with the "most likely to succeed"—the most articulate and socially skilled offenders who are least in need of professional care. Rehabilitation directed at the more problematic cases requires a new kind of worker who is willing to reach out, pursue and even advocate for offenders who are unlikely to fit the 9-to-5 regimen of the traditional mental-health professional.

A fitting epilogue to the rehabilitation debate can be found in the research conducted in 1987-88 on New York's successful "Star" therapeutic community drug abuse treatment program—an other model with an extensive aftercare component. Both male and female drug addicts showed dramatically lower arrest rates than control groups. The research monograph was coauthored by Douglas Lipton, senior author of the 1975 survey which Martinson claimed showed that "nothing works." Lipton is now a leading advocate of rehabilitation in corrections.

—Jerome Miller

Advertisement

A N E D U C A T O R ' S O P I N I O N

A Future for Children

I have been privileged to serve on the board of directors of the United States Committee for UNICEF, the United Nations Children's Fund. It is an experience that has given a human face to all the dry economic news about falling commodity prices and renegotiation of developing nations' debt. Tragically, the human face I see is that of a young child—mainly, suffering from disease, denied an education, and thus denied a future.

Children are the prime victims of the developing world's impoverishment. It's hard to comprehend, but each year some 14 million children die from common illnesses and malnutrition.

The 1980s have been a harsh decade in the Third World. In most of Africa and much of Latin America, average incomes have fallen by 10 to 25 percent. At the same time, in the 37 poorest nations, health spending has dropped 50 percent—and education spending 25 percent.

The recent UNICEF report, *State of the World's Children 1989*, notes that an additional half million children are dying each year due to worsening economic conditions.

But this tragedy is preventable. In the midst of growing poverty, simple, inexpensive programs, such as UNICEF's immunizations against measles, tetanus, and whooping cough, are saving the lives of 2.5 million children a year—almost 7,000 children a day.

Perhaps you can imagine my an-

guish when President Bush proposed last month to cut the U.S. contribution to UNICEF from \$60 million to \$34 million. That \$26 million savings is not a lot of money to the U.S. government. But it's an enormous amount to children in need of life-saving vaccinations, potable water, and schools. I often write about the connection between education and the U.S. economy, emphasizing that America's future depends on educating all our children well.

That truth does not stop at our nation's borders. Children in developing nations are the future of their countries just as surely as American children are the future of ours.

A new plan—jointly sponsored by the United Nations Educational, Scientific, and Cultural Organization (UNESCO), the U.N. Development Program, the World Bank, and UNICEF—recognizes education as a prerequisite for economic development. The plan, which aims to drastically reduce global illiteracy by the year 2000, stresses primary education for children in developing countries.

In *The State of the World's Children*, UNICEF head James Grant, a U.S. citizen, calls the protection of children's minds and bodies "both a moral imperative and a practical pre-condition for sustained economic and social progress."

Programs that seek to assure children in poor nations a future deserve U.S. support, for the sake of our tomorrow—and the world's.



Mary Harwood Patrick
President, NEA



National Education Association • 1301 16th Street, N.W. • Washington, D.C. 20036
(202) 633-7300

Hard-Core Success

IN DETROIT and Boston, successful programs for violent young offenders begin with a brief period of structured therapy in a locked residential setting, followed by intensive and long-term community supervision. New York researchers Jeffrey Fagan and Elliot Harstone discovered 1987 these programs cut recidivism significantly because they fit the therapy to the individual needs of each youth, provided extensive social networking and "continuity of care" and were perceived by the youths as offering real opportunities for success.

Similarly effective results have come from Massachusetts where, since the closing of state reform schools in 1973, a private non-profit program called "Key" has offered intensive "outreach and tracking" for high-risk delinquents. Key trains mostly college-age men and women to work intensively with the youths 10 to 50 hours per week in their own homes and communities, usually in the evening or on weekends—the times when most youngsters get in trouble.

Key workers are not neutral, but are advocates for their charges. (When monitoring is done by more disinterested juvenile-court personnel, the results have been far less successful.) Key advocates negotiate the school system, cable human-service bureaucrats, intervene when a youth strays, deal with police and encourage legitimate activities. While in the program, 92 percent of these high-risk youth remain offense-free.

And a program for detainees at four sites in Michigan—which college students trained as paraprofessionals gave six to eight hours of counseling per week to each youth—reduced recidivism rates by nearly a third.

All this suggests that the most successful agents in rehabilitation may not be those in the roles familiar to American psychiatry, psychology and social work. Such professionals typically have preferred to work with the "most likely to succeed"—the most articulate and socially skilled offenders who are least in need of professional care. Rehabilitation directed at the more problematic cases requires a new kind of worker who is willing to reach out, pursue and even advocate for offenders who are unlikely to fit the 9-to-5 regimen of the traditional mental-health professional.

A fitting epilogue to the rehabilitation debate can be found in the research conducted in 1987-88 on New York's successful "Star" therapeutic community drug abuse treatment program—an other model with an extensive aftercare component. Both male and female drug addicts showed dramatically lower arrest rates than control groups. The research monograph was coauthored by Douglas Lipton, senior author of the 1975 survey which Martinson claimed showed that "nothing works." Lipton is now a leading advocate of rehabilitation in corrections.

—Jerome Miller

PHILADELPHIA COURT STATISTICS¹

1) Current caseload and backlog:

As of the end of April, 1989, 9,837 felony cases were in post-arraignment, pre-trial status in the Philadelphia Court of Common Pleas. All but 348 were non-homicide cases. The estimate of Court Administration is that the Court system as currently staffed is capable of smoothly managing an inventory of between 5,000 and 6,000 cases, indicating that the current backlog contains roughly 4,000 more cases than the system is capable of handling.

2) Drug prosecutions as percentage of caseload:

1983: Out of 9,784 felony cases disposed of, 373 involved narcotics violations, 3.82% of the total caseload.

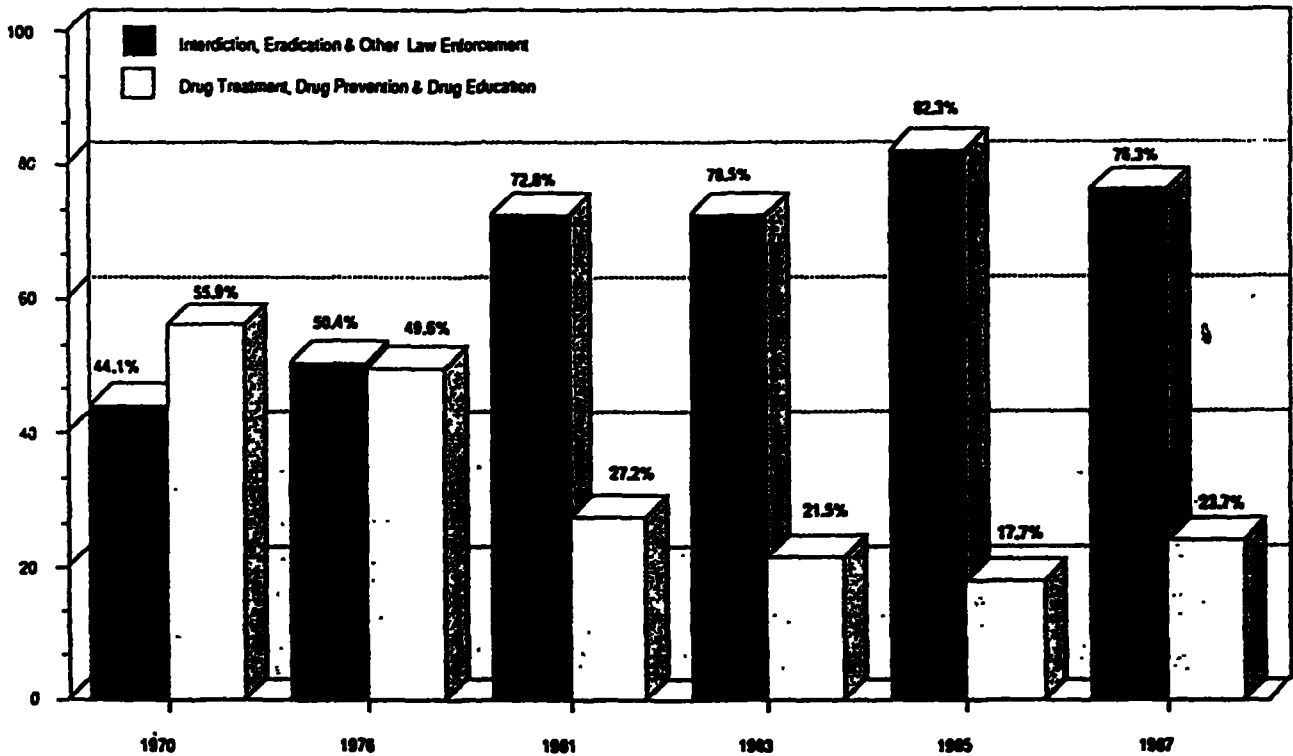
1988: Out of 13,504 felony cases disposed of, 2,601 involved narcotics violations, or 19.3%.

1989: Court administration estimates that 30% of the current open felony caseload in the Court of Common Pleas involves narcotics offenses.

These statistics were provided by the Office of Court Administration of the Court of Common Pleas of Philadelphia

One Reason Why U.S. Drug Policy Fails

The Disparity in Federal Funds Devoted to Treatment and Enforcement



Sources: U.S. General Accounting Office and U.S. Rep. Fortney "Pete" Stark.

Speed's Gain in Use Could Rival Crack, Drug Experts Warn

By JANE GROSS

Special to The New York Times

SAN FRANCISCO, Nov. 26 — Made in a growing number of clandestine laboratories, the drug speed is surging across the West and could soon rival crack elsewhere in the nation, law-enforcement officials and experts on drug treatment say.

"It's an astronomical problem," said Ron D'Ulisse, an agent of the Federal Drug Enforcement Administration in San Diego and an authority on speed. "It can't be overstated. There's unanimous agreement out here that, Hey, this drug is out of control."

Speed, or methamphetamine, is a powerful stimulant to the nervous system that has been used for a generation, starting with diet pills diverted for illegal use. Its popularity has jumped in recent years with the increase in makeshift laboratories turning out an off-white powder that can be snorted, injected or taken in a beverage.

This fall the Federal Drug Enforcement Administration's Western Laboratory here in San Francisco identified a smokable form of the drug that looks like quartz crystals. When crack, the smokable form of cocaine, appeared on the East Coast in 1985, it meant a cocaine epidemic was at hand.

Methamphetamine is cheaper than

cocaine and produces a longer-lasting euphoria. Its abuse is most prevalent in California, Texas, Oregon and Arizona, but a recent study for the National Institute on Drug Abuse, warns, "Domestically produced methamphetamine looms as a potential national drug crisis for the 1990's."

Drug law-enforcement agents say speed is simple to make and lucrative to market: \$175 worth of chemicals yield a pound of pure methamphetamine, which is then weakened to make two pounds and sold for \$32,000.

Highlights of the Battle

Both the Federal study and interviews with more than a dozen experts show that speed is gaining ground, as in these examples:

¶ In the last two years, Federal statistics show, the number of emergency room cases involving methamphetamine complications has doubled and deaths from the drug are up 80 percent.

¶ Raids on clandestine laboratories have more than tripled since 1983, with 5 of them shut down last year. Of those, 489 were in California. State and Federal officials say at least five labs are operating for each one that is

closed, and only manpower shortages have kept the number of raids and confiscations from rising.

¶ Huge quantities of speed are being made. In San Diego, where the problem is considered most severe, 1987 production reached 20,000 pounds, enough, said Mr. D'Ulisse of the Drug Enforcement Administration, "to keep every man, woman and child here under the influence for six months."

¶ At least four companies that make chemicals in California have recently been seized in joint state-Federal undercover investigations, for knowingly selling chemicals that can be synthesized into speed. One company was owned by a man who had been convicted of manufacturing the illegal drug.

Addicts Abound in Hospitals

Drug rehabilitation centers in San Diego, San Francisco and other Western cities are jammed with speed addicts. Police blotters list growing numbers of methamphetamine-related homicides. Mental health experts report an increase in drug-induced psychoses.

Doctors, counselors and law-enforcement officers tell of a sharp increase in a pattern of agitated, violent behavior in addicts that resembles paranoid schizophrenia.

With speed-making labs being seized in California, Federal agents say, the clandestine operations have moved to Nevada, Montana and Oklahoma, making the drug available to new users.

Not a Killer's Reputation

The conventional wisdom has been that speed's makers will not invade areas already dominated by cocaine because the drug lords in those areas block competition. But this week a drug hot line in Florida received its first reports that methamphetamine was available in Miami, which had been the exclusive domain of crack dealers.

Experts say they fear that users of crack could turn from the cocaine derivative to methamphetamine, variously known as crystal or crank as well as speed. In addition to the cheaper "high," speed does not have the deadly reputation that cocaine has.

The growth in methamphetamine production and distribution poses new problems for law-enforcement officials. Unlike cocaine, which begins as a plant grown overseas, speed is synthesized in domestic laboratories.

'You Just Need Chemicals'

"What's so insidious is you don't need any Bolivians to grow it on a mountainside," said Joe Miano, a D.E.A. intelligence analyst in Washington. "You don't need any Colombians to traffic the stuff up from South America. You just need chemicals, most of them readily available here in the United States."

James N. Hall, executive director of Up Front, a drug information center in Miami, said, "The legal risks aren't as great when you don't have to cross the border and there are fewer people in the trafficking network." Mr. Hall conducted the methamphetamine study for the National Institute on Drug Abuse.

If efforts to stop or reduce the flow of cocaine into the United States succeed, methamphetamine could become the instant substitute.

Historically, speed and cocaine have seesawed in popularity, drug experts say, depending on cycles of supply and demand. What makes the current situation particularly grave is that both substances are gaining ground at the same time.

"Both curves are up," said Dr. David E. Smith, director of the Haight-Ashbury Free Medical Clinic here, which was founded in 1967, when abuse of diet pills was rampant. "That's what makes this the worst stimulant-abuse epidemic I've ever seen."

Federal and state officials have tried to limit the manufacture of methamphetamine by outlawing or restricting its precursor chemicals, like phenyl-2-propanone, used in the production of perfume, and ephedrine, the active ingredient in several over-the-counter cold medications.

But those who make the drug keep devising new recipes and staying one step ahead in this perpetual cat-and-mouse game. "As we list the chemicals as reportable they just go on to something else," said Robert K. Sager, chief of the the drug agency's lab here, which handles samples for 11 states.

The most popular way to make the drug, with ephedrine as the main ingredient, is "easier than a Betty Crocker cake," Mr. D'Ulisse said. Mimeographed and illustrated instructions, often seized in raids, show that no special expertise is necessary, although the flammable materials involved pose a certain risk.

"We've seen church leaders and neighborhood watch captains, a 10-year-old boy and a 65-year-old woman," Mr. D'Ulisse said. "This is amateur hour."

One former user and manufacturer, now in a treatment program, described "bubbling flasks like in a monster movie." One mistake, he said, and the house would go up in flames.

State and Federal officials here say each gallon of methamphetamine creates two gallons of toxic waste that is often dumped by the side of the road, or in stream beds. Or the waste ma-

NEW YORK TIMES

11/27/88

PG. 1

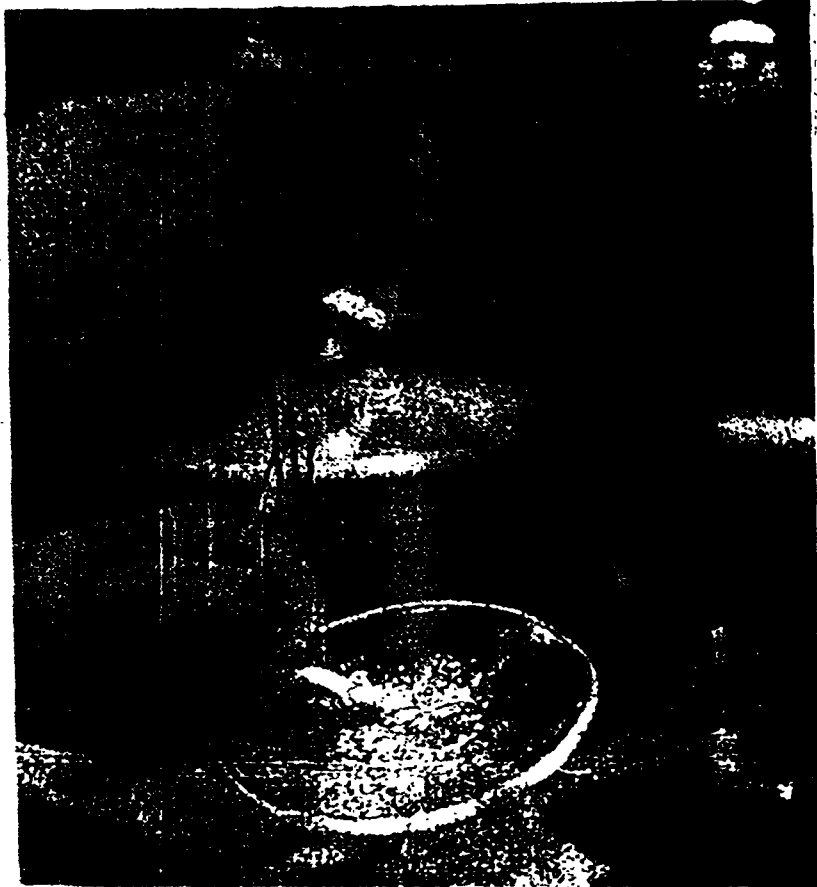
terial is left to contaminate rented houses that the drug cookers have abandoned.

The waste from methamphetamine production includes carcinogens, mutagens, explosives and hazardous metals like lead and mercury, officials said.

Several agents involved in seizing drug-making laboratories said they had once suffered from skin, lung and liver problems. Once the agents wore street clothes when they entered those places. Now plastic gloves, boots and coveralls are standard, with breathing apparatus.

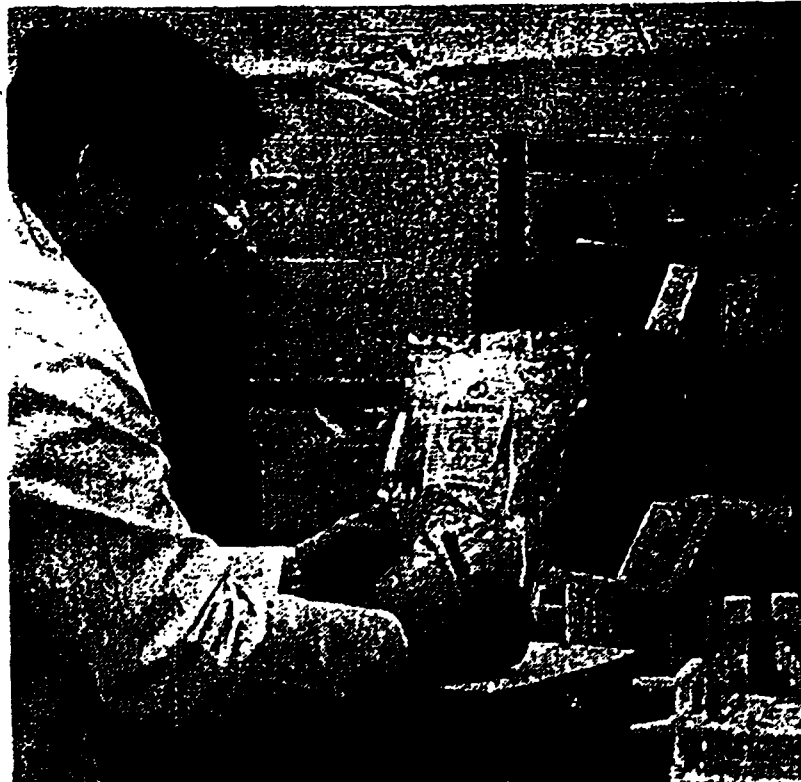
Many seizures are a result of accidents rather than investigative work, Mr. Sager said. Often, a lab is discovered when it burns or blows up, because so many are in remote rural areas. Once a drug cooker kicked his wife out of the house and she turned him in. Another time a cooker parked his van on somebody else's property, and that led to a complaint to the police.

Mr. Sager said he went to Oregon recently in quest of land for his retirement, and literally sniffed out three clandestine labs — because of the chemicals' odors. "Their clothes smell," Mr. Sager said. "Their cars smell. Their kids probably smell. These are not your normal neighbors."



The New York Times/Terrance McCarthy

Crystallized methamphetamine, speed, being made at a Drug Enforcement Administration laboratory in San Francisco. The crystallized form is smokable and may be as great a threat as crack.



The New York Times/Terrance McCarthy

Roger Ely, a forensic chemist, at the Drug Enforcement Administration laboratory in San Francisco working on evidence obtained in a raid on a speed laboratory in Montana.

GAO report

U.S. fails in South American drug war

By Charles Culhane

WASHINGTON, D.C. — Despite large expenditures of money, the U.S. effort to eliminate drug crops in two major drug-producing countries in South America has failed, said a new report from the General Accounting Office.

During Fiscal Year 1988, which ended last September 30, the U.S. Bureau of International Narcotics Matters furnished about \$98.7 million in anti-drug funds to 11 Latin American nations, including \$15 million to Bolivia and approximately \$11 million to Colombia to help eradicate drug cultivation.

However, total production of coca, the source of refined cocaine, doubled from 1982 to 1987, the report said. Peru, Bolivia, and Colombia, were the sources of almost all of the increased yield of the drug crop.

The most notable failure in the anti-drug effort has occurred in Bolivia which produces an estimated 49 percent of the cocaine smuggled into the United States. Political corruption and resistance from alliances

IN RECENT MONTHS, the United States has dramatically escalated its role in foreign drug wars. According to recently published federal documents, the State Department plans to:

- Amass an armada of 150 aircraft.
- Recruit American civilian pilots to fly the planes.
- Equip host-country co-pilots with M-60 machine guns.
- Spray coca fields with tebuthiuron, or Spike, an untested herbicide.
- Strike drug operations in Peru, Bolivia, Colombia, Ecuador, Venezuela, Belize and Jamaica.
- "Engage the enemy" if fired on.

For another perspective on foreign interdiction efforts, see *Behind the Scenes*, Page 6.



of peasants and growers' unions have combined to thwart the anti-drug effort in that country.

The GAO, which is an investigative arm of the U.S. Congress, directly contradicted assertions earlier this year from the U.S. State Department that anti-drug forces were making

substantial progress in Latin America this year.

State Department officials cited destruction of more than 4,440 acres of coca fields during the past year as evidence of progress. But the GAO said the new coca that peasants have planted in the same period has far

outweighed the crops that authorities have succeeded in eradicating.

During the past 12 months, for example, growers have planted more than 8,100 acres of coca in Bolivia and the total coca crop now under cultivation there amounts to

(Continued from Page 1)

100,000 acres. At the same time, the number of Bolivian families engaged in coca cultivation has increased from 15,000 in 1978 to an estimated 70,000 families now.

One crucial problem in trying to reduce the drug crop is the tremendous profitability involved. Coca brings growers more than twice the price of coffee and more than four times as much as they can get from raising such things as fruits or vegetables. "No single agricultural crop or combination of crops can provide a farmer with the income that can be earned from producing coca," the GAO said.

Meanwhile, assassinations of police, high government officials and journalists have blocked the anti-drug efforts in Colombia, the report said.

Colombia has been the home base for years of the notorious Medellin drug trafficking cartels. Now the

drug underworld is expanding the amount of coca crops planted there, often in remote areas in the country's jungles. The choice of these remote locations makes it difficult for authorities to detect and eradicate the illicit drug crops.

The GAO investigators estimate that coca production in Colombia has increased by 80 percent in the past three years and an estimated 60,000 acres are devoted to coca production there.

The National Drug Policy Board, the Reagan Administration's major agency for anti-drug policy coordination, recently announced a new drug strategy seeking a 50 percent reduction in the cultivation of coca in the next four years, mainly through the use of herbicides. However, the GAO noted, the spraying of herbicides has drawn strong opposition from important political groups in Latin America in the past.

WEDNESDAY
APRIL 19, 1989

PHILADELPHIA DAILY
NEWS
THE PEOPLE PAPER

For Sale: Corners to Deal Drugs

Choice Spots Going for 30G: Page 3

Dealers 'Buy' and 'Rent' Drug Corners

\$30,000 the Going Rate

By Joanne Sills

Daily News Staff Writer

West Dauphin Street

Dealers along this strip in Kensington — the hottest drug area in the city and one of the most violent — have moved into real estate.

For \$30,000 police say a prime corner of an intersection like Dauphin and Mascher streets can be 'bought.' Another location can be 'rented' for \$500 a day.

Corners with an established name are valuable in the marketplace, says Lt. John Gallo, head of the Police Department's East Division task force.

Community fights back: Page 57

Such a corner has convenient access for drug buyers, and the corner entrepreneur could make back his investment with a few good days selling cocaine or crack around the clock with shift workers.

Not even the drug-free zone signs outside Miller Elementary School at Dauphin and Mascher detract from the corner's value.

This is a prime spot along the Dauphin Street marketplace that stretches from 2nd Street to Front Street and extends to adjacent streets.

Ranking members of drug organizations are usually the buyers and sellers, police said.

Pushers in the area of task force patrols roughly bounded by the Delaware River, Poplar Street, Roosevelt Boulevard and Broad Street do about \$500,000 a day in drug business at about 25 major corners, Gallo said.

The half-million-a-day figure, says Gallo, is a rough estimate. On a good day it could easily triple.

Running such a high-risk business gives rise to hostile takeovers.

Buying the corner is the easy part. Keeping that corner after it's been bought can be deadly.

Often violence is averted when an owner opts to rent his corner.

Task Force officer George Mock

cited the red tape corner at Palethorp and Dauphin streets. He said the corner's owner, who seals his cocaine packages with red tape as a street signature, is in jail but rents out the corner to keep control.

Other corners can be muscled through the threat of violence or

with violence itself.

From Jan. 1 to April 10, East Division has reported 11 of its 23 homicides as drug related. That compares to three drug-related homicides among 11 in the same period last year.

Mock attributes most of the rising

homicide rates to hits related to turf infringement or retaliation for in-house thefts — or gags.

"There's a high mortality rate among drug dealers. These kids are bad asses and they are violent," says Gallo. "They have no fear of the law."

They kill

Along West Dauphin Street, adolescent lookouts sit on dirt bikes, alert looking for police, as fleet-footed holders of drugs get ready to run at the first sign of trouble. Street super-

visors oversee the frenzy of supply meeting demand.

And there's the enforcer, unnoticed by buyers passing through but the ever-present eye on the corner industry and its players.

Mock and partner Joe Alley, cruising the streets with Gallo on a recent night, note that the dealers work shifts similar to police shifts to keep up with demand.

Each shift employs five to a dozen youths. Someone to watch for police, usually a youngster around 8 or 9, someone who holds drugs just in case the dealer is nabbed, a street supervisor who looks over the corner's operations, and the enforcer — a role growing in importance and power, police explain.

Serving a dual role of protecting dealers and keeping them in line, the enforcer — very often a teenager — is the dispenser of street justice and often death.

"A lot of [the killing] is over money that has gone south [was stolen by

street dealers]. If a dealer gags his boss for \$500, they'll give him a chance to work it off. If he doesn't pay them back, they'll kill him. It serves to keep the others in line."

Gagging is the term used by dealers to cover anything that negatively impacts on the drug business or product image.

It can mean addicts ripping off dealers at gunpoint or dealers stealing their suppliers' drugs or dealers peddling burn bags, bogus drugs being sold as the real thing.

Gagging is of growing concern at every level of the trade. It is an invitation to violence.

Mock tells the story of some hapless cocaine buyers from out of state who returned to Dauphin Street in a tent on confronting a man who had sold them six burn bags.

The buyers were stopped by police before they found their man.

"We searched them and we found no guns and no knives," says Mock, laughing. "We probably saved their lives."

These burns are frowned upon by dealers who feel it damages product image, Mock says. And image is important.

The bulk of buyers in this marketplace are from someplace else — Center City, the Northeast, upstate Pennsylvania, New Jersey or Delaware.

Increasingly, police find weapons when they search the buyers. Sometimes guns — like the two eight-inch 44 Magnums they found in the car of two men from upstate a few weeks ago — are for their own protection, sometimes to exchange for drugs, sometimes to gag dealers for sport.

A group of six Montgomery County youths on a jaunt into Kensington in 1987 ripped off drugs from Jose Perez, 26, who police say was selling drugs to earn money to return home to El Paso, Texas.

Perez was shot to death when he reached into the car and demanded money for the drugs he had given the youths. Earlier this year, David S. Ruder, 21, of Lansdale was convicted of shooting Perez to death and was sentenced to life in prison. The other youths have pleaded guilty to third-degree murder and await sentencing.

As gagging has increased, enforcers have gotten tougher.

Police say gagging led to the shooting death of Brenda Stewart in March as she and her companions drove off without paying for drugs at Mascher and Dauphin streets in

March Jesus Burgos, 16, charged with the killing allegedly opened fire at the car's back window, killing Stewart, police say.

They have this thing, they want to

be tough guys" says Gallo of the suburban buyers. "These kids don't even know the street names, somehow they get off I 95 at Allegheny Avenue and head over to 5th Street

Slick cars guided by kids learning this perilous business wind through the narrow Kensington streets. A commonly seen colorful sticker speaks to the bustling business: Local Motion.

Many Kensington dealers — and police — credit Angel and Jose Hernandez, two brothers who did for drug sales in Kensington what McDonalds did for hamburgers

Arrests in 1986 shut down their yellow tape cocaine organization that operated at 5th Street and Glenwood Avenue, Mock said, but the business has been replaced by other eager entrepreneurs.

The brothers, Mock said, emerged as role models as they climbed from poverty in Puerto Rico to head a \$9 million-a-year cocaine operation in Kensington

"It's said that the Hernandez brothers started with a half-ounce of cocaine, says Mock. A lot of [dealers] say they will retire when they make \$4 million and believe me, they can do it when they're in their 20s."

Gallo adds, "If they live that long



Drug Free School Zone signs on Dauphin Street don't stop the action

ANDREA MIHALIK/DAILY NEWS



ANDREA MIHALIK/DAILY NEWS

Task force officer Joseph Alley keeps an eye on three drug suspects only one the youth on the sidewalk was charged with possession of crack

POCONO RECORD
12/24/88

Pa. ranks 2nd in China White deaths

PITTSBURGH (AP) — Authorities say a local drug ring that sold a powerful synthetic heroin known as China White produced the longest string of overdose deaths from the drug outside California, where the killer powder surfaced 11 years ago.

The drug, 3-methylfentanyl, has been confirmed as the cause of 18 Pittsburgh-area deaths, Allegheny County Coroner Joshua Perper said. Lab tests are under way for five others.

China White also is suspected in as many as 60 non-fatal overdoses.

Twelve people have been arrested, including Thomas L. Schaefer, 48, of suburban Aspinwall, a Calgon Corp. chemist suspected as the source of the drug.

"This is really the first major

incident outside of California from a clandestine laboratory putting material on the street," said Gary Henderson, professor of pharmacology at the University of California-Davis medical school. "And it's certainly the most fentanyl activity we've seen since 1984."

Henderson developed a method of testing for the presence of China White and drugs with similar compositions, fentanyl analogs, in overdose victims and is helping city, county and federal officials in Pittsburgh with their investigation.

Authorities said the victims were at the mercy of drug dealers who didn't check the quality of the drugs they manufactured and sold earlier this year.

"There's no way to prevent this," Perper said. "Anybody who

has the knowledge to produce a so-called designer drug can cause this sort of thing."

China White, also called Persian Heroin and Gasoline Dope, is several hundred times more powerful than heroin, and even extremely small amounts can be fatal. It can be manufactured by anyone with a background in college chemistry, according to the National Institute on Drug Abuse in Rockville, Md.

Federal authorities first noticed the presence of China White in December 1979 when two users died in California, Henderson said.

He said 115 have people died from fentanyl overdoses in California, Arizona and Oregon since 1980. The number of annual deaths in California peaked at 50 in 1984,

just before the federal Drug Enforcement Administration busted a drug ring in Los Angeles. Eighteen people died there in 1985, and one died in 1986.

Most of the dead in the Pittsburgh area were men in their 30s who took the drug either by itself or with heroin and cocaine, Perper said. Authorities began investigating after noticing a rash of fatal and non-fatal overdoses in September, October and November.

"Our information from the street is that (dealers) marketed it as a real powerful heroin," Pittsburgh Assistant Police Chief Chester Howard said. "They had no idea of its potency. Three granules are enough for one dose. We consider it one of the most powerful drugs known."

THE U.S. JOURNAL OF DRUG AND
ALCOHOL DEPENDENCE
JANUARY, 1989

Fla. drug czar

✓ **Hughes takes helm**

By Jeffrey Laign

FORT LAUDERDALE, Fla. — If we want to win the war on drugs we've got to be willing to pay higher taxes and to plow those revenues into prevention, education and treatment programs — not simply slam drug addicts in prison cells.

That's the message that Douglas Hughes, Florida's new "drug czar" delivered last month to business leaders at a Greater Fort Lauderdale Chamber of Commerce breakfast meeting.

Appointed to the state's top-level drug policy advisory post by Gov. Bob Martinez in July, Hughes coordinates state, local and federal anti-drug efforts, and is chairman of the Governor's Drug Policy Task Force.

The 43-year-old adviser, who spent more than 20 years as a police officer in Manhattan and Miami, said he plans to take action in the fight against drug use.

"We don't need another report," Hughes said. "In the last 30 months, 20 reports on the drug problem have been created, with over 400 recommendations. But those reports only addressed five issues. My opinion is we don't need to study this problem to death. Florida doesn't want to be the drug capital of this country. It wants to be the solution capital."

But Hughes does not see the criminal justice system as a solution to

drug abuse — at least not in the long run.

"There's no return on building prisons," he said. "You invest in people, you get a return. We can't afford prisons anymore. It's cheaper to put somebody in a treatment program than in jail. Unless we investigate alternatives we will be building prisons forever."

The best alternatives, Hughes said, are treatment and education programs.

"You teach them to stop using, then you teach them how to live," he said. "That's called life management. We don't have a drug problem in this country; we have a people problem. We have to change the way we look at the problem."

But to do that will take money, Hughes said: "The public says we need a change in this country, but they don't want to raise revenue. But people are going to have to invest in Florida."

Otherwise, he warned, problems such as drug abuse, inner-city crime and AIDS will escalate out of control.

"We have a crisis in our country and we're only seeing the beginning of it," Hughes said. "We have to do something about it now. The number-one building block will be education and prevention. That is the future of change in this country."

Recent Developments Memo

THE U. S. JOURNAL OF DRUG AND
ALCOHOL DEPENDENCE

JANUARY, 1989



By Father John McVernon

THE FEDERAL DRUG ADMINISTRATION'S western Laboratory has identified a smokeable form of methamphetamine, cheaper to use than cocaine and producing a longer lasting euphoria. What is so insidious is you don't need any Bolivians to grow it on a mountainside or Colombians to traffic the stuff up from South America. You just need the chemicals, most of which are readily available in the U.S. Just \$175 worth of chemicals yield a pound of the drug, which then can be weakened to make two pounds which sell for over \$32,000, and the most popular way to make the drug — with ephedrine as the main ingredient — is easier than baking a Betty Crocker cake.

Speed's Gain In Use Could Rival Crack,
Drug Experts Warn/The New York Times

COUNTRY AND WESTERN can be a prescription for trouble among people with little self-control. Slower music goes with faster drinking. Hard drinkers prefer listening to slower-paced, wailing, lonesome, self-pitying music generally during slow times in the bar. As the mood and tempo filter through the bar, key actors could be seen changing the level and intensity of their drinking. People should be aware they are more likely to lose control and self-restraint in a country and western bar than anywhere else.

James Schaefer/University Of Minnesota

AFTER FOUR STUDENTS from Pacific Palisades were killed in an alcohol-related accident, the local high school began hosting A.A. meetings. "I think some students have decided that one way to memorialize the kids who died would be to get sober in their honor. There is an instinct to keep this thing from being totally in vain."

Newsweek/ 11/28/88

THE JAPANESE have emerged as the world's No. 1 per-capita consumer of prescription drugs, reflecting the country's increased affluence, the rapid aging of Japanese society, and the development of numerous new products and questionable prescribing practices by Japanese physicians, who provide medication as well as prescribe it.

The World Health Organization

ITALY IS BEING RAVAGED by an epidemic of drug addiction more widespread and lethal than anywhere else in Europe. The country has the largest number of addicts on the continent: an estimated 300,000 to 400,000 are hooked on heroin alone. So far this year 700 Italians, mostly young people, have died from drugs.

Time/ 12/12/88

BRITISH COMPANIES are beginning to recognize that their manager's alcohol-related problems are company problems as well. This realization stems from changing attitudes in British society toward drinking. The British government, for instance, is promoting a National Drinkwise Day next June 20.

U.S. Firms Begin To Cope With Problem Drinking/
The International Herald Tribune/ 11/24/88

FEDERAL AGENTS eradicated 60 percent of the marijuana grown in national forests in 1988, sharply increasing the number of arrests and plant seizures. Compared with 1987, assaults on agents and the public by marijuana growers are down, but the number of booby-trapped sites is up.

Forest Marijuana Is Reported Down/
The New York Times/ 12/3/88

Fr. John McVernon is the director of community education for The Mediplex Group's Alcohol and Substance Abuse Division.

NIDA report

Drug-related hospitalizations soar. ✓

By Charles Culhane

WASHINGTON, D.C. — The chairman of the House Select Committee on Narcotics Abuse and Control said hospital emergency rooms in many big cities across the nation are experiencing sharp increases in admissions for the use of cocaine.

Information on the trends in emergency admissions came from a little-publicized report from the National Institute on Drug Abuse, said Congressman Charles B. Rangel, (D-N.Y.). "Whenever there is a big bust with many arrests, the Attorney General and other top federal law

enforcement officials are quick to make big, headline-grabbing pronouncements," Rangel said.

"The Secretary of Health and Human Services, the president's Drug Policy Adviser, and other top Ad-

ministration has not disseminated the report marked "For Administrative Use Only," more widely is because it clearly demonstrates the failure of its anti-drug policies to stem the expanding drug crisis that is striking

Detroit and Miami. Other highlights of the report include these:

- Emergency room admissions for heroin use are up 37 percent in Washington, D.C.; 51 percent in Newark; 45 percent in Seattle; 60 percent in St. Louis; and 48 percent in New Orleans.
- Cocaine was a factor in 38 percent of all deaths in Detroit in 1987, an increase from 13 percent in 1984.
- Methamphetamine admissions to emergency rooms are up 275 percent in Seattle; 156 percent in San Diego; and 53 percent in the State of Texas.

The report, entitled "Epidemiology of Drug Abuse in the United States and Europe," also showed that emergency room admissions for marijuana are climbing in many cities, including Washington, D.C.; Newark; New Orleans, Seattle; and Phoenix.

Other studies have found that more than 80 percent of admissions related to marijuana also involve the use of other drugs combined with marijuana, said Ann Blanken, acting director of NIDA's division of epidemiology.

"Here is a report that really documents the nature and seriousness of the drug crisis, and the Administration is silent."

— U.S. Sen. Charles B. Rangel, D-N.Y.

enforcement officials have not hesitated to announce any slight decline or stable trend in drug use by our nation's high school seniors even though the annual survey fails to collect data on the estimated 25 to 30 percent of students across the nation who drop out and other youth who are at high risk for substance abuse

"But here is a report that really documents the nature and seriousness of the drug crisis, and the Administration is silent.

The congressman said that one reason he believes that the Adminis-

tration has not disseminated the report marked "For Administrative Use Only," more widely is because it clearly demonstrates the failure of its anti-drug policies to stem the expanding drug crisis that is striking

the hearts of the nation's cities. Rangel said that data from the report indicates sharp increases in emergency room admissions for cocaine in most big cities: 185 percent in Philadelphia, 108 percent in Phoenix, 74 percent in Chicago, 158 percent in Buffalo, 39 percent in New York, 100 percent in the state of Texas and 122 percent in Washington, D.C.

He said that cocaine is becoming so widely available that prices of the drug are dropping in most cities, including Atlanta, Buffalo, Chicago,

PITTSBURGH POST GAZETTE
3/23/89

More than 5,000 on drug treatment waiting lists

HARRISBURG (AP) — More than 5,000 residents seeking publicly financed drug and alcohol treatment are languishing on waiting lists, and the state is as much as six months behind in licensing new treatment facilities, Health Secretary N. Mark Richards said yesterday.

Richards, testifying before the House Appropriations Committee, also said funding for the programs was unlikely to meet demand, even with increases in the next fiscal year.

"The money for drug and alcohol treatment is growing, but it will probably not be enough," Richards

said.

Under the Casey administration's proposed 1989-90 budget, state aid for drug and alcohol treatment would increase about \$1 million, to \$33 million. A \$5.6 million boost in federal spending, totaling about \$28 million, is also expected.

Richards estimated 5,100 residents were waiting for treatment, including about 1,700 in Philadelphia alone. But Rep. Peter Wambach, D-Dauphin, said as many as 3,000 more people might be seeking treatment.

Richards said the proposed budget included funds to fill 14 vacancies in the division that oversees licensing

of treatment facilities, but he admitted that overall staffing would remain at the same level as the current year. The new fiscal year begins July 1.

ECONOMIC COSTS TO SOCIETY
OF ALCOHOL AND DRUG ABUSE
AS COMPARED TO
ALLOCATIONS FOR ALCOHOL AND DRUG
PREVENTION AND TREATMENT PROGRAMS

ECONOMIC COSTS TO SOCIETY	ALCOHOL COST	-	\$116,674,000,000
OF ALCOHOL AND DRUG ABUSE PROBLEMS	DRUG COST	-	<u>59,747,000,000</u>
(ESTIMATE FOR FISCAL YEAR 1983*)	TOTAL COST	-	\$176,421,000,000

THIS COST - \$483,600,000 PER DAY
OR \$ 20,150,000 PER HOUR

ALLOCATIONS FOR ALCOHOL AND DRUG
PREVENTION AND TREATMENT PROGRAMS
(ESTIMATE FOR FISCAL YEAR 1984**)

PROGRAM
ALLOCATIONS - \$1,346,613,511
INCLUDES APPROXIMATELY
\$173,882,878
FOR PREVENTION SERVICES
AND \$1,038,121,242
FOR TREATMENT SERVICES

CONCLUSION: LESS THAN ONE (1) PERCENT OF THE COST OF ALCOHOL AND DRUG PROBLEMS IS ALLOCATED TO PREVENT OR TREAT SUCH PROBLEMS. ALSO, LESS THAN ONE-TENTH (1/10) OF ONE (1) PERCENT OF THE COST OF THESE PROBLEMS IS ALLOCATED TO PREVENT SUCH PROBLEMS.

*SOURCE: ECONOMIC COSTS TO SOCIETY OF ALCOHOL AND DRUG AND MENTAL ILLNESS: 1980, JUNE 1984, RESEARCH TRIANGLE INSTITUTE FOR THE ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION.

**SOURCE: STATE RESOURCES AND SERVICES FOR ALCOHOL AND DRUG ABUSE PROBLEMS, FISCAL YEAR 1984, MAY 1985; NATIONAL ASSOCIATION OF STATE ALCOHOL AND DRUG ABUSE DIRECTORS FOR THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM AND THE NATIONAL INSTITUTE ON DRUG ABUSE.

Is Grandma in a Drug Ring?

Seniors front a pill scam

What could be more innocent than a little old lady getting a prescription filled? That's the beauty of south Florida's latest drug scam. A frail, silver-haired woman walks into a drugstore to fill a forged prescription for Dilaudid, a morphinelike pain killer used to sedate cancer patients. The pharmacist charges \$10 for 20 tablets. Outside, she climbs into a car with other elderly passengers and hands over the medicine to the driver. Then it's on to the next drugstore, where a second senior citizen fills a phony prescription. Later that day dealers sell the drugs to heroin addicts for \$45 to \$65 per tablet. The geriatric gofers get \$50 per "score"; their employers gross up to \$5 million a year.

In the last year the sedative scam has become more profitable than many local street-crack operations. Capt. Al Lamberti, deputy director of Broward County's organized-crime unit, estimates that seven gangs deal illegal prescription drugs in



JAMES KAMP—BLACK STAR

A \$5 million enterprise: Lamberti with a cache of illegal prescription drugs

Florida. A big incentive is increased demand. Since cocaine is the best-selling drug, pure heroin has become more scarce. A four-hour high from Dilaudid satisfies an addict's heroin craving, and many junkies prefer it to shooting up the diluted heroin that is available.

The largest of the seven drug rings, which pioneered the use of elderly walkers, has developed a nearly foolproof system. Gang members, mostly English-speaking

Anglos, steal prescription pads, sometimes by taking jobs in doctors' offices. A printer duplicates the pads, changing only the phone numbers. If a druggist calls, he reaches an apartment rented under the name of the physician and is reassured that the prescription is valid. Even if he does call the police, authorities can only haul in the walker, who knows nothing of the whereabouts of his employers.

Officials estimate there may be 100 walkers in south Florida. Recruiters comb condominium clubhouses for pensioners. They make the \$50 offer, but the walker must promise to ask no questions. "All it takes is one with larceny in their hearts," says one official. "With a limited income, they're looking for a fast score." Police never hold walkers. "We don't want to arrest a 73-year-old for walking out with 20 Dilaudid," says an investigator. "It looks like you're victimizing the old guy."

Single-minded: Other factors make prescription fraud attractive to dealers—and hell on investigators. The drugs move quickly in small quantities, so it's hard for police to turn up an incriminating cache. No less discouraging to local cops is the attitude of federal law-enforcement officials, who focus on cocaine and don't seem to take the prescription-drug problem seriously. That single-mindedness may have to change: Lamberti says the ring that operates the walker scam has spread its tentacles into at least 10 other states.

JAMES N. BAKER
with DAVID GONZALEZ in Miami

Mother, daughter charged

Associated Press

PHILADELPHIA — A South Philadelphia woman accused in January of using her 10-year-old stepdaughter to sell cocaine again has been charged with peddling crack from her home

Police confirmed yesterday that the woman's 8-year-old stepdaughter and her 13-year-old daughter were involved in a raid at the house last week

The woman was identified as Juanita Henry, 40, also known as Juanita Brown

She and the 13-year-old, who police said sold \$5 crack vials from a kitchen table just inside the front door, have been charged with drug dealing.

Police sources said five children were in the row house when it was raided the night of March 15, although city child-welfare authorities said in January the children had not lived there since the first raid

Authorities would not disclose what had happened to the 13-year-old after her arrest or the living arrangements of the other children

On Tuesday, Maxine Tucker, the operations director for the city Department of Human Services, acknowledged the department does not know where any of the children live.

Police confiscated 94 crack vials and about \$750 cash in last week's raid, police sources said.

Henry was being held in lieu of \$15,000 bail pending a March 27 hearing on drug-dealing charges

Police raided the house after an undercover officer bought three \$5 vials from the 13-year-old, police said.

Police said the 8-year-old tried to close the door in the raiders' faces, then grabbed the bag of crack vials from the 13-year-old and brought them upstairs to Henry, who tossed the bag out a window

The 8-year-old's father was in the house during the raid but was not linked to the drug dealing, police said.

In the Jan 24 raid, police confiscated 278 capsules of cocaine, \$669 in cash and 24 appliances believed to be stolen

Police said they found 78 capsules on the 10-year-old, who told them she regularly sold drugs for her stepmother

HARRISBURG PATRIOT NEWS
3/23/89

Kaser Prexy Urges A Stronger Control System

HARRISBURG—John Bondur, President of Kaser Distillers Production Corp., has challenged Pennsylvania state store employees to confront attacks against the control system and the entire beverage/alcohol industry.

Speaking to the Pennsylvania Independent State Store Union in Harrisburg last month, Bondur urged union members to help protect their own jobs and defend the industry by strengthening the state control system.

"It's time to stand tall and promote the Pennsylvania system of control and the industry," Bondur said. "We must confront attacks against the state stores and their employees and the beverage alcohol business."

Bondur asserted that only a joint effort between distributors and state store employees can save the state control system. He appealed to all who produce, distribute, regulate and sell wine and spirits in Pennsyl-

vania to team up against critics.

"We can work together in Pennsylvania to make the state control system stronger and more profitable, and make your jobs secure," he said.

While defending the state control system, Bondur also asked for help in the fight against grey market liquor sales.

"There must be some reciprocal show of support for companies who invest their dollars in Pennsylvania, employ Pennsylvanians and pay taxes to the state," he said.

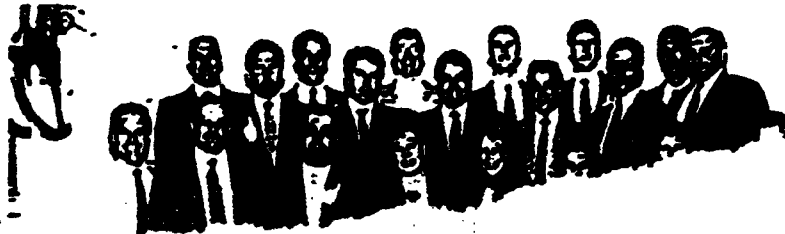
"Since we've bought Kaser Distillers Corp., we have invested substantial sums of money and doubled the size of our salesforce in the state. But despite that kind of commitment, we and other Pennsylvania businesses are still saddled with the unfair burden of competing against grey market importers who have never invested a nickel in this state."

Bondur argued that the entire

industry must defend itself actively against the media and Congress, citing a recent trend toward linking alcoholic beverages with drugs. He cited Congress' efforts to raise the excise tax on alcoholic beverages to boost revenues in the fight against drugs.

"The industry should take the initiative to support the government's battle against hard drugs in the 'Just Say No' campaign by lending financial support to the cause," Bondur said. "But our participation in this fight should not come at the expense of those who buy our product." He also urged the industry to fight drunk driving.

"Let's vigorously support advertising warning against the dangers of drinking and driving," he said. "Let's support stiffer penalties for those who do drive drunk. Let's fight to keep alcoholic beverages away from minors and out of the high schools."



Official says we're all victims and culprits

U.S. Post. 1989

By Wendi Taylor
Patriot-News

A State Department officer who has spent five years trying to prevent narcotics from coming into the United States says we are all victims and culprits in the war against drugs.

Dr. Mary Jeanne Martz, a foreign service officer who heads the Bureau of International Narcotics Matters for Central America, Mexico and Panama, spoke last night in Harrisburg before the Foreign Policy Association.

Is the Bolivian farmer who grows coca to make a better life for his family the culprit? Martz asked. The coca leaves are processed into cocaine, which finds its way into the United States, she said.

Is the Wall Street stockbroker who snorts cocaine to make his life seem better the victim? she asked.

Both are part of the grower-to-user chain that is the "prey" for drug traffickers, according to Martz. "We're all the victims and all the culprits," she said.

Even people who do not use drugs yet stand by and say it's not their problem are part of the drug



Patriot-News

Dr. Mary Jeanne Martz
Cocaine worth \$21 billion

chain, she said.

A presidential directive described the flow of drugs into the United States as a threat to national security, Martz said. This year, she said, the State Department will spend \$118 million to combat drug traffic.

Those efforts will include programs to destroy drug crops, step up enforcement of drug laws, enact legislation to use against traffickers, develop an alternative crop for farmers and to assist in drug-use prevention and treatment.

Until people and countries get serious about cracking down on drugs, traffickers will continue to reap fortunes, Martz said. "The U.S. demand is the greatest stimulus for drugs today," she said.

Experts estimate 70 metric tons of cocaine are consumed each year in the United States. Martz said that translates into 70 million grams, which is equivalent to 210 million grams when cut for sale.

At \$100 a gram, Martz said traffickers are making \$21 billion a year on cocaine.

In her position with the State Department, Martz said she has learned drug trafficking is big business. "Governments are outmanned, outspent and outgunned by traffickers," she said.

With the money generated from drug sales, traffickers can buy weapons that many government armies cannot afford, and

they can buy selective law enforcement by paying off judges, prosecutors and police, she said.

In one instance, Martz said, a trafficker in Bolivia offered to pay off the national debt if the government would permit him to operate his drug business without interference.

Martz said drug traffickers like to portray themselves as modern-day Robin Hoods who take from the rich and give to the poor. Occasionally, traffickers will build a hospital or a school to keep that

image.

How occasional the huge most part in the gr neled out

Traffi bled again. kill drug- ing they r tion and p

Projec countries harvest, l