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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

In re: House Bill 2649, Interception and Disclosure of
Communications by Inmates, Amending Title 18

Stenographic report of hearing held in
Room 140, Main Capitol, Harrisburg,
Pennsylvania

Wednesday, May 28, 1992, 10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE

- Hon. Frank Dermody
- Hon. Kevin Blaum
- Hon. James Gerlach
- Hon. Robert Reber
- Hon. Gerard Kosinski
- Hon. David W. Heckler

Also Present:

- David Krantz, Executive Director
- Katherine Em Manucci, Secretary
- Paul Dunkelberger, Research Analyst

Reported by:
Emily R. Clark, RPR

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Lois Williamson, Executive Director, CURE of Pennsylvania	28

1 CHAIRMAN CALTAGIRONE: I would like to open
2 today's hearing on House Bill 2649.

3 For the record, the members that are present and
4 staff, if they would like to introduce themselves, if we
5 would start at my left and come over this way.

6 REPRESENTATIVE BLAUM: Representative Kevin
7 Blaum, Wilkes-Barre.

8 REPRESENTATIVE DERMODY: Frank Dermody,
9 Allegheny County.

10 REPRESENTATIVE GERLACH: Jim Gerlach, Chester
11 County.

12 CHAIRMAN CALTAGIRONE: Tom Caltagirone, Berks
13 County.

14 MR. KRANTZ: David Krantz, executive director of
15 the Judiciary Committee.

16 MR. DUNKELBERGER: Paul Dunkelberger, Republican
17 staff.

18 REPRESENTATIVE REBER: Bob Reber, Montgomery
19 County.

20 CHAIRMAN CALTAGIRONE: We would like to have
21 some opening remarks from the chief sponsor of the bill, if
22 he would care to make them. Representative Dermody?

23 REPRESENTATIVE DERMODY: Thank you, Mr.
24 Chairman. I would like to thank the Chairman and members of
25 the Committee for having this hearing today.

1 We've introduced a piece of legislation, I've
2 introduced a piece of legislation in response to a problem
3 that cropped up at several of our corrections institutions,
4 where inmates sentenced to jail were able to use
5 fraudulently obtained credit card numbers, stolen credit
6 cards and purchase goods and have them transported, and
7 purchased goods from all over the country so they're, in
8 fact, able to commit another crime while they're already
9 inside an institution.

10 In response to that be problem I think we've
11 come up with a piece of legislation that allows us to
12 prevent that from happening in the future and still
13 maintains an attorney-client privilege and those privileged
14 communications, and I'm happy to be here and I thank you.

15 CHAIRMAN CALTAGIRONE: Thank you,
16 Representative.

17 We'll start off with the first testifant who
18 would be Larry Reid, Executive Deputy Commissioner for the
19 Pennsylvania Department of Corrections.

20 MR. REID: Mr. Chairman, I am supposed to say
21 that I am very happy to be here, and I am standing in at
22 this point for Joseph Lehman who cannot be here today.

23 At this point time in time I would like to thank
24 Representative Dermody for sponsoring the bill. We see this
25 as a much, much needed bill. I have been in the system now

1 for 22 years. In my 22 years in the system I have been a
2 superintendent of two institutions.

3 We see the need for this bill. We see it as a
4 tool that we need in which to manage all the inmates. We
5 have in the years we have seen the phone system used to
6 bring in weapons, we've seen the phone system used to plan
7 escapes, we've seen the phone system used to bring in
8 drugs.

9 House Bill 2469 is almost the same as a bill
10 that is currently used in the State of Washington. This
11 bill was passed in 1989 and it was actually used in I
12 believe it was March of 1990. There has been no point up to
13 this point that that law or that bill has been challenged in
14 court at all.

15 There are currently seven other states that are
16 either planning to use this or are at least in the talking
17 stage of it now, and they include Utah, Colorado, Florida,
18 Michigan and I believe it was Oregon.

19 Recently, in the past two years or so, the phone
20 system has been used to bilk the public out of hundreds of
21 thousands of dollars of credit cards. They have
22 fraudulently used the phone system to purchase items such as
23 gold, to purchase items such as TV sets, clothing. These
24 have basically not come into our jails but they've gone to
25 third parties on the outside.

1 It has been extremely difficult to prosecute
2 these people.

3 The system currently is also used, from what
4 they tell me, in the federal system. I'm not going to go
5 into a lot on that because I understand that there is
6 someone here now who is going to testify on that. I will
7 simply say that we are working currently with the Secret
8 Service and with the State Police to try to resolve some of
9 these issues. It is a very, very difficult task.

10 We've currently taken some steps, if you will,
11 to stop the fraudulent use of the phones. We have developed
12 the PIN numbers. We have put in the technology that will
13 enable us to monitor, to passively monitor and tape
14 telephone conversations.

15 We have not actually installed them at this
16 point in time simply because we do not have the law to back
17 us up on it. What the bill would do is that it would give
18 us the power to passively tape record the telephone
19 conversations of the inmates.

20 It would not give rank and file people the right
21 to listen to the telephone conversations. The access to the
22 phone conversations would be made only when there is reason
23 to believe that someone has made, may have committed a crime
24 or may be in the process of conspiring with people on the
25 outside to do so.

1 I seem to have gotten a little ahead of myself
2 here.

3 We have to reason to also believe that the bill,
4 the language of the bill the way it is currently done is
5 going to stand up in court. It has been found to be
6 constitutional in the federal system, and at this point it
7 has also been found to be constitutional in the State of
8 Washington.

9 I ask you to give us a tool that will help us to
10 effectively manage our 29,000-plus inmate population. I
11 thank you very much, gentlemen.

12 CHAIRMAN CALTAGIRONE: Thank you, Commissioner.

13 Are there any questions from the panel, any of
14 the members or staff?

15 MR. KRANTZ: Mr. Reid, what would be the cost to
16 set it up?

17 MR. REID: Right now at this point there is no
18 cost to us at all. The cost is borne by the phone company,
19 the contractor, the vendor who is going to be making the
20 money on the phone calls. So that there will be no cost to
21 us.

22 MR. KRANTZ: Thank you.

23 CHAIRMAN CALTAGIRONE: Representative Reber?

24 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

25 Are all calls currently made collect calls?

1 MR. REID: Yes, sir, they are.

2 REPRESENTATIVE REBER: In the final section of
3 the legislation, page 3, starting on line 4, there's
4 reference to the concern of safeguarding the attorney-client
5 privilege relative to what the Department will or won't do
6 and how it will do it.

7 The language talks about that the Department
8 shall not intercept, et cetera, et cetera, unless there is
9 reasonable suspicion to believe that an attorney is involved
10 in or assisting a violation of institutional rules or is
11 otherwise, I assume, involved in some conspiracy, criminal
12 activity with the inmate.

13 If this would become legislation, what is going
14 to be the procedure, as you visualize it, to ascertain the
15 type of, quote, reasonable suspicion, end of quote, that the
16 legislation talks about? How are you going to do that
17 initially?

18 Is there going to be an investigation that has
19 to precede the monitoring of calls with attorneys? Or is
20 there going to be just a blanket monitoring of all calls
21 with attorneys, with hopes that certain type of information
22 will come from that, that will then lead to subsequent
23 reasonable suspicion?

24 How is that going to unfold? Have you given it
25 any thought? It just seems to me to be a little bit --

1 MR. REID: That's a good question,
2 Representative. Unfortunately, at this point we have not
3 given a lot of thought to that except to say that the
4 lawyer-inmate confidentiality issue will be protected by
5 using a phone system that will be not on the regular inmate
6 call system.

7 REPRESENTATIVE REBER: So what you're suggesting
8 is --

9 MR. REID: It will be a separate one.

10 REPRESENTATIVE REBER: There will at least be
11 provisions made that when there is a desire by an inmate to
12 converse with his or her counsel, that they will have an
13 opportunity to use a certain system segregated from the
14 monitoring system. Is that what you're saying?

15 MR. REID: Yes, sir, absolutely.

16 REPRESENTATIVE REBER: And then it's my
17 understanding that if something comes to the information of
18 the Department that would suggest a violation or criminal
19 activity, conspiracy going on, only then would there be an
20 attempt on that segregated system to monitor. Is that
21 correct?

22 MR. REID: Yes, sir, that's correct.

23 REPRESENTATIVE REBER: Would you have any
24 objection to prior to that monitoring, that there be some
25 form of in-camera proceeding with a court in the

1 jurisdiction where the facility is located where the
2 monitoring is going to take place for purposes of issuance
3 of some type of advisory order that would allow that, to
4 ensure that there isn't a, how shall I say, a callous
5 disregard for the attorney --

6 MR. REID: Yes. In fact, I can basically, at
7 this point in time I can see that we would have to develop
8 policy that would basically ensure that the only way that
9 anyone could get into the telephone taping system would be
10 with the final okay from my office. So that there would not
11 be, they would not be able to just open it up and go into it
12 and hear the tapes.

13 REPRESENTATIVE REBER: So at a minimum there
14 certainly won't be random or indiscriminate monitoring of
15 these kind of calls? The Department would have no objection
16 in working with the Committee and staff to, if we find it or
17 deem it necessary, to statutorily impose some regulatory
18 concerns to make sure that there isn't any breach of the
19 confidentiality issue? You have no objection to working
20 with us on that, and certainly recognize the concern?

21 MR. REID: Yes, sir, absolutely.

22 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

23 CHAIRMAN CALTAGIRONE: Thank you.

24 Representative Gerlach?

25 REPRESENTATIVE GERLACH: Thank you.

1 Can you, as follow-up on to Representative
2 Reber's questions, can you just give me the typical
3 procedure by which inmates now use telephones from the
4 correctional facilities to call out, regardless if they're
5 calling family, friends, et cetera? How does that procedure
6 work?

7 MR. REID: Let me I guess go back to some 10, 15
8 years ago when they were only allowed to make three calls a
9 year. These calls were basically monitored by a staff
10 person at that time. Things changed over the years. There
11 was a need to ensure that they had as much family contact as
12 they could. So basically we put in phones in the yard, in
13 the auditoriums, in the gyms, in the housing units, that
14 would let them make calls as often as they chose to. These
15 calls were basically, are basically collect calls.

16 REPRESENTATIVE GERLACH: Are they pay phones
17 that they utilize for that?

18 MR. REID: Yes, they are.

19 REPRESENTATIVE GERLACH: Not just an operator
20 button?

21 MR. REID: They are specialized pay phones.

22 Right now we do have a project in Pittsburgh
23 where the inmates have PIN numbers and they also have
24 authorized phone calls that they can only call on their PIN
25 numbers.

1 Part of the problem is that technology at this
2 point in time has advanced to the point that they cannot
3 stop the third-party calling. So that they can call a
4 number, you know, it's an authorized PIN number, and the PIN
5 number can then forward the call to someone else.

6 REPRESENTATIVE GERLACH: In other words, right
7 now currently they have access to telephones fairly freely?

8 MR. PHRABG: Yes, they do.

9 REPRESENTATIVE GERLACH: As long as they're
10 collect calls?

11 MR. REID: Yes, they do.

12 REPRESENTATIVE GERLACH: Are there times of the
13 day for which they are entitled to use phones versus other
14 times that they're not?

15 MR. REID: Yes. There are times of the day
16 during count, during the meal periods, where the phone
17 systems are basically shut down.

18 REPRESENTATIVE GERLACH: Okay. So in the times
19 of the day where they are allowed to use phones, if they are
20 in a particular area of the facility, say, the yard, where
21 there is a phone, they can walk up to that phone and use
22 it?

23 MR. REID: Yes, sir.

24 REPRESENTATIVE GERLACH: So what's being
25 contemplated by this legislation, those phones in that

1 facility will then be placed on some sort of recording
2 system which will have a pre-recording that when they begin
3 using the telephone, the person to whom the call is being
4 made will hear a little blurb about that this may be
5 monitored and intercepted; is that right?

6 MR. REID: Yes, sir, that's exactly right.

7 REPRESENTATIVE GERLACH: With regard to the last
8 provision of the bill itself which says to safeguard the
9 attorney-client privilege, the Department will not
10 intercept, record, monitor or divulge any conversation
11 between an inmate and an attorney, what system would be
12 utilized to verify that that inmate actually is calling an
13 attorney rather than an inmate saying I'm just going to go
14 call my attorney but be calling somebody to commit another
15 crime or what have you? How will you verify that the person
16 being called is that person's attorney?

17 MR. REID: We envision that the person who wants
18 to call out would then have to go to his staff member, his
19 counselor, and would have to have the counselor to actually
20 call the number first to verify that it was, in fact, that
21 the person he was calling was an attorney. Once they do
22 that, the counselor could then turn the phone over to the
23 inmate.

24 REPRESENTATIVE GERLACH: Okay. And at that
25 point when it's verified that that person is the attorney,

1 that recording system for that phone would be shut off, I
2 guess, and the conversation allowed to proceed?

3 MR. REID: Yes, sir.

4 REPRESENTATIVE GERLACH: So you would just have
5 some sort of procedure in place to make sure that the person
6 being called is an attorney by asking for their
7 identification, maybe their attorney ID number and that sort
8 of thing?

9 MR. REID: We at this point have not thought
10 about how we will do that, but there will be a system in
11 place to do that.

12 REPRESENTATIVE GERLACH: All right. Thank you.

13 REPRESENTATIVE DERMODY: Mr. Chairman?

14 CHAIRMAN CALTAGIRONE: Yes. Representative
15 Dermody?

16 MR. DERMODY: Commissioner, currently inmates
17 are allowed to bill calls to third parties; is that
18 correct? They can call a credit card company but bill it to
19 their mother's home or their girlfriend's home, the charges;
20 is that correct?

21 MR. REID: Technically they're not supposed to
22 do that. Technically they are only supposed to call the one
23 number. They're not supposed to call anybody else on a
24 third party. In fact, the system that is currently being
25 used, if they attempt to dial a third-party number the

1 telephone system will shut down.

2 The problem is that the phone system cannot pick
3 up on it when it is call forwarding. Okay?

4 MR. DERMODY: So this bill would still make any
5 charges a collect call only? Is that correct?

6 MR. REID: Yes, sir, absolutely.

7 MR. DERMODY: That would solve, I see it solve
8 that problem, would it not?

9 MR. REID: Yes, it would. And I think that with
10 the phone voice overlay is going to also help, too.

11 MR. DERMODY: Thank you, Commissioner.

12 CHAIRMAN CALTAGIRONE: Are there any other
13 questions?

14 (No audible response.)

15 CHAIRMAN CALTAGIRONE: Thank you, sir.

16 MR. REID: Thank you.

17 CHAIRMAN CALTAGIRONE: We'll next hear from
18 George Wilkinson, Northeast Regional Director, Federal
19 Bureau of Prisons.

20 Commissioner, I think the radio people, they're
21 not going to let you off that easy.

22 If you would like to introduce yourself for the
23 record, sir.

24 MR. WILKINSON: Good morning. My name is George
25 Wilkinson, and I'm pleased to have the opportunity to appear

1 before this Committee today.

2 I'm the regional director of the northeast
3 region of the Federal Bureau of Prisons, and I will be
4 sharing my knowledge of our inmate telephone monitoring
5 system with you this morning.

6 The Northeast Region encompasses federal prisons
7 and community corrections sites located in Pennsylvania, New
8 York, New Jersey, Connecticut and the New England states.
9 Our office is presently located in Philadelphia.

10 I started my career with the Bureau of Prisons
11 in 1968 at the Federal Correctional Institution in
12 Petersburg, Virginia. I was named superintendent of the
13 federal prison camp at Eglin, Florida, in 1974. Later
14 served as a warden at the Federal Correctional Institution,
15 Danbury, Connecticut, the United States Penitentiary,
16 Marion, Illinois, the United States Penitentiary,
17 Leavenworth, Kansas, and the United States Penitentiary at
18 Lewisburg, Pennsylvania.

19 In 1984 I was named regional director of our
20 North Central region, which the office is located in Kansas
21 City.

22 In 1988 I was named assistant director of our
23 program review division in Washington, D.C. I have served in
24 my present position in the Northeast region since 1989.

25 Due to my lack of knowledge regarding the

1 technical aspects of our telephone monitoring equipment, my
2 statement will focus on the philosophy, merits and benefits
3 of our inmate telephone monitoring system. Should the
4 Department of Corrections officials or members of the
5 Pennsylvania legislature wish to receive technical
6 information regarding our system, I will be glad to direct
7 them to the appropriate Bureau of Prisons staff.

8 My experience with our inmate telephone
9 monitoring system dates back to 1972, which I helped draft
10 the Bureau of Prison's first policy on inmate use of
11 telephones, which included a section on telephone
12 monitoring. This was while I was assigned to the United
13 States Penitentiary in Atlanta, Georgia.

14 Since that time, our inmate telephone monitoring
15 system has gradually evolved from a basic manually operated
16 system where staff monitored one telephone call at a time,
17 into a highly automated system which is capable of recording
18 all inmate telephone lines simultaneously.

19 Our current policy enables all calls placed by
20 inmates, except properly placed attorney-client calls, to be
21 monitored. Inmate telephone calls are monitored to preserve
22 the security and orderly management and running of our
23 institutions and to protect the public.

24 A system has been established so that all calls
25 placed on telephones designated for inmate use are recorded

1 at a secure centralized location at the institution.

2 A notification procedure has been developed so
3 that inmates are advised that any call made on the inmate
4 telephones will be subject to monitoring. Upon arrival at
5 an institution, inmates are issued a form describing the
6 telephone monitoring policy of the Bureau of Prisons. Each
7 inmate is asked to document their awareness of our policy by
8 signing a form that acknowledges they have been informed of
9 our monitoring policies.

10 In addition, signs are posted by each monitored
11 telephone, advising inmates that any call placed on that
12 phone is subject to monitoring and that use of the telephone
13 constitutes consent to monitoring.

14 The general prohibition cited in federal
15 statutes, Title III of the Omnibus Crime Control and Safe
16 Street Act, which limits the interception of wire
17 communications, does not apply to the recording of inmate
18 conversations by the Bureau of Prisons. Prison officials
19 are law enforcement officers intercepting such calls in the
20 ordinary course of duty pursuant to the exemption set forth
21 in federal statute, 18 USC 2510(5)(A)(ii), for the purpose
22 of preserving the security and orderly management of the
23 institution and protecting the public.

24 In addition, the use of the telephone by inmates
25 after they receive the monitoring notice upon arrival at

1 their institution, constitutes consent to monitoring under
2 federal statutes, 18 USC 2511(2)(C).

3 Today, after 20 years of operation, inmate
4 telephone monitoring impacts nearly all aspects of our
5 investigative and intelligence operations. In addition to
6 improving our intelligence data base, the system has
7 produced some positive collateral benefits, including the
8 detection of inmates with suicidal tendencies at some of our
9 facilities.

10 Based on the sophistication of our present
11 inmate population, it is difficult to imagine how the Bureau
12 of Prisons or any state correctional agency could function
13 effectively without an established telephone monitoring
14 system. The loss of our system would immediately result in
15 a major setback to our investigative effectiveness as well
16 as impair the investigation efforts of federal and state law
17 enforcement officials who are able to request copies of
18 recorded telephone conversations pursuant to a court order,
19 Grand Jury or administrative subpoena.

20 Since 1986, the U.S. Attorney's office in
21 Lewisburg, Pennsylvania, has used telephone-monitored
22 recordings to help successfully prosecute more than 50 cases
23 involving the introduction or attempted introduction of
24 drugs into the United States Penitentiary at Lewisburg.

25 An additional indication of the value of the

1 system is reflected by the number of subpoena requests
2 received from state and federal law enforcement agencies.
3 Since December 1990, 10 institutions in the Northeast region
4 have received a minimum of 236 federal and 26 state
5 order/subpoena requests to provide tapes of recorded
6 telephone calls to law enforcement officials conducting
7 ongoing criminal investigations.

8 Telephone monitoring has proven to be an
9 invaluable aid in the prosecution of numerous cases.
10 Intercepted telephone calls helped convict two defendants
11 for the murder of a correctional officer from the United
12 States Penitentiary at Lewisburg in 1987 during an escape
13 attempt. The retrieval of telephone conversations which
14 occurred prior to the escape and murder enabled the
15 prosecution to establish premeditation to commit the crime.
16 This resulted in life sentences for the two defendants.

17 Also in 1987, three pretrial inmates housed at
18 the Metropolitan Correctional Center in New York City
19 threatened witnesses prior to their trial for bank robbery
20 charges. Intercepted telephone recordings resulted in the
21 conviction of the three inmates and an outside defendant on
22 charges of conspiracy to obstruct justice and witness
23 tampering.

24 In addition, we have successfully detected 21
25 helicopter escape plots through the use or assistance of

1 inmate telephone monitoring since 1985.

2 Historically, the cost to purchase and install a
3 fully operable telephone monitoring system in a federal
4 institution has been approximately \$54,000. This includes
5 recording equipment, tapes, computer hardware and other
6 support equipment. The actual cost to the State of
7 Pennsylvania could vary, based on the future market prices
8 offered by the vendors.

9 While the cost represents a significant
10 investment for the Bureau of Prisons, we believe the
11 resulting benefits of the system in terms of protecting
12 institutional security and public safety through effective
13 intelligence gathering makes our telephone monitoring system
14 a cost effective measure. For example, my staff indicates
15 it is possible to locate an individual telephone call or
16 series of specific telephone calls out of 500,000 recorded
17 calls on file within a period of 12 to 14 seconds.

18 While several companies offer viable software to
19 perform functions similar to our Bureau of Prison's
20 developed computer program, it might be beneficial for the
21 Department of Corrections to complete a market survey prior
22 to selecting a software program.

23 In closing, we believe Bill 2469 provides a good
24 basis to commence telephone monitoring in Pennsylvania
25 institutions. However, two suggestions are offered. First,

1 the notification provision to the inmate population should
2 be broader. Notice of telephone monitoring should be
3 provided to and signed by each inmate upon arrival at their
4 designated institution.

5 We also suggest that signs be posted by each
6 inmate telephone, specifying the telephone is subject to
7 monitoring by staff.

8 Secondly, the attorney-client privilege section
9 as stated in the bill is not specific enough. The language
10 of House Bill 2469 gives the appearance of allowing an
11 inmate to place a privileged call to his attorney on a
12 monitored telephone. The inmate could then argue that the
13 institute violated the statute by recording or monitoring a
14 privileged telephone call.

15 The solution implemented by the Bureau of
16 Prisons was to establish a totally independent procedure to
17 enable inmates to make unmonitored telephone calls to an
18 attorney. We have special provisions in place which enable
19 inmates to use an unmonitored telephone to call an attorney
20 after staff has determined there is a legitimate need for
21 such a call.

22 The burden is on the inmate to request the
23 unmonitored call as specified in our procedures.

24 On behalf of the Northeast Region and the
25 Federal Bureau of Prisons, thank you for your time and

1 interest in our telephone monitoring system.

2 CHAIRMAN CALTAGIRONE: Thank you. Would you
3 stand for some questions?

4 MR. WILKINSON: Certainly.

5 CHAIRMAN CALTAGIRONE: Are there any questions
6 from the members of the Committee? Staff? Dave?
7 Representative Reber?

8 REPRESENTATIVE REBER: Just so I understand the
9 second-to-the-last paragraph of your statement, in short,
10 then, the attorney-client telephone call is unmonitored, and
11 I would suspect from the way you phrased that, that the only
12 way then that that call could ever be monitored is if there
13 was compliance with any other wire tapping statute. Is that
14 correct?

15 MR. WILKINSON: That's correct.

16 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

17 MR. KRANTZ: Mr. Wilkinson, you said that
18 500,000 phone calls are monitored or are recorded? How do
19 you pick which ones might be escape plots or criminal
20 activities? Does somebody actually listen to the 500,000?

21 MR. WILKINSON: No, they do not. No, we're not
22 able to. In some cases we have an extra staff member who
23 can periodically monitor and listen to the tapes. Some of
24 the institutions have enough staff where they periodically
25 monitor some of the tapes.

1 But we have other set-ups where you can get into
2 the system, and we developed certain intelligence on
3 telephone numbers that we search for, if we have other
4 intelligence that tells us that something is going on.

5 Also, we can make runs to determine which
6 numbers are called a significant number of times and then we
7 place that number on a strict monitoring of the tapes.

8 There are numerous ways that our intelligence
9 people have developed to come up with a way to check calls,
10 but we do not monitor every tape by every call.

11 MR. KRANTZ: That seemed like to be quite a
12 bit.

13 Do you have, is it expensive or not to have
14 staff, because I'm sure that even with the large population
15 that you do have, to kind of research, whatever, into this
16 frequent phone calling, et cetera? Like do you generally
17 have an extra staff person or whatever to do this?

18 MR. WILKINSON: That's correct. Some
19 institutions, as I say, do have enough staff where they have
20 somebody full-time. Some only as they have an extra person
21 on a shift would they assign that person to check certain
22 tapes or to listen to live monitoring.

23 Some of our institutions have set-ups, like in
24 some of the penitentiaries, they have live monitoring
25 capabilities which they have placed in the towers. A tower

1 officer, who mainly spends his time observing and watching
2 for escapes, et cetera, can switch from, he'll be assigned a
3 certain number of calls, certain number of telephones within
4 the bank of phones available to inmates and, say, if you
5 have eight or ten towers, he may have four or five phones
6 that he monitors during his eight-hour shift. He would just
7 switch from one phone to the other and see if he picked up
8 anything that would be of importance. Then he would note
9 that and the time, and then with the time he can search back
10 into the recordings very easily if you have a time or a
11 telephone number, something of that sort.

12 MR. KRANTZ: Thank you very much.

13 CHAIRMAN CALTAGIRONE: Representative Heckler.

14 REPRESENTATIVE HECKLER: This is more idle
15 curiosity, I suppose, than as it relates to Mr. Dermody's
16 bill, but just from an evidentiary standpoint, to show
17 identification of the particular inmate who would, who, you
18 know, let's say an escape attempt occurs or something, you
19 go back and identify some calls that apparently have
20 evidentiary significance, identified from the phone number
21 called or the voice, is there analysis?

22 MR. WILKINSON: To my knowledge I don't think a
23 lot of voice analysis has been done. It's more developed
24 from the intelligence that we have, that the other law
25 enforcement agencies have, the phone numbers called, the

1 time of the calls, perhaps.

2 If you also know that something's coming down,
3 you can have the staff in the inmate's unit note every time
4 he goes to the phone, put the time down, pass that in to the
5 intelligence people, and you can easily get right into the
6 tapes as you see in a matter of seconds and get that, get
7 that call.

8 So it's more done on an intelligence, law
9 enforcement type, eyeball type operation than it is one of
10 the voice type operation.

11 REPRESENTATIVE HECKLER: And I suppose the other
12 thing that springs to my mind, while from the perspective of
13 law enforcement, you're always kind of thankful that the
14 other side seems to be pretty dumb. I'm kind of surprised
15 that people would, despite the fact they know the calls are
16 being monitored and recorded, would put incriminating
17 material on. That apparently isn't --

18 MR. WILKINSON: I'll give you an example of how
19 it usually works. They sign the statement, as we've said,
20 when they first enter the institution so they know and
21 they're told and they're given a sheet that explains the
22 system to them. We have the signs that are actually bolted
23 by the phone. Also, many times a sticker is put on the
24 phone receiver.

25 They'll get on the phone, and I've listened to

1 tapes, I've also listened to live conversations, and they'll
2 basically say, "watch out, don't say anything, these phones
3 are subject to monitoring." They'll go along and just talk
4 nothing for three or four minutes. Three or four minutes
5 into the conversation they get into their illegal type
6 planning, plotting and activity. Then after a short time
7 they'll say, well, we might be monitoring.

8 I think the whole system, the way the system
9 works so well is they don't think we are able to monitor
10 that many phones simultaneously and they for whatever
11 reason, I guess it's like all of us, when we get on the
12 phone you just start talking and you can't help yourself but
13 to go ahead and talk about what it really is you want to
14 talk about. And we see that quite often. They keep
15 reminding the party they're speaking to throughout the
16 conversation, "we could be subject to monitoring." They'll
17 draw back from any illegal discussion until a few minutes
18 later and they'll get right back into it. So I guess it's
19 just human nature, to answer your question.

20 REPRESENTATIVE HECKLER: Does tape storage
21 represent a problem? Seems to me like you generate quite a
22 lot of material.

23 MR. WILKINSON: We store the tapes for
24 approximately six months, sometimes longer if it's a
25 specific reason. But unless there's a specific reason, we

1 hold them for six months, and then at that time, because it
2 does get costly to purchase these tapes, then we use them
3 over again.

4 REPRESENTATIVE HECKLER: Thank you very much.

5 CHAIRMAN CALTAGIRONE: Thank you. Certainly
6 appreciate your testimony, sir.

7 MR. WILKINSON: Thank you very much. Hope you
8 have a successful system.

9 CHAIRMAN CALTAGIRONE: We'll give it a try.
10 We'll next hear from Lois Williamson, Executive
11 Director of the Bureau of Pennsylvania.

12 MS. WILLIAMSON: Good morning, gentlemen. Like
13 I say, I am not glad to be here. I want to give another
14 perspective from the family perspective. Unfortunately, I
15 just returned from Denver and I didn't have time to type out
16 my testimony.

17 And I kind of disagree with Mr. Reid, because I
18 was just in Colorado checking a system out. So it's quite
19 different from what we heard here.

20 I believe that the motivation for this bill, Mr.
21 Dermody, is an overreaction to a few law breakers within one
22 institution.

23 I was up in your county, sir, last month and
24 talked to a lot of people up there, also. I know you're
25 from Plum, I know you live in a community called Oakmont.

1 So I checked you out pretty good, too.

2 MR. DERMODY: That's all right. That's true.

3 Nice town.

4 MS. WILLIAMSON: These law breakers could be
5 charged administratively without doing a new bill. They
6 also could be criminally indicted. So this I find to attach
7 a wire tap bill to a wire tap law, amendment to that, I find
8 it absurd.

9 Now, I don't have these things written off, I'll
10 have to give them off the cuff.

11 This bill also interferes with personal
12 communications between husband and wife, thereby adding
13 another barrier to communications, when the Department
14 expressly says that they want to maintain family ties. It's
15 in the administrative directory 818, the purpose of the
16 telephone calls is for.

17 Secondly, as far as recording conversations, I
18 don't know your experience of working in the institutions
19 here, but quite often this could end up in getting
20 write-ups. You say the superintendant or his designee would
21 be the person that these calls would be available to, these
22 tapes would be available to. I don't know what you know
23 about designees and CO's, but his designee could be a
24 drunken captain, which I've witnessed. It could be a
25 perverted guard, which I have witnessed. It could be a

1 guard who has animosity toward the caller or the called.

2 Possible abuse could be encountered this way, also.

3 Why should we change the system that would
4 affect 99.998 percent when only .002 percent committed the
5 crime? It seems that we are punishing the majority for what
6 the minority does.

7 If this law was applied to the 40-plus people
8 involved in this affair, as said by Captain Steigmond, they
9 had identified the people involved in this scam, okay. I
10 have no problem with that. Punish them, lock them up, use
11 the procedure you have for them. I have no problem with
12 that. And give them the telephone death penalty, because
13 you have it right here in your administrative directive who
14 says these calls can be rescinded as a privilege.

15 Also, I've found it absurd to wiretap a hundred
16 thousand phones. We're talking about 25,000 people
17 incarcerated. Each of them -- we could even say 400,000.
18 What will use the memory of 100,000 wiretaps? As the
19 gentleman who preceded me said, it could become very
20 costly. Mr. Reid said this would not cost anything. The
21 gentleman preceding me said the system would cost \$54,000.
22 Okay.

23 I attended a vendors' meeting, pre-proposal
24 meeting in January, I think every legislator had received my
25 correspondence, with the automated technology. And Mr.

1 Reid, whatever, expresses my thoughts.

2 I even have problems with the phone system that
3 they're going to install, because AT&T says it's only 30
4 percent perfect. Inmates have filed a grievance that the
5 charge to the families began when the inmate entered his PIN
6 number. That means approximately two minutes they're losing
7 and being charged for that time. It's a 15-minute call.

8 We have seen recently what expansion of police
9 power can do, particularly in the Rodney King case, search
10 and seizures, expanded force. CO's in essence are given
11 expanded police power, and they are not police.

12 I have a list which no one has probably showed
13 you here, of what an inmate phone call list looks like.
14 Wants to give the area code, the number, name of person,
15 address and relationship. What does that have to do with
16 the phone call, your relationship to an inmate? And all
17 this stuff is recorded.

18 There is another piece of paper come out
19 recently which I haven't acquired, and I read in Pittsburgh,
20 has a disclaimer on the bottom of that sheet which says the
21 inmate is responsible for a phone if it's shut off for
22 unpaid bills. And this inmate can be, say, taken, thrown in
23 the hole. How would they know my bill was unpaid unless
24 they sent a data base on me? I have problems with that.

25 Families have problems. Families have come to

1 me every day with a fear of someone tapping his or her phone
2 call, telling his wife, I love you, and the officer can use
3 that against an inmate later, they can go write him up. He
4 might call the guard a name, that would also be recorded,
5 they would use that later.

6 We need to think about the families.

7 There are RFPs that just came out which I
8 received because I attended the vendors' meeting. This bill
9 is already included in the RFP. They're so sure that this
10 bill is going to be passed, they put the cart before the
11 horse? You people need to read the RFP these people are
12 sending out. This is all in place in the RFP, and we're
13 sitting here talking about the bill.

14 To me, I have problems with that. I have
15 problems with legislators who would almost assure the
16 Department of Corrections that this bill is going to be
17 passed, right -- impacting the family, the consumer is
18 affected, the consumer pays the bill. How about our
19 rights? Record the inmate's call, but how about my civil
20 rights? Are you not invading my privacy? We have to think
21 about that, gentlemen.

22 We're talking about poor families. You know
23 most of the people in jail are poor and they cannot afford
24 to, because I have to hear what they say, we're talking
25 about pressure. And we're oppressed by something that we

1 are going to be responsible for.

2 To me, the Department of Corrections should not
3 be policing credit cards. I have a credit card. When I go
4 to a store, they check me out to see if I have enough money
5 left on my credit card. How are these inmates getting these
6 credit cards, number one? They don't let you out on the
7 weekend to go to get a credit card and come back to use it.
8 Who are providing these credit cards numbers? Someone has
9 to do it.

10 And I have proof because I had something come to
11 my house to a Mr. Robert Scully, with an opened letter, I
12 have right here, I can show it to you, from a Damar Company
13 in Minnesota, where he had ordered 300-some dollars worth of
14 material, what it is, to be sent to my address. I know it
15 was a set-up. I don't have any problem with that.

16 I copied this letter and I will reveal it to
17 you. I even showed it to Mr. Reid. This is the kind of
18 stuff they're doing. And immediately when I started
19 complaining about something, I was all of a sudden I also
20 get some mail? There's something wrong in the White House.

21 There's something wrong somewhere that we also
22 need to address as legislators, and I'm not talking about
23 the inmates, I'm talking about the consumer. I work with
24 approximately 500 families throughout the state.
25 Everybody's horrified. I just want to contain my remarks to

1 the amendment, but somehow I get carried away because I know
2 you need to know these things.

3 No 50 vendors comes to Pennsylvania to bid on a
4 contract when there's no money involved. They're going to
5 make money.

6 I also got a letter from one of the vendors in
7 Texas who thought I could help him get the bid. So
8 therefore, he is telling me about the profits that will be
9 made.

10 I don't know whether you've been to Pittsburgh
11 or not or if you know that phone calls in yards, how are
12 they going to do that? How are they going to monitor all
13 these things? Those phones in the yard is simply to make
14 money.

15 When I first found out about the kickback
16 incentive of commission that the Department was getting, it
17 was \$1,378,383.67 for one year, and I think that was in the
18 year 1990. Since then they put more phones into the yards.
19 We're talking about big business. As one Mr. Malcom said,
20 this is a growth industry. And instead of making the
21 industry grow, we should be putting it in rehabilitation
22 instead of the phones.

23 If we would monitor medical problems in the
24 jails like they monitor phones, you guys wouldn't have so
25 many lawsuits on medical out of Department of Corrections.

1 We need to face the issues.

2 We need to get an honest dialogue between them
3 and us, because we don't have none. Everybody is doing a
4 CYA, and all of us know what that is. I had to do it in my
5 lifetime.

6 I came off from work sick. I got involved in
7 this simply because I wasn't going to lay down and die. I
8 thought I would do something productive. My time may not be
9 long, but I want you gentlemen to think carefully of what
10 you're doing. Think carefully about the families who are
11 impacted by this. Think carefully about the children who
12 might pick up a phone and hear them say, this call is coming
13 from a state correctional institution.

14 Because the federal government does it doesn't
15 make it right. The federal government protected the savings
16 and loans. Does that make it right? That's definite fraud
17 there.

18 So let's think in humanistic terms. Think of
19 these young people that are bringing -- putting more energy
20 on getting these people not going to jail. Put more energy
21 in telling them what they must do when they get out. Have
22 more monitoring of those kind of things we need, rather than
23 to spend millions of dollars on a phone a system and
24 charging families, the consumers, millions of dollars to
25 help maintain it. You're not going to tell me it's not

1 going to cost money.

2 And I guess that's just about all I want to
3 say. Needless to say, again, I'm surprised that no one is
4 here to represent the constitutional rights of the
5 consumer. I have problems with that. And if we ever have
6 another hearing like this, I admonish you to get those
7 people who represent those people that pay the bills. Thank
8 you.

9 CHAIRMAN CALTAGIRONE: Thank you. Questions?
10 Representative Dermody?

11 MR. DERMODY: Mr. Chairman, maybe I don't have
12 any questions but a few observations.

13 I appreciate your concern, I appreciate that you
14 came out to Pittsburgh and found out what's going on out in
15 Pittsburgh.

16 MS. WILLIAMSON: I asked about it.

17 MR. DERMODY: I understand the concern of the
18 families involved here. I've worked in the system for
19 several years myself and I know legitimate concerns. I
20 don't think anybody wants for the families who are going to
21 end up paying for phone calls, wants them to be charged
22 excessively for phone calls. Right now they have to be
23 collect calls, you're going to pay that, anyway.

24 MS. WILLIAMSON: We know. We'll accept that.

25 MR. DERMODY: I understand. The problem is, I

1 think what we have is the inmates in the institution, we
2 have problems while they are there. And as we heard today
3 and I've heard before, the problem isn't just with this
4 credit card scam, but because of the phones and the access
5 to the phones, drugs are finding their way into the
6 institutions, weapons are finding their way into the
7 institutions, and we have to have a way to help control
8 them.

9 I understand your concerns for the rights of
10 privacy, but I do think that there are some limits,
11 particularly when you're in jail, and that as is the
12 testimony we heard today, it's an effective tool in
13 maintaining order in the institution and in investigating
14 crimes that are being committed and putting a stop to
15 several of the practices that are taking place now that are
16 wrong that we need to address, that are costing the
17 consumers a lot of money right now. Because you heard there
18 were hundreds of thousands of dollars already being charged
19 fraudulently.

20 MS. WILLIAMSON: That's not going to stop it.

21 REPRESENTATIVE DERMODY: Well, it seems that it
22 may. And plus the problems that we have when drugs and
23 weapons are introduced into a correctional institution
24 already, and I think we need to take steps to address that.

25 MS. WILLIAMSON: Mr. Dermody, do you realize the

1 wealth of the most drugs brought into institutions are
2 brought in by officers? Correctional officers?

3 REPRESENTATIVE DERMODY: I understand.

4 MS. WILLIAMSON: How are you going to address
5 that?

6 REPRESENTATIVE DERMODY: I think you understand
7 that some are, I think we have to agree, but a lot are not
8 brought in by correction officers.

9 MS. WILLIAMSON: I meant quantity. And I agree
10 with there should be checks and balances in everything. But
11 we have started treating the effect rather than the cause.
12 We have to start treating the cause, and that's what we're
13 not doing in Pennsylvania, and I've traveled the entire
14 country.

15 REPRESENTATIVE DERMODY: I agree with you.

16 CHAIRMAN CALTAGIRONE: Representative Gerlach?

17 REPRESENTATIVE GERLACH: Thank you for your
18 comments on this legislation.

19 Let me ask you, what you were saying was that
20 you agree that there is probably some criminal activity that
21 occurs through the use of the phones out of correctional
22 institutions; is that right?

23 MS. WILLIAMSON: I do, yes.

24 REPRESENTATIVE GERLACH: But it's your position
25 that based upon the interests of the families, the

1 recipients of the calls, that criminal activity is probably
2 not as great so as to make this kind of monitoring system
3 something you would like to see happen?

4 MS. WILLIAMSON: I do.

5 REPRESENTATIVE GERLACH: That's correct?

6 MS. WILLIAMSON: That's right.

7 REPRESENTATIVE GERLACH: Do you have any
8 thoughts or suggestions on how the correctional people, law
9 enforcement people, can do something about the use of phones
10 and the criminal activity in the use of phones without
11 monitoring the phones?

12 MS. WILLIAMSON: Well, the thrust of this bill
13 seems to have been credit card fraud. It is up to the
14 merchant to check that credit card out, not the Department
15 of Corrections. I think we've got into a whole new phase of
16 we're going to police everything.

17 If I call, as I said, my credit card, they check
18 that out. Somewhere I say something's wrong, there's
19 connections being made other than what we're addressing
20 here.

21 If a person ordered 600 pairs of sneakers on a
22 credit card, you know darn right well he's going to sell
23 them somewhere, it's a store or something. How would
24 anybody send 600 pairs of sneakers on a credit card without
25 checking it out?

1 REPRESENTATIVE GERLACH: There was also
2 testimony here from the Federal Bureau of Prisons
3 representative about telephones being used in federal
4 correctional facilities to plan escapes and things that
5 didn't involve credit cards.

6 Assuming that similar kind of criminal activity
7 occurs in state correctional facilities, do you have any
8 other suggestions on how we can curb that without monitoring
9 the use of the telephones?

10 MS. WILLIAMSON: I don't think every call needs
11 to be monitored. I think if you have a suspicion of someone
12 who is going to do an escape, put a constant surveillance on
13 that person. If you have knowledge that something's going
14 to happen, a snitch as they use in jail has told you
15 something, monitor or surveil that person, not the other
16 24,000 people. We're talking about .002 percent of people
17 who are doing criminal activity in jail, and yet the other
18 people, we're punishing the other 99.9, and that's my
19 problem.

20 I just want you guys to listen here to the other
21 side. When the mother calls me and says, I'm afraid to call
22 my son because they're monitoring the calls. Do you know
23 how much fear families have? Do you know how intimidating a
24 uniform is to a family member who has never been involved in
25 this stuff? I used to go in trembling when I first went

1 into institutions. I have no family members there, but even
2 that I felt harassed. And there's a lot of harassment going
3 on. And with this system you're talking about installing
4 there will be more.

5 REPRESENTATIVE GERLACH: If the system was
6 installed in Pennsylvania's correctional institutions, do
7 you think telephone calls from inmates out of the
8 institutions to families should still continue to occur? Or
9 do you think that based upon the family interest that you're
10 talking about, if they're going to monitor, maybe they
11 shouldn't be allowed phone calls at all?

12 MS. WILLIAMSON: Hey, then we'll use our
13 literacy programs, teach them how to write.

14 REPRESENTATIVE GERLACH: You think we ought to
15 stop allowing inmates to use telephone?

16 MS. WILLIAMSON: According to some you just
17 cannot do that.

18 I think if you're thinking about making any
19 legislation, look toward costs. If they can do something
20 meaningful for the families, send these guys out here,
21 rehabilitate, stop warehousing. And I think you will even
22 agree with me on that. We've got to start doing something
23 different.

24 I've got a program I'm trying to start in
25 Pittsburgh at this point on plan what you're going to do

1 when you get out. CURE has written a pamphlet called what
2 the family is to expect, what the inmate is to expect. I
3 help families get jobs, inmates get jobs. I work directly
4 with the counselors. I'm very, very aware so I'm very aware
5 of things.

6 I've known disappointments, I've had my
7 failures, too, but you don't let it get you down. That's
8 why I say, I want to take an example of the overreaction I
9 was speaking of 40 to 50 inmates committing a crime and
10 punishing the rest of them. I have problems with that.

11 And I also have problems with you say that
12 three-way party caller, people have called me from
13 Pittsburgh so I know how it works. I had an emergency call
14 come in, I'm on the phone talking to an inmate, not thinking
15 I pushed the call-waiting button. Cut off, automatically.
16 But it's a service that I paid for. I don't want you to
17 control my service. I think that's a problem, too. I think
18 third-party calling is a problem. Inmates don't make,
19 they're not calling third parties.

20 And I have this, I'm also thinking, too, there's
21 no money being made on the third-party call, where you have
22 to initiate a second call rather than the third-party call.
23 But this is a service we as consumers pay for. I don't
24 think the Department of Corrections should have any say over
25 what I pay for, and I think it's an invasion of my rights.

1 That's why I was talking about the constitutionality of
2 what's happening here, and I think you should be
3 investigated.

4 I called, I have written to the consumer
5 advocate with the same letters I've sent everybody here, and
6 I hope you read them very carefully, because I put my whole
7 heart and soul into what I felt. And the needs and our
8 needs are far greater than monitoring telephone calls. I
9 think our needs are more greater for rehabilitation, more
10 greater for looking into the medical care here, because you
11 don't get the great lawsuits because of medical care. And I
12 think that's where we should be directing our attention to
13 in bringing out a more productive citizen. Thank you.

14 MR. KRANTZ: You mentioned the RFP. You don't
15 happen to have that --

16 MS. WILLIAMSON: I did not bring that with me.
17 This bill is already included, believe me.

18 MR. KRANTZ: That's what I wanted to see.

19 MS. WILLIAMSON: Telling us that you have to,
20 these are the things that we want in the software and in the
21 system, and I will send it to you, I'll make it available to
22 you.

23 MR. KRANTZ: Thank you.

24 CHAIRMAN CALTAGIRONE: Any other questions?

25 (No audible response.)

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CHAIRMAN CALTAGIRONE: Thank you for your
testimony, and we'll adjourn the hearing.
(Whereupon, the hearing was adjourned at
11:10 a.m.)

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me on the within proceedings, and that this copy is
4 a correct transcript of the same.

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Emily Clark, RPR, CP, CM

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Court Reporter-Notary Public

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