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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: Public Hearing on HB 2670 and HB 2671,
Criminal Gang Activity

* * * * *

Stenographic report of hearing held
in Room 22 Capitol Annex, Harrisburg,
Pennsylvania

Friday,
June 24, 1994
9:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Harold James

Hon. Al Masland

Also Present:

Hon. Michael P. Sturla, Prime Sponsor

Hon. Mark B. Cohen

Galina Milahov, Research Analyst

Richard Scott, Committee Counsel

Mary Beth Marschik, Republican Research Analyst

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1 ACTING CHAIRMAN STURLA: We'll get started now.
2 My name is Representative Mike Sturla. Chairman Caltagirone
3 will be joining us shortly. He's tied up in his office
4 right now but he will be up here, I understand, in the very
5 near future.

6 I would like to take this opportunity to thank
7 Chairman Caltagirone and the members of the Judiciary
8 Committee for holding this hearing today to address the
9 issue of gang violence and the legislation I have proposed
10 that focuses on this issue. Gang violence is a very serious
11 and, unfortunately, growing problem throughout the country,
12 including the State of Pennsylvania. My own district in
13 Lancaster County is not immune from gang activity.
14 Recently, I've been learning of incidents where a police
15 record is a requirement for youths to be initiated into
16 certain gangs. It became clear that the time has come to
17 help every community stifle criminal gang formation and
18 criminal gang violence.

19 Criminal gang violence is no longer primarily
20 associated with big cities like Philadelphia and
21 Pittsburgh. The State Attorney General's Office says a
22 serious criminal gang problem has infiltrated urban and
23 lesser populated areas like Erie, Monessen, York, Lancaster,
24 Allentown, Shamokin, and Kittatani. The criminal activity
25 associated with these gangs is wide ranging from drug

1 dealing, gun running, theft, and extortion, to crimes of
2 violence much like I detailed previously.

3 Our youth are opting to join gangs because they
4 offer a sense of belonging, self-respect, and achievement
5 they do not have or feel that they can obtain through
6 traditional means.

7 Criminal justice experts say gang association
8 and crime are attractive alternatives where legitimate
9 economic opportunities are lacking and social order is
10 weak.

11 My legislation is not a cure-all for gang
12 violence, but I'm hopeful that these measures will help
13 instill in juveniles a sense of responsibility for their
14 actions by requiring restitution, a sense of accomplishment
15 and belonging to the community through participation in
16 community service, and a sense of what is right and wrong
17 through placement.

18 My legislation will also create a criminal gang
19 deterrence fund which would award grant moneys to
20 community-based organizations that provide for alternatives
21 to gangs, alternatives which fulfill the basic needs of
22 self-worth, accomplishment, and belonging. This fund also
23 would support groups that combat criminal gang activity.

24 Because gang involvement increases the
25 possibility of future criminal activity, I believe we must

1 take steps now to help these youth break the cycle of crime
2 which will most likely start with their initiation into a
3 gang, and I feel this legislation is a step in that
4 direction.

5 I would like to point out at this time that I
6 have been working with the District Attorneys Association
7 and various other organizations in terms of trying to look
8 at possible changes, and I'd like to outline a couple of
9 those changes that I've agreed to so that today when we talk
10 about this legislation we can talk about what it hopefully
11 will be as opposed to what may be some flaws in it right now
12 in its current form.

13 The one change is that throughout both the
14 pieces of legislation we simply refer to gang activity, and
15 in all those cases I would like to refer to it as criminal
16 gang activity. The intent of this legislation is not to try
17 and deal with groups or associations that someone may
18 construe as a gang but that isn't involved in criminal
19 activity. This is to deal with those groups and
20 associations and gangs that are dealing with criminal
21 activity.

22 Secondly, in House Bill No. 2670, on page 4
23 there's a definition of criminal gang member and it's
24 defined as a person who demonstrates affiliation with a
25 criminal gang by any two or more of the following indicia,

1 we would like that to be any two or more of the following
2 indicia, with the exception of an admission by a gang member
3 himself. If the gang member himself wants to admit that
4 he's a gang member, we don't think somebody else needs to
5 prove that for him. So in that case we believe that that
6 would be enough to be constituted as a gang member, and the
7 other cases we would like two indicia.

8 There's also in House Bill No. 2670 one of the
9 things that I had discussed with the Youth Violence Council
10 down in Lancaster was that they're concerned about being
11 able to share records, and on page 4 of House Bill No. 2671,
12 lines 8 and 9, where it talks about fingerprint and
13 photographic records may be disseminated to law enforcement
14 officers, I would like it to say and used cooperatively by
15 those officers also, because what we're seeing is gang
16 activity that flows from town to town, and until there are
17 crimes committed, those agencies aren't allowed to share
18 some of that information.

19 Additionally, we talk about in the bill drug and
20 alcohol treatment, and I would like that to be expanded to
21 psychological and psychiatric treatment in some cases where
22 it's deemed appropriate.

23 On page 6 of House Bill No. 2761, we had
24 enumerated circumstances for community service, and we've
25 eliminated some of those circumstances as a way of not being

1 able to do community service. I think in some of those
2 things would be appropriate that even if you're less than 15
3 years old, that you do some community service.

4 And on page 7, we've sort of changed the way the
5 allocation of the Pennsylvania Commission on Crime and
6 Delinquency, how that allocation gets distributed. And I
7 have copies of those amendments which I can share with
8 members also.

9 Additionally, I guess if we could as people
10 testify today, some of the things that I'm interested in
11 finding out, there are age limitations in here which are
12 consistent with Title 42, and in some cases I'm not sure
13 that those age limits should necessarily apply to gang
14 activity. We've seen juveniles in gangs carrying guns at
15 age 11, and in some cases they don't fall under the
16 jurisdiction of this legislation.

17 There's also a request from my local Youth
18 Violence Council that this information be shared with
19 schools. If in fact that is a case, I think it needs to be
20 done rather judiciously so that we don't just have files of
21 juveniles flying around all over the State.

22 There was also a request that there be an
23 aftercare component, which I think is probably a very good
24 idea. And at one point in time it was suggested to me by
25 Gary Tennis that perhaps we look at vertical prosecution

1 units, and so if we can get into some of that also, in
2 addition to the prepared remarks that those testifying might
3 have, I would appreciate any input we could get on that.

4 I guess now we'll start out with testimony, and
5 Joe Madenspacher and Gary Tennis are going to present
6 first.

7 MR. MADENSPACHER: Good morning. Thank you for
8 inviting me to be here.

9 I would like to talk a little bit about gangs
10 and the problems we have particularly in the city of
11 Lancaster. Whether it's a coincidence or not, detectives in
12 the juvenile defender section of the Lancaster Police
13 Department first began receiving information concerning
14 youth gang formation in Lancaster immediately after the
15 movie "Colors" came out. You remember, "Colors" was a movie
16 that portrayed gang activity in Los Angeles that premiered
17 in 1988. With that, one of the first groups that came to
18 the police bureau's attention was a group of primarily
19 African-American youths that called themselves Colors.
20 Within a year, we were aware of as many as a dozen such
21 groups at any given time. The groups were constantly
22 disbanding, merging, and new groups were formed. And these
23 groups tended to adopt the term "posse," which was the name
24 the Jamaican drug dealing gangs picked as their definition
25 for a gang. Some of these groups were called like Lime

1 Street Posse, Green Street Posse, Ann Street Posse; names
2 which designated or represented their particular turfs.

3 These groups were and are still today
4 essentially segregated along territorial and ethnic lines.
5 In 1988, there were a number of Hispanic, African-American,
6 white, and even a mixed race group called the Beaver Street
7 posse. There was ususally a clear leader, and the
8 attraction for youths seemed to be more novelty than
9 actually commitment to gang life. Intelligence gathering
10 was relatively easy, as most youth bragged about their
11 involvement, particularly about membership. Most of the
12 group's criminal activity involved occasional assaults of
13 other group members without the use of weapons and petty
14 thefts.

15 However, today our gangs are primarily Hispanic
16 in ethnicity and strongly territorial. There are some
17 African-American youth in the gangs, but we are presently
18 unaware of any white or Oriental gangs in Lancaster city.
19 Leadership is now obscure and often difficult to determine,
20 and intelligence gathering is much more difficult. Because
21 the members have become secretive about their involvement,
22 it has been much harder for us to determine who is
23 involved. These groups have matured, exhibiting more
24 hard-core characteristics. Most of the gangs today are
25 involved in drug dealing.

1 Drug dealing is not necessarily a per se for a
2 financial gain of the gang itself, as most of the members
3 seem to be individual entrepreneurs, but the gang does
4 provide security resources to protect the dealers and the
5 gangs throughout the turf. This has led to competition,
6 which conversely has led to a dramatic increase in violence,
7 especially involving the use of firearms.

8 The youth range in age from about 14 to 20, with
9 some exceptions. Of course, some will be a little younger
10 and some a little older. Members fit the traditional
11 profile: Male, mid to late teens or early 20s, high school
12 dropouts, no desire to work, a long history of either or
13 both criminal and antisocial behavior. The gang provides
14 the family that they may not have had, but more importantly
15 provides security and protection for their criminal
16 activity, which besides drug dealing includes weapon sales,
17 auto theft, and theft from autos, especially car audio
18 systems.

19 There has been a recurring influence on the
20 gangs from New York City drug dealers. These people bring
21 with them what I call the big city experience and are
22 particularly vicious with a strong propensity to violence.
23 This influence has encouraged our locals to resort to
24 violence to settle most disputes, and it's obviously been a
25 significant factor in the explosion of violence in the city

1 in the past two years. Five years ago drive-by shootings
2 were unheard of in Lancaster, and it was rare that a gang
3 confrontation resulted in gunfire. It is a weekly,
4 sometimes daily, occurrence. The weapon of choice is a
5 semiautomatic handgun, however revolvers and sawed-off
6 shotguns are used. When recovered by the police, these guns
7 are usually found to be stolen.

8 The gangs were originally confined to the
9 southeast section of the city but have moved into the
10 southwest section, and their influence is slowly moving
11 north. The violent nature of the groups has created an
12 atmosphere of fear among residents living in areas of high
13 gang activity, which permits the gangs to commit crimes,
14 including murder, with impunity. The single biggest
15 obstacle to successful prosecution of a number of recent
16 murders has been the stated fear of reprisal against eye
17 witnesses should they cooperate with the police.

18 Currently, we know of the following gangs
19 operating in Lancaster city: The West Side Posse,
20 containing at least a dozen members. The Little Family,
21 with at least 30 members. The Mad Circle, containing at
22 least 25 members. The Hoodlum Brothers, membership
23 uncertain. Outlaws, membership uncertain. South Side
24 Gangsters, at least a dozen members. And the Green Street
25 Posse, at least 20 members.

1 House Bill Nos. 2670 and 2671 offer both real
2 and psychological help in dealing with these gangs. First,
3 the creation of the new crime of gang activity will let the
4 gang members in the community they are holding hostage know
5 that law enforcement is serious about this problem.

6 Second, the sentencing enhancements for crimes
7 committed near schools, community centers, parks, public
8 housing, and bus stops will help prevent and punish gang
9 activity in the areas that we are trying to provide as safe
10 havens from their activities.

11 Finally, the creation of a gang deterrence fund
12 and resultant fundings for community-based organizations
13 will offer every community realistic alternatives to our
14 youth and enable them to channel their activities away from
15 the criminal gangs they are now joining.

16 ACTING CHAIRMAN STURLA: Thank you. Questions?

17 REPRESENTATIVE MASLAND: No, not now. After
18 Gary maybe.

19 MR. TENNIS: Good morning. My name is Gary
20 Tennis. I'm the chief of legislation for the District
21 Attorney's Office of Philadelphia, and I just want to
22 clarify that I'm testifying today on behalf of the District
23 Attorney's Office in Philadelphia. The Pennsylvania
24 District Attorneys Association has not yet had a chance to
25 review and take a position on the legislation. They'll have

1 that opportunity in a few weeks, but until then, I really
2 can't be speaking on behalf of them on the legislation.

3 I wanted to thank Representative Sturla, first
4 of all, for working so closely with us and cooperatively,
5 and also for just undertaking to tackle this very serious
6 problem.

7 I also want to thank Sherry Petrich, a staffer
8 for Representative Sturla and the Democratic Caucus, for
9 doing a very competent job in drafting I think a very
10 difficult and complex piece of legislation, one that the
11 more we look into it the more complexities and difficulties
12 and subtleties we find.

13 The District Attorney's Office of Philadelphia
14 supports Representative Sturla's attempt to enact
15 legislation attempting to address the growing problem of
16 gang violence in Pennsylvania. This is kind of a, take a
17 kind of a perverse -- it's refreshing in a kind of perverse
18 way to have a situation here where there's a crime problem
19 that the city of Philadelphia is not leading the State in.
20 This is a problem that, according to my information, is
21 actually I think most urgent in the counties of York County,
22 Lancaster County, and Allegheny County. Philadelphia has
23 some problem with this but nothing like we had in the '50s,
24 '60s, and '70s. In fact, the chief of our asset forfeiture
25 unit, George Mosey, recently was telling me about he grew up

1 in west Philadelphia and how he was nearly stabbed to death
2 and his life was saved by a neighbor coming out, by a gang
3 member of somebody who as part of their initiation was
4 supposed to kill somebody. So in terms of even though some
5 of the gangs now may, their levels of violence may vary,
6 they tend to become increasingly more and more serious.

7 Much of the problem -- there are many problems,
8 social problems that lead to these situations, and I
9 wouldn't even begin to undertake trying to address all
10 those, but there is a perception and I think a reality that
11 the district attorneys feel that there is increasingly the
12 juvenile justice system, the design of the juvenile justice
13 system is not up to handling the problems of juvenile crime,
14 including the gang problem, and that the legislature needs
15 to take a new look at how that system is designed and
16 whether it's capable of addressing the problems of the mid-
17 1990s. It was designed at an earlier time, at a time when
18 the social fabric of society structure was perhaps more
19 stable. Situations change now and I think the district
20 attorneys I know are trying to take another look at the
21 system to see whether major changes need to be made.

22 I think additionally, much of the problem is due
23 to lack of the correctional and rehabilitative resources for
24 the juvenile justice system. I know just from my
25 conversations with Jim Anderson he said there's a lot that

1 juvenile judges would like to do but the facilities aren't
2 there - facilities like Abraxas that have very good track
3 records working with juveniles that have had no success in
4 other places, and much of this is going to involve
5 increased spending. I think most of the spending though
6 that it would involve would end up being very cost
7 beneficial in terms of greater savings in other areas.

8 Nonetheless, I think it is appropriate that
9 House Bills No. 2670 and 2671 are reflecting appropriate
10 legislative response to a growing problem of criminal gang
11 activity. Some of the provisions in there are
12 ameliorative. They are intended to try to provide more
13 resources and more help and use the offender's involvement
14 in the criminal justice or the juvenile justice system to
15 cause positive things to happen. Some of them are punitive,
16 and that's appropriate too. It does contain some mandatory
17 sentences, not unduly harsh, I don't think, but some
18 mandatory sentences for adult gang members who bring in or
19 involve minors in criminal gang activity, and I think that's
20 an appropriate response.

21 Basically, I think the public rightly wants, and
22 I think Representative Sturla is rightly responding to what
23 the public wants here, which is they want the legislature to
24 be out front on this problem before it gets completely out
25 of hand. It's one that's already become serious. I think

1 in looking at the experience of other States, I think you
2 can predict that unless there is a strong response both by
3 the legislature and by all branches of government to the
4 gang problem, I think it will become, it's no doubt going to
5 become increasingly serious, and I think it's a matter of
6 time, although I'm up here saying that it's not one of our
7 top problems in Philadelphia, I think it's probably only a
8 matter of time that it will become that. I think we've been
9 fortunate and I don't know why it hasn't become more of a
10 problem in Philadelphia, but I think it will if we don't
11 respond. This is an attempt, and I think a laudable
12 attempt, to try to get out front on the problem before it
13 becomes completely intolerable.

14 I want to just talk a little bit about the idea
15 of the vertical prosecution units. The Pennsylvania
16 Commission on Crime and Delinquency has in the past, over
17 the past 10 or 15 years, funded very successful efforts with
18 vertical prosecution units both in the area of we've gotten,
19 I think, one of the prime areas we've gotten was in the
20 career criminal unit. Our office attempted many years ago,
21 I think under District Attorney Ed Rendell, to try to target
22 out that narrow class of offenders that just seemed to be
23 committing a small number of people who were committing a
24 huge number of crimes and tried to target them with vertical
25 prosecution to get extra tough sentences and get them off

1 the street and just out of the system, given that we
2 couldn't seem to be able to turn them around, and jail
3 didn't seem to have much impact on their crime, we developed
4 with a grant from the Pennsylvania Commission on Crime and
5 Delinquency a career criminal unit that was highly
6 successful. They had a tremendous track record. The same
7 thing has occurred, I believe, in the child abuse areas.

8 There are examples of this around the country of
9 these vertical prosecution units, and I would suggest that
10 an appropriate response would be to, and again, this is more
11 money and I understand you all have finished the budget, but
12 I think to be realistic, in terms of to maybe even more
13 important than legislation is if grant money were made
14 available for the Pennsylvania Commission on Crime and
15 Delinquency to give out grants to district attorneys like
16 Joe Madenspacher or Stan Reibert or Bob Colville or wherever
17 these problems are to develop vertical prosecution units,
18 and I would recommend that they be contoured so you would
19 probably want to see joint grants both by the police chiefs
20 and the district attorneys, perhaps even other agencies, so
21 that in addition to having prosecutors who can handle these
22 vertical prosecutions you would also have additional police
23 staff so they could get people to go under cover, infiltrate
24 them. And we're not an expert. I'm speaking here on behalf
25 of the District Attorney's Office. I'm not an expert on the

1 social side, but perhaps there would want to be some efforts
2 done in that area too, some kind of an integrated,
3 cooperative approach between various branches of
4 government. I think that that's the kind of thing that's
5 really going to help someone like Joe Madenspacher or Bob
6 Colville or Stan Reibert to really go in and have an
7 impact. And Joe and I spoke about this yesterday. He may
8 want to say a few more words about it.

9 Additionally, I would just like to, and maybe
10 speaking more on my own behalf now, say a word about the
11 drug and alcohol piece. It's an area that it's in this
12 bill. It's an area that probably I'd be encouraged to see
13 the legislature putting more and more resources into. The
14 drug use forecasting statistics show that 80 percent of the
15 crime in Philadelphia and 60 to 80 percent of the crime
16 statewide, and I think those are conservative figures, the
17 people being arrested, when they've done the surveys, have
18 drug and alcohol problems, and that those have very much to
19 do and are very much tied in with the criminal behavior.
20 And also the lack of impact that we've had. Even though
21 we've gotten a lot of tougher sentences, it seems to some
22 extent that the crime problem has been resilient. It hasn't
23 responded as well as we'd like it to.

24 I think there are approaches to treatment that
25 have been ineffective and there are approaches to treatment

1 that have been shown to be effective, and if one looks very
2 carefully into that issue and looks at how the criminal
3 justice system can be used to coerce cooperation in the
4 treatment system, which goes against the popular wisdom, but
5 in fact it's a very effective approach, I think that
6 additional impact will be had on the crime problem in
7 general. Not to say that we should hold back or indicate
8 any kind of weakening of the punitive side of the criminal
9 element. I don't think anybody would suggest that because
10 someone has a drug or alcohol problem, that they should be
11 given special leniency. I don't think that would be good
12 policy. But that's in here, and I think it's a very
13 responsible piece that Representative Sturla has put in.

14 That concludes my formal remarks. Maybe what I
15 would like to do just real quickly is let Joe talk about his
16 -- you had some conversation with the police chiefs about
17 vertical prosecution through your detectives.

18 MR. MADENSPACHER: We do vertical prosecutions
19 in a number of types of offenses. We've always done them in
20 murder cases and we've expanded them more into most of the
21 sexual related type of offenses. Of course, all of the
22 child abuse offenses, arson cases, are all vertically
23 prosecuted. It seems, as Gary said correctly, anytime you
24 have a pure vertical prosecution, you have a much better
25 success rate to deal with literally close to a 100-percent

1 conviction rate and you wind up getting your best possible
2 sentences, best possible sentences from our point of view,
3 with a vertical prosecution. Because these people are
4 particularly dedicated to this particular area, since it's
5 their -- if not their sole responsibility it's one of their
6 primary responsibilities -- as opposed to the nonvertical
7 cases which are many of thousands other cases that come
8 through that you have different people handling at every
9 level of the way and there really is not one person who's
10 responsible for guiding that particular case all the way
11 through.

12 I think that the vertical prosecutions, whenever
13 they're done in any office, always are the best way to
14 handle criminal prosecution.

15 REPRESENTATIVE MASLAND: While they are up here,
16 I just wanted to first of all thank you for coming here to
17 testify. I just wanted to point out a few things, a few
18 question areas that I think might be helpful for the
19 district attorneys to look at.

20 I was glad to hear in Mike's opening comments
21 that although I haven't prosecuted anybody for a while, I do
22 think along the same lines, and when I read the definition
23 of criminal gang member and saw that we were going to
24 require an admission plus, I said, oh, no, we don't want to
25 do that. If he admits it, he admits it, and that should be

1 sufficient. But I think you ought to look at that section
2 as a whole because I see some proof problems. A trial
3 within a trial. Well, they can say that this guy, there
4 might be some tracking problems involved with law
5 enforcement to keep track of how many offenses were previous
6 gang offenses, and that's something that I think should
7 possibly be discussed at your summer conference.

8 Some other things, and we're pulling this out of
9 conspiracy, which it clearly is. It's a conspiracy. We're
10 saying that section 903 doesn't apply, but then we have
11 throughout Section 913 the word "conspiracy," "conspirators"
12 is used, and I don't know if we're creating any definitional
13 problem. I'm thinking more in terms of practically speaking
14 when you go there to convict the person and you have to
15 worry about points are charged and definitions, whether you
16 might have any problems there. I think that might be
17 something to look at, this gang member statute in that way
18 as to whether you're ultimately going to get a conviction or
19 whether you have to work on that language.

20 Just a couple other things I thought were a
21 concern. I don't really know what to do about it. I think
22 it's nice to set up a fund with a \$300 assessment, but I
23 just don't know how practical that's going to be. We can
24 assess these guys \$300, but will that really amount to
25 anything? Will we be able to create much of a fund? And

1 the same thing, it's nice to create a civil cause of action
2 and allow for treble damages and allow them to go after any
3 gang members that may know what's going on, but what assets
4 are we going to get? I wouldn't say take that out, but
5 practically speaking, what assets?

6 Those are my comments, I guess, on 2670, and I
7 would really be more interested in hearing from the judges
8 about 2671 as to how that may impact them and whether we
9 need to have these special provisions dealing with
10 juveniles. Those are my only comments. I don't know, Gary,
11 if you --

12 MR. TENNIS: No, I think those are good points,
13 and those are the kind of things we've worked through, there
14 have been a lot of points like the ones you're raising that
15 we've tried to work through and I think yours are ones we
16 should have spotted and we'll look at that. Because there
17 are a lot of questions about how to make this real and what
18 can we do meaningfully to come in and put a little extra
19 sting on people involved in gang activity. And how you do
20 that, it's tough. But something does need to happen.

21 REPRESENTATIVE MASLAND: It's a good point.

22 MR. TENNIS: There's a consensus there, but how
23 to do it is tough.

24 REPRESENTATIVE MASLAND: And just for the
25 record, we do have gangs in Carlisle. At least we had. We

1 put them down and they came back, but it was a Ruthless
2 Posse. They didn't have a street name or anything, but they
3 were just as bad, I'm sure, and it doesn't have to be a
4 third-class city or a first-class city, it happens in
5 relatively small boroughs. So it is something that needs to
6 be addressed, but my only concern is when we address it we
7 want to make sure we get the convictions and we can actually
8 get through them.

9 MR. TENNIS: Right.

10 ACTING CHAIRMAN STURLA: I'll point out we've
11 been joined by Chairman Caltagirone, and I'll turn the
12 meeting back over to him.

13 CHAIRMAN CALTAGIRONE: No, I want you to
14 continue. You're doing a good job.

15 I apologize for being late. As a matter of
16 fact, I had a very special conversation with PCCD and we're
17 looking at some probation money, and I was talking to the
18 Department of Corrections when the budget went to Probation
19 over \$5 million and we're wondering how that's going to work
20 out with some of the things that we had envisioned to use
21 that money for the alternative sentencing programs.

22 Let me just share with you a couple thoughts
23 that I have about the hearing that we conducted, first of
24 all, yesterday in Philadelphia and some of the things that
25 I've talked with some of the religious groups about, and I

1 admit this upfront and I think those of us who are involved
2 both in the legislative, the judicial, and in the
3 prosecutorial area realize, number one, that government
4 can't do it all. We can deceive ourselves into thinking, I
5 think, that we can pass all the laws in the world, try to
6 prosecute as many people as we can, and we cannot begin to
7 start to change society to have any dramatic impact, and
8 what I said was that government can't do it alone. And what
9 I've been doing is contacting the various religious groups,
10 because I think they're missing a part of this equation, and
11 that's been a challenge that I've been giving to the council
12 of churches, I did that this last week in my own city, I did
13 it in Philadelphia yesterday, I want them to take it back to
14 the Council of Churches, the Catholic Conference, and the
15 Jewish Coalition.

16 Why am I saying that? Very simply put is that I
17 think the churches probably have a bigger role to play than
18 any other segment of society and they haven't really been
19 tapped. And one of the things I proposed to them is that if
20 they believe in what they believe in and leave their
21 churches on a Sunday or a Saturday, whenever they to go
22 pray, that those families have got to start taking much more
23 of a keener interest and a more active role in their own
24 society, in their own areas. And I've suggested that they
25 adopt a family, and there may be single parent families,

1 whatever. But if each congregation, if each church, as an
2 example we have 200 churches in the city of Reading, and
3 it's also interesting that we have 200 liquor licenses. I
4 don't know what the comparison is. It seems like on one
5 corner you have a church, the other corner you have a bar,
6 so it's like either choose God or the devil, but therein
7 lies the problem. And I've asked them to try to implement
8 something like that, and we're going to expand on that, and
9 I'd like to see us do something with that this summer.

10 I sponsor a little league baseball team, knee
11 high guys, and I've sponsored them for the last 10 years, to
12 keep them off the street, to keep them active. I'm also
13 getting involved with some really hard-core kids, about 200
14 of them, they call themselves the Blacktop Gang, in Reading,
15 and they play basketball and they need equipment and
16 uniforms and other things like that, so I'm involved with
17 that.

18 You know, when you look at the phenomena of the
19 gangs, they want to belong. That's their family. I think
20 everybody realizes that. It's the brotherhood or the
21 sisterhood, we're seeing more of that today than ever
22 before. And I think there's a role that has to be played
23 with the civic and social organizations, and I remember when
24 I came back from Virginia in '67, we went down in one of the
25 toughest areas of the city of Reading with the Junior

1 Chamber of Commerce, of which I was a member, and we started
2 repairing old playgrounds and did a number of those projects
3 to get the suburbanites -- I was a city guy and these were
4 all suburban young junior execs coming up, now most of them
5 are heading companies and businesses in Berks County, and I
6 wanted to get them involved in the inner city to have them
7 understand the problems that we have that's really
8 eventually ours, sprawled out to the suburb areas because of
9 the drug activity and other things like that.

10 But I do think that we need to look at those
11 areas, and each of us plays a role in that because we all
12 belong to either civic or social organizations, aside from
13 the regular jobs. Everybody basically belongs to some kind
14 of a church organization, and I think they should be
15 involved in helping to deal with these kinds of problems.
16 You have that in Lancaster. There isn't a city, I guess, or
17 a community in this State that hasn't been touched with some
18 type of gang activity.

19 We can't spend our way out of this. And I don't
20 know if we really need to rewrite the book. I think the
21 nature of the crimes pretty well remain the same. They are
22 more heinous and you have the drug equation on top of that,
23 but basically kids are kids. And if they can be directed in
24 the right way and if you get them early enough, and I
25 convinced Dwight Evans specifically, and others who kept

1 preaching this, we need to do more upfront, and I know Judge
2 Cassimatis and we talked a number of times, this is the goal
3 in this year's budget and we lost that battle, House Bill
4 No. 1629 was going to give us the money to do those things
5 with juveniles.

6 We talked about the Governor's Commission on
7 Corrections report, Chairman Sweet, Allen Hornbloom and the
8 rest of the commission members that were there yesterday.
9 The amounts of money that we're putting into our prisons,
10 and one of the things that I'm going to mention now, I'm
11 going to put in a bill to decommission Graterford and also
12 to decommission Rockview, and the reason why I'm saying
13 that, rather than continuing to build additional facilities
14 to incarcerate more of our people, I think we need to take a
15 hard look at what we're doing with our resources. I am
16 convinced that if we allocate more money with the juveniles,
17 who really don't have advocates, other than those few of you
18 that are in this room today, that to advocate for them, the
19 senior criminals, the adults, have all these groups that
20 advocate for them - The Prison Society, ACLU, there are many
21 other groups even within the prisons. The juveniles don't.
22 I feel convinced that if we put money in the front end of
23 the system, we can divert a lot of these juveniles from
24 becoming adult criminals. And I'm not saying we need to
25 write off all the adult criminals. I think some can be

1 saved, but I think we're kidding ourselves.

2 And I've said this time and time again: I'm not
3 the least bit offended or opposed to the notion that hard,
4 violent criminals need to be put away and put away for
5 longer periods of time. I have no problem with that. I
6 don't think anybody really has a problem with that in the
7 legislature. What does trouble me is that there's
8 approximately 40 percent of the nonviolent offenders that
9 are being incarcerated that don't belong in a prison
10 setting, and it's too costly to put them in those settings.

11 We're going to need the district attorneys to be
12 advocates on this type of an issue also, I might add. The
13 amounts of money that we're looking at, and I know that
14 Berks County, as an example, and I'm sure that Lancaster,
15 we're coming over to Lancaster, as a matter of fact, with
16 the beat patrolman, with the mayor. We have that set up as
17 a tour and we're going to be touring a lot of the prisons
18 this summer to see exactly what's going on there, and I
19 think that what we need to look at in the long-range view of
20 things is that we need to decommission some of our old
21 facilities, we need to come up with the alternatives and
22 fund those alternatives so that if you prosecute somebody
23 involving an offense, let's say a drug abuse offense, and we
24 have a compilation that we finally completed of all the
25 programs, and there are some very, very good programs

1 statewide that are in effect in the counties, the State,
2 Department of Health, and we've put that together and it's
3 in publication now, I guess they're just reproducing it now,
4 a week or so we should have enough of those to start sending
5 out to the members of the General Assembly, it proves the
6 point that it's much more cost-effective. We need to free
7 up money for the juvenile programs, and the only way that I
8 can see that we can do that, conceivably, is that we've got
9 to do these other things with the adult alternative
10 sentencing with the judges, and I agree, except for some
11 very specific crimes for mandatories, I think we should lift
12 those mandatories and put that discretion in the hands of
13 the judges where it rightfully belongs. And I'm going to
14 propose that also. Except for some specific crimes. And I
15 would like the District Attorneys Association to work with
16 us on that.

17 And the same thing with the alternative programs
18 for those nonviolent offenders that we can extricate out of
19 the system and put them in alternative programs, thereby
20 freeing up enough money and hopefully at the same time while
21 they're building, I guess it's Chester they're building a
22 new one and Clearfield they're building a new one, State
23 correctional institutions, that we decommission Rockview and
24 Graterford and have the kind of savings that I think we
25 really need to put that money then into the system with the

1 juveniles and into the alternative programs. But we need
2 advocates. I know from a program last night that I watched
3 that the number one fear in the country, here we go again,
4 it's going to be politicized in this fall election: Crime.
5 Crime, crime, crime. But the fact of the matter is if we
6 believe the stats that we've been seeing, crime really
7 hasn't risen that much, but the types of violent crimes are
8 rising much faster. And I do think that we need to step
9 back, take a look at where we're putting our limited
10 resources both in the counties and at the State level and
11 see if this really makes any sense to attempt that
12 approach. I mean, all of these fine programs, and I know
13 there are many of them out there that you've done in
14 Lancaster, what we've been trying to do in Berks and
15 Philadelphia and in many other areas around the State. But
16 if we don't maximize the use of our resources to get a
17 better bang for our buck, especially as it involves the
18 juveniles, because I think a lot of these crimes that we're
19 seeing and the troubled youth that we're dealing with, if we
20 can spend resources in working with them to divert them from
21 that life of crime, on the back end it will save us some
22 money.

23 That's what I wanted to say. Thank you for
24 being with us.

25 MS. MILAHOV: DA Madenspacher, I have a couple

1 of questions regarding the gang issue in your area. You
2 mentioned that the gangs were escalating their violent
3 activity and that some of the gangs were literally getting
4 away with murder. Could you describe the number of murders
5 that you feel are gang attributable, say, for the last four
6 years and the success you've had in prosecuting these?

7 MR. MADENSPACHER: I don't have those numbers
8 handy. There is at least one occasion that occurred
9 approximately about a year or a year and a half ago which
10 was a gang fight, is really what it was, and an individual
11 by the name of Pikey Speller was killed by a .9 millimeter
12 automatic in this particular gang warfare. Now, we know in
13 addition to gangs that were involved in this thing that
14 people down there, just Citizen A, B, and C knew who all was
15 involved in this, including people who know one case of a
16 person who works in the school district and they say they
17 will not testify against them. They won't come in and
18 testify for us.

19 There was another individual by the name of --
20 I'm trying to think of his name -- who was killed in January
21 or February of this year which we think was gang related,
22 but once again, nobody was willing to come forward. And
23 again, we know that there are people out and saw this.
24 Those are two incidents of murders that we are unable to
25 solve but we think that gangs -- we know for a fact that

1 gangs were involved in the one and we think that they were
2 involved in the other. Those are the two that are currently
3 outstanding.

4 Generally, our murder prosecution rate is very
5 good because we're extremely aggressive with our resources
6 in our murder cases. These are the only two that I can
7 think of that are gang related. Others are drug related
8 type of offenses and people may have had some sort of
9 peripheral involvement with gangs, but it was not a gang
10 fight or a particular gang activity. But it -- Krouse,
11 that's the name. Those are the two that are outstanding
12 right now that we are just unable to do anything with.

13 MS. MILAHOV: And how many murder cases do you
14 have in your county a year?

15 MR. MADENSPACHER: We average approximately 10
16 to 12 per year.

17 MS. MILAHOV: Okay. And would you say that gang
18 membership causes people to be more likely to commit murder
19 and some crimes like this?

20 MR. MADENSPACHER: The gangs are a direct fault
21 because they are more likely to resort to violence. We
22 could have had a lot more murders that are gang related or
23 drive-by shootings. I've said that it seems to me that our
24 gang members have a lot of resiliency. They can absorb
25 gunfire and not die. I can't even count the number of

1 people that have been assaulted. I mean, weapons assault,
2 there have to be a couple dozen that are absolutely, clearly
3 gang related. Drive-by shootings. We had an incident
4 approximately three weeks ago where a bunch of gang members
5 just started opening fire on, I think Representative Sturla
6 might even remember this, just started opening fire on a
7 rival batch of gang members, hitting none of them but
8 hitting two to three people who just happened to be out on
9 their porch in the area.

10 We had a gang killing that was solved about
11 three years ago which was probably -- this is every parent's
12 fear of what's going to happen with a gang. One group of
13 gangs, all in this group, all four individuals that were
14 prosecuted were under the age of 18 years old, who had a
15 squabble with another gang, so they go out and they start
16 shooting at them and he is on the playground. Well,
17 naturally they miss him but some 15-year-old girl who just
18 happens to be out on the playground is killed from a .45 to
19 the head. That's a gang related murder right there that
20 where innocent people are just being killed. It's gang
21 related in the sense that gangs were involved in the thing
22 but an innocent bystander was killed.

23 And to say we have a number of shootings, a lot
24 of times the gang members won't even testify against each
25 other. The police come up here and we know who did it and

1 they know who did it and they say they won't come in and
2 testify.

3 MS. MILAHOV: One last question. Do you feel
4 that defining the crime of criminal gang activity would
5 curtail criminal gang activity, or if there is the chance
6 that by naming this crime it would give more notoriety to
7 the type of person who would join in and therefore defeating
8 what we already have in our criminal justice system when we
9 prosecute these people?

10 MR. MADENSPACHER: I understand what you're
11 saying. Of course, I don't know what it would have. We
12 would hope that this would have some sort of psychological
13 effect and deterrent effect. The psychological effect from
14 the community. Just because, as Representative Sturla said,
15 this isn't going to solve all the answers, but it does give
16 the community a perception that we realize that these gangs
17 are a problem and it gives them a perception that we are
18 willing to do something about it. If we only have a half
19 dozen prosecutions for this particular crime in a given
20 year, you know, that, in my mind, is at least a statement
21 that is out there that we're willing to move forward in this
22 particular area. Not every piece of legislation that's
23 passed is going to sweep in and create a lot of criminal
24 arrests or a lot of criminal prosecutions. There have to be
25 other intangible effects. We hope the one intangible effect

1 would be the psychological effect in the community in that
2 they feel that we're willing to do something about this, and
3 hopefully the deterrent effect is to maybe these individuals
4 that they think that they're going to get possibly more
5 severe prosecution that they are a gang member, they won't
6 join a gang.

7 But I think it's back to what Representative
8 Caltagirone said, we have to have something in our community
9 for these kids to do. And I in my testimony alluded to the
10 fact that these gangs, to some extent, are a family that
11 they don't have or never had. And so we have to provide
12 something for them, and I think if we're providing them with
13 literally the carrot and the stick, here we're going to set
14 up this new rec league basketball for you guys all this
15 summer and buy the uniforms and the balls and the officials
16 and the half-time refreshments and things like that, we want
17 you to do that. But if you go out and join a gang and get
18 caught doing these crimes, you're going to be dealt with
19 hard. I think that's the way to deal with youth. Carrot
20 and stick is the way to do it, and this bill has the
21 potential to do it.

22 We're not going to go out and make hundreds of
23 arrests. If we get a half dozen or a dozen in a year it's a
24 lot, but it does have a real potential for that, a
25 psychological effect.

1 ACTING CHAIRMAN STURLA: I know Representative
2 Cohen wants to make some comments, but if I could make a
3 quick question. What this does is provides an additional
4 tool for the district attorneys to use in terms of getting
5 information back out of gang members and sort of breaking
6 the grip that the gang has. If they get somebody in and
7 they have the opportunity to charge them with criminal gang
8 activity and say, but you give us who your drug supplier is,
9 who your gun supplier is, who this is, we'll drop the extra
10 two-year charge, we'll do some of these kind of things.
11 It's an extra tool that they have to work and negotiate
12 with.

13 Representative Cohen.

14 REPRESENTATIVE COHEN: Thank you, Representative
15 Sturla.

16 In reading this several times, I think that the
17 gang activity basically swallows up conspiracy. This
18 offense is not limited to juveniles, is it?

19 MR. MADENSPACHER: No.

20 REPRESENTATIVE COHEN: So conspiracy is any
21 crime committed by two or more people, and basically gang
22 activity is now a crime committed by any three or more
23 people. I mean, you don't have to be a juvenile, you don't
24 have to have anything to do with juveniles to be in a gang,
25 do you?

1 MR. MADENSPACHER: No, you don't have to be. In
2 effect, it creates basically another conspiracy statute or
3 similar to Section 908, the corrupt organizations.

4 MR. TENNIS: RICO Act.

5 MR. MADENSPACHER: The RICO statute. In that
6 sense is it somewhat duplicative of what we have? Yes. Are
7 half of our criminal laws duplicative of what we have?
8 Yes. To that extent I think you're correct. It creates a
9 crime that in theory we could proceed under with the
10 underlying offense as well as to criminal conspiracy, and
11 taking the whole thing as a package, the sentencing
12 alternatives and the other aspects of it does have --

13 REPRESENTATIVE COHEN: It says here conspiracy
14 shall not include gang activity.

15 MR. MADENSPACHER: Right.

16 REPRESENTATIVE COHEN: So it would seem to me
17 that every single crime involving three or more people is
18 now gang activity, and you're not going to have a half dozen
19 crimes in Lancaster to prosecute, you're going to have
20 hundreds of them every year.

21 MR. MADENSPACHER: No, but it would have to be
22 done by a criminal gang member. Remember, it's pretty well
23 defined in there.

24 ACTING CHAIRMAN STURLA: And if I could, you're
25 looking at House Bill No. 2670, page 2?

1 REPRESENTATIVE COHEN: Yeah.

2 ACTING CHAIRMAN STURLA: One of the things we're
3 proposing to do is to strike outlines 11, 12, 13, 14, 15,
4 and 16.

5 REPRESENTATIVE COHEN: Okay.

6 ACTING CHAIRMAN STURLA: Because that point had
7 been raised earlier by the District Attorneys Association.

8 REPRESENTATIVE COHEN: Okay.

9 ACTING CHAIRMAN STURLA: So what we would have
10 now is just have Section 1, Title 18 of Pennsylvania
11 Consolidated Statutes is amended by adding a section to
12 read, and we get down into criminal gang activity, Section
13 913. That was one thing I pointed out early on in the
14 meeting. In my meeting with the district attorneys,
15 anyplace in either of these bills where it talks about gang
16 activity we have also proposed calling it criminal gang
17 activity, because we don't want the Knights of Columbus to
18 be considered a gang. That's not the intent of this
19 legislation.

20 REPRESENTATIVE COHEN: Okay. I think it might
21 be worthwhile to further refine it so gang activity just
22 doesn't become a catch-all phrase for any conspiracy. I
23 mean, any conspiracy worthy of its name could commit two
24 crimes in three years. I mean, that's not a very difficult
25 standard to meet. I mean, white collar crime. You know, if

1 Representative Caltagirone, Representative Sturla and I
2 decided to commit some crime and get together, we could be a
3 gang. If we commit two crimes, as long as we committed two
4 crimes in three years on separate occasions, we might even
5 be able to commit two crimes in one day, and then we're a
6 gang. I mean, I think it has more meaning if it is more
7 narrowly targeted and doesn't become this all-embracing
8 thing like RICO does.

9 I think the problem with the Federal RICO
10 statute is that now only a small percentage of the RICO
11 crime statute is aimed at what has traditionally been
12 organized crime. Most of what we think of as organized
13 crime has gotten off under RICO, and I think the emphasis on
14 juveniles gangs is going to get lost if almost any
15 conspiracy is a gang. I mean, I guess it depends, I
16 mean, how close you are to schools. I mean, in Philadelphia
17 there the City Planning Commission will be able to answer
18 this better than I do, but two-tenths of a mile within a
19 school or a public housing project or the other things
20 you've listed, I would guess off the top of my head that 75
21 percent of Philadelphia would fit in that definition. Maybe
22 I'm exaggerating. Maybe it's only 35 to 40 percent. But it
23 just seems to me that we're swallowing up conspiracy and
24 swallowing up, I guess, the case law involving conspiracy,
25 and if that's the goal, maybe we ought to discuss what it is

1 with conspiracy case law that we want to get rid of.

2 MR. TENNIS: Just as a practical matter, my
3 experience with conspiracy prosecutions is we would charge
4 those in any crime where you had two or more people involved
5 in it and it was clear that it had been thought about before
6 the crime, and the vast majority of conspiracy prosecutions
7 would not involve some kind of ongoing organization, it
8 would just be a one-shot deal. If you have two people
9 sitting there and they decide, let's go rob a store and they
10 rob it, that's a conspiracy and a robbery under the law. So
11 just as a practical matter, that's how --

12 REPRESENTATIVE COHEN: Don't they often decide,
13 if they successfully rob one store and they're not caught
14 yet, let's go rob a second store?

15 MR. TENNIS: Sure. Right, but as a practical
16 matter, in terms of the cases that are brought to us that we
17 get, it would usually be -- I mean, I think if I confirm
18 that, it would usually be a one-shot deal.

19 My reading of this would be, and I was just
20 talking to Joe about this, is that in a lot of these
21 instances you could actually charge the underlying offense.
22 If there was a conspiracy, you could charge that. This has
23 additional elements beyond conspiracy, so I think arguably
24 you might be able to charge both conspiracy and gang
25 activity.

1 MR. MADENSPACHER: I understand what you're
2 saying, but as a practical matter, most of the conspiracies
3 that are prosecuted are once and done kind of conspiracies.
4 And if there are other instances where this can be brought
5 into account where maybe that wasn't the original intention
6 to do so, I certainly don't see any particular harm in
7 that. For example, this is not targeted at outlaw
8 motorcycle gangs in the sense of the word, but if we could
9 somehow or other make a prosecution against them under this
10 section, even though, again, this is clearly not designed
11 for that, I don't see --

12 REPRESENTATIVE COHEN: Well, it certainly would
13 include motorcycle gangs. It would include groups that are
14 labeled as the Mafia or Cosa Nostra. It would include just
15 about everybody, as well as street partners and accounting
16 firms who want to cheat the State government of taxes.

17 MR. MADENSPACHER: Well, I don't necessarily
18 think that's a detriment that it goes beyond what was
19 originally proposed. It has the effect of doing things that
20 were not in the minds of the drafters. I mean, you still
21 are criminals who are engaging in criminal activity. I just
22 don't see too much --

23 REPRESENTATIVE COHEN: I guess what I'm
24 objecting to is that the testimony assumes this subject
25 deals with juvenile gangs, and in fact juvenile gangs are

1 only a tiny percentage of the people who are affected by
2 this legislation. And you talk about there are only six
3 gangs, the following gangs are operating in Lancaster, and
4 you counted them, and then you give the definition of the
5 bill, which probably means there are thousands of gangs
6 operating in Lancaster under the definition of this bill. I
7 guess what I'm objecting to is the labeling.

8 I have no further questions.

9 ACTING CHAIRMAN STURLA: Okay. Thank you.

10 Any further comments?

11 (No response.)

12 ACTING CHAIRMAN STURLA: Okay, next on the
13 agenda, the Juvenile Court Judges Commission. We have the
14 Honorable Emanuel Cassimatis, the Honorable Paul Tressler,
15 the Honorable Thomas Peoples.

16 JUDGE CASSIMATIS: Committee members Sturla,
17 Cohen, and York County legislator Masland, and Cumberland
18 County. We're proud to have him also representing York
19 County as well. Thank you for the opportunity to appear
20 before you to discuss House Bills No. 2670 and 2671.
21 Joining me today are Judge Tom Peoples from Blair County,
22 and Judge Paul Tressler from Montgomery County. Both are
23 experienced juvenile court judges and former prosecutors.
24 In addition, Judge Peoples and Tressler are serving
25 respectively as the president and president-elect of the

1 Juvenile Court Section of the Pennsylvania Conference of
2 State Trial Judges. Moreover, Judge Tressler is an
3 instructor for the Federal Department of Justice gang
4 program. Both have agreed to share their perspectives
5 regarding these bills and related issues following my
6 remarks.

7 The issue of youth violence, including that
8 committed in the context of gang membership, is of critical
9 concern for the Pennsylvania juvenile court judges.
10 Representative Sturla is to be commended for his legislative
11 proposals which, regardless of their fate, can serve to
12 bring additional attention to the need for a comprehensive
13 strategy to both control and prevent gang violence.

14 And let me Amen the comments of Chairman
15 Caltagirone earlier in his remarks when he stressed two
16 things: Community responsibility for dealing with the
17 problems of violence. The communities must accept
18 responsibility for it, and that's where the initiative has
19 to come, with help and support, of course. And secondly,
20 the need to become proactive rather than reactive; to deal
21 and focus on prevention rather than on punishment and
22 reacting to the violent personality after it's been
23 developed.

24 Our views regarding how best to approach the
25 issue of youth violence are set forth in the guiding

1 principles governing the control and prevention of youth
2 violence adopted by the Juvenile Justice Policy Group
3 earlier this year. Our policy group, for which I served as
4 a convener, felt that a set of principles such as these
5 could serve as a point of reference for anyone interested in
6 the issue. These principles were the basis for my testimony
7 before the House Select Committee on Violence and were also
8 distributed at the informal roundtable discussion with the
9 Judiciary Committee on juvenile justice issues chaired by
10 Representative Caltagirone last March. Representatives
11 James and Masland were also there. The principles had been
12 endorsed by the Juvenile Court Judges Commission, the
13 juvenile court section of the Pennsylvania Conference of
14 State Trial Judges, and the Pennsylvania Council of Chief
15 Juvenile Probation Officers.

16 As drafted, House Bills No. 2670 and 2671 would
17 amend Title 18 to create the offense of gang activity.
18 Title 42 would be amended to create new mandatory sentencing
19 provisions for persons convicted in criminal proceedings of
20 this offense, while requiring judges to make every effort to
21 order a disposition involving out-of-home placements, fines,
22 or restitution in juvenile delinquency proceedings where the
23 offender is found to have committed gang activity. In these
24 juvenile cases, courts would also be required to order an
25 evaluation of drug or alcohol dependency. If it is

1 determined that the juvenile is alcohol or drug dependent,
2 the court would be required to order the juvenile committed
3 for treatment at a facility or institution approved by the
4 Department of Health.

5 This legislation would also require courts or
6 probation officers to include constructive community service
7 alternatives as a component of dispositions for juveniles
8 adjudicated delinquent or placed under a consent decree if
9 the child is not a danger to the community, the community
10 service alternatives are available, the child is 15 years of
11 age or older, and it is the child's first or second
12 offense.

13 It is the position of the Juvenile Court Judges
14 Commission that amendments to the Juvenile Act are not the
15 key to enhancing the Commonwealth's ability to respond to
16 violent juvenile offenders, including those involved in gang
17 activity. The Juvenile Act already provides judges with
18 broad dispositional authority to order dispositions which
19 are consistent with the protection of the community and the
20 treatment and supervision needs of juvenile offenders.

21 In addition, the act provides an effective
22 mechanism to transfer for criminal prosecution any juvenile
23 offender over the age of 14 when there is a prima facie case
24 that the alleged crime is a felony and the court has
25 determined that the offender is not amenable to treatment in

1 the juvenile justice system. The crime of murder, as you
2 are aware, is excluded from the definition of "delinquent
3 act" in Pennsylvania and is handled from the outset in the
4 adult criminal justice system.

5 It is our impression that the issues which have
6 the greatest impact on the ability of the juvenile justice
7 system to deal effectively with serious juvenile offenders
8 are those involving the availability of resources. The
9 degree to which resource issues are affecting the system is
10 illustrated by the results of a recent survey conducted by
11 the Juvenile Court Judges Commission in response to
12 increasing concerns about detention center overcrowding and
13 waiting lists at public and private residential treatment
14 programs. The survey confirmed that waiting lists at public
15 and private residential programs are contributing
16 significantly to overcrowding and capping juvenile detention
17 centers.

18 On April 29, 1994, Pennsylvania's 21 county
19 juvenile detention centers held 613 juvenile offenders,
20 representing almost 109 percent of their combined licensed
21 bed capacity of 563. On that date, more than 200 of these
22 juvenile offenders were awaiting transfer to a residential
23 placement following an adjudication of delinquency. These
24 youths represented approximately 32 percent of the juveniles
25 being held in detention at the time of the survey. A survey

1 of seven private residential delinquency programs during the
2 week of May 1, 1994, determined that of their combined
3 population of 2,264 juvenile offenders, 619, or 27 percent,
4 were from States other than Pennsylvania.

5 Currently, judges are able to give consideration
6 to whether an offense is gang related when conducting
7 dispositional proceedings in delinquency cases. As drafted,
8 we do not believe the provisions of House Bills No. 2670 and
9 2671 would enhance our ability to deal with juvenile cases
10 involving gang activity. However, we applaud Representative
11 Sturla's rejection of the concept of mandatory delinquent
12 dispositions in this legislation. We would strongly oppose
13 the inclusion of mandatory placement provisions in these
14 bills or in other legislative proposals.

15 The provisions in House Bill No. 2671 which
16 would require courts to order treatment at a facility or
17 institution approved by the Department of Health for
18 juveniles found to have committed gang activity and to be
19 alcohol or drug dependent could be problematic. Very few
20 programs licensed by the Department of Health accept serious
21 juvenile offenders for placement. The creation of a State
22 funding system to support the gang deterrence activities of
23 community organizations may be worthy of consideration,
24 although we are uncertain as to the viability of the
25 specific proposal in House Bill No. 2670.

1 It should be noted that PCCD, Pennsylvania
2 Commission on Crime and Delinquency, has recently announced
3 a new community-based delinquency prevention and youth
4 violence reduction program under Title V of the Federal
5 Juvenile Justice and Delinquency Prevention Act. This
6 initiative is based on the Communities That Care model,
7 which has been successfully undertaken in a number of
8 jurisdictions across the country. The Pennsylvania
9 communities that become involved in this initiative will
10 engage key community leaders in identifying and prioritizing
11 delinquency risk factors operating in their communities and
12 will develop a comprehensive three-year plan to reduce the
13 impact of these risk factors on their children. A State
14 funding stream of some type could be helpful in replicating
15 this important PCCD initiative in other communities.

16 In closing, I want to re-emphasize that there is
17 no basis to believe that amendments to the Juvenile Act will
18 enhance our ability to respond to serious juvenile crime.
19 Rather, we must focus our attention on supporting
20 neighborhoods and communities, in taking responsibility for
21 the development, implementation, and ownership of
22 comprehensive violence and delinquency prevention
23 strategies, and on insuring that the juvenile justice system
24 has the resources to enable an immediate, effective, and
25 individualized response to the risks and needs presented by

1 each juvenile offender.

2 I will now ask first Judge Peoples and then
3 Judge Tressler to share their perspectives on the issue
4 before you today.

5 Judge Peoples.

6 JUDGE PEOPLES: Thank you, Judge.

7 Mr. Chairman and members of the committee, I
8 will attempt to be brief. I apologize, I do not have
9 prepared remarks for you. My hope is that I can, in a
10 matter of a few moments, highlight just a few thoughts that
11 I think I would like very much to bring to your attention on
12 behalf of the judges who sit in juvenile courts in the
13 Commonwealth each day of the year. Judge Tressler joins me,
14 I'm sure, as we attempt to bring to you the concerns of
15 those judges who are laboring in the fields of juvenile
16 justice.

17 One of the most encouraging things I've heard
18 here this morning comes from you, Mr. Chairman, in your view
19 as you have expressed it that there is a desperate need in
20 the juvenile court system for a concern for funding at the
21 local level to make the system work. I join Judge
22 Cassimatis in his expression to the members of the committee
23 here this morning that the belief among juvenile judges is
24 not that the Juvenile Act is defective or in need of great
25 repair, nor is the Crimes Code of this Commonwealth

1 defective to any great extent and in need of serious
2 repair. We believe that you, the legislators, have
3 furnished to us the vehicle by which we can function within
4 the juvenile court system. But we must have the manpower
5 and womanpower to bring it about.

6 I listened here this morning very carefully to
7 the concerns expressed by the representatives of district
8 attorney's offices of the Commonwealth and the need to send
9 forth a message and to let it be seen in the general
10 community that there is a concern about these activities.
11 Certainly, I am sure that not one of the three judges who
12 are here this morning come here to in any way belittle or
13 demean the seriousness of the problem of gang activity. I
14 will simply bring to your attention and express to you the
15 concern that juvenile judges across the State, and
16 particularly those in my position as a president judge, have
17 in that each day I labor to hold -- first to recruit, and
18 secondly to hold in our employ qualified, very, very ardent,
19 and mostly young people, as juvenile probation officers.
20 We're losing the fight to keep them. There is no question
21 about that. We're losing them to insurance companies, we're
22 losing them to investigative companies, we're losing them to
23 anybody who can use those skills that we instill into them.
24 We train them and then they offer them \$10,000, \$12,000,
25 \$15,000 more to start than we can pay them, and they're

1 gone. Naturally. I've encouraged some of our young people
2 to take those better jobs.

3 I said that I was concerned here because I'm
4 hearing that there's a need to send out a message to the
5 community, let the community see what's going on, and so
6 on. In the county from which I come, this morning were you
7 on the highways in that county, I think you would see
8 evidence of one of the best messages sent anywhere through
9 the juvenile justice system, and that's what we call the
10 trash pickers. Kids who have been in the juvenile court
11 system are out with the orange vests on under supervision by
12 our juvenile probation office picking up trash off PennDOT
13 roadways and right-of-ways, in return for which they are
14 paid. From that pay we take the restitution that is owing
15 to the victims, as well as the costs to the prosecution that
16 brought them before the court. No clearer message is sent
17 to the members of our community than that very visible sign
18 that's out there right now. It's made possible by the
19 legislature. No question about it. And I simply point to
20 you and tell you that if we are given the funding that
21 allows us to staff with good, competent people those
22 probation offices, what we have in the way of controlling
23 legislation in the Juvenile Act and the Crimes Code gives us
24 more than enough of a vehicle.

25 I strongly urge that you seriously consider also

1 the current dilemma that Judge Cassimatis has already spoken
2 of. It is one of gigantic proportion, that it's necessary
3 for us to warehouse young people who have to wait for places
4 in facilities. When I see a young person in my court within
5 the time parameters set by the Juvenile Act, and I believe
6 juvenile courts across this Commonwealth make every effort
7 possible to meet those time limits and to provide swift
8 disposition of cases for juveniles, once we adhere to those
9 time limits of the law, we then have to warehouse a kid who
10 is going to a commitment for a month, two months. Far, far
11 too long. As consideration is given here now to whether or
12 not there is a need for more commitments and for putting
13 more kids in facilities, I plead with you, please also
14 consider the impact on the system. It isn't adequate to
15 handle it right now. The system of placement facilities is
16 simply not adequate.

17 Further, I bring to your attention, and I fully
18 realize that this may be outside the realm of this
19 committee's concern, and I bring to your attention the
20 concern that I and other juvenile court judges have in this
21 State, what is on the horizon in terms of a new set of
22 regulations that come from the Welfare Department which will
23 drastically impact upon the financial operation of private
24 providers. Private providers are to us the lifesavers. The
25 YDC simply can't handle all of the customers. The private

1 providers are providing an excellent job in the main. They
2 are very, very quickly being influenced by these impending
3 regulations to serve as few Pennsylvania children as
4 possible and get their clientele from outside this State. I
5 tell you, gentlemen, without any question in my mind, the
6 reverse will happen also. If those placements dry up for us
7 in private placement facilities in Pennsylvania, we, the
8 juvenile court judges, will be forced to look at placements
9 outside Pennsylvania in other facilities. And if you want
10 to talk about financial impact, I assure you, this is
11 something that must have your attention. And I urge you to
12 take this to your colleagues in other committees of the
13 legislature and bring this to their attention.

14 One last thought. I fully realize I said I
15 would be brief. In the bill there is provision for the
16 assessment of I believe it's \$300 for a fund. Let me tell
17 you, as a president judge who tries desperately to have a
18 functioning costs and fines department that collects and not
19 just sits there and works on tally sheets but collects, the
20 burden already is breaking our backs. It was brought to my
21 attention the other day that for a traffic ticket of \$25,
22 the total price is now in excess of \$100, with all the extra
23 fees that are tacked on. Now, that may be all well and good
24 to say, well, let the wrongdoer pay the bill. The problem
25 is we have to collect it. And our problem is almost

1 gigantic in proportion in trying to collect it. In addition
2 to that, I suggest to you many of the people who will be
3 subjects to this assessment of the \$300, if that's the
4 mandatory assessment, don't have it. And our trying to get
5 it will continue, but it will be a fruitless effort. So I
6 seriously and strongly urge the members of the committee to
7 give serious consideration to whether or not that is a
8 prudent provision to include, whether it be for juveniles or
9 whether it be for adults.

10 I've taken more time than I expected to. I
11 appreciate the opportunity to speak here this morning on
12 behalf of the judges of the juvenile court system, and I am
13 imploring that you give serious consideration to the message
14 that we're attempting to bring.

15 Thank you very much.

16 JUDGE TRESSLER: Might I stand and move over
17 here?

18 Gentlemen, you have a rare opportunity. The
19 question was asked, how many murders occurred in Lancaster?
20 It doesn't really matter. The point of the matter is the
21 gang problem in Pennsylvania has not yet solidified. We're
22 not Los Angeles. We're not San Diego. We're here, and many
23 of the problems that we have are problems that they had 20
24 years ago. They didn't address those problems. For us to
25 go off at this point and just start passing legislation

1 might or might not be a good idea. I think the importance
2 of this committee is the fact that we brought the problem
3 out. And one of the difficulties, for example, with
4 California, and I've been out there in doing my teaching.
5 I've been in every State except two, and one of the things
6 that I found is that in Los Angeles, they've addressed the
7 problem on a haphazard basis and haven't really put a dent
8 into it. There are third generation gang members out
9 there. San Diego, on the other hand, which came in earlier
10 and made more decisive legislative movements, doesn't have
11 nearly the problem that Los Angeles has, although they do
12 certainly have a problem.

13 One of the things that I'm concerned about in
14 this act, and most of the act I don't have a problem, but
15 one of the problems I have is with any kind of mandatory
16 sentencing for juvenile judges, and I want to tell you why.
17 I've been all over this country and I have talked to people
18 in the juvenile system from almost all the States. They are
19 absolutely dumbfounded by what we have here in
20 Pennsylvania. We have, without a doubt, the best system in
21 this country not because of the judges but because of the
22 powers you've given us.

23 I just want to take a moment to remind you of
24 where we are right now. The reason our system works is
25 these three reasons:

1 Number one, we have judicial discretion. The
2 advantage that I have over somebody writing a piece of
3 legislation is I've got the youngster in front of me. I've
4 got the parents in front of me. I can see whether that
5 child is arrogant. I can see whether that child is scared.
6 I can see whether or not that parent is in the
7 neighborhood. None of that shows up on a piece of paper.

8 And not only that, the reports that are said, I
9 know which probation officers I can trust. I know which
10 ones I have to worry about sometimes. I also know which
11 way. So I've got an advantage, and every judge that
12 sentences a juvenile has that advantage. It's the
13 eye-to-eye contact, it's the feel, just like you have a feel
14 as you sit here in this room.

15 The second advantage we have is these
16 indeterminate sentences. You know the advantage of an
17 indeterminate sentence? Whenever I sentence a youngster,
18 every kid says, how long, Judge? And you know what I say to
19 them? Don't ask me, ask yourself. You've got a review in
20 six months or in nine months. If you come back and you
21 cooperate with this program, and these people are going to
22 know whether you cooperate because they're the experts. You
23 come back and they tell me you're ready to go home under
24 some type of supervision or even go home or go to a foster
25 home without supervision, I'll listen. I'll listen. But it

1 gives them an incentive, the incentive to change.

2 And remember, these are kids. We can't change a
3 lot of these adults. I agree absolutely with what the
4 Representative said, the chairman said. We can't change
5 most of them, and if we do, it will cost us an inhibited
6 amount of money. These kids are young. These kids don't
7 have set life patterns. These kids still are at the
8 educational level where they would have been anyhow, just
9 get them into schools. And we've got to address these
10 things we do these in indeterminate sentences. The concept
11 of freedom is what motivates these kids. Unfortunately,
12 most of the programs we have are good enough to really be
13 honest with us and tell us which kids can go home and which
14 kids can't go home. I never want to be a juvenile court
15 judge, and I will never be a juvenile court judge if a kid
16 says to me and gets the idea when he walks out of juvenile
17 court, well, all I've got to do is serve a year or two years
18 or three years, then I've paid my debt to society. This
19 isn't a debt issue, this is a growth issue.

20 The third thing is our State has programs nobody
21 else has. Especially our private system. Glenn Mills,
22 Vision Quest. Any program. George Junior. Lordsmont.
23 These are programs that work. Why do you think 27 percent
24 of our kids in those private programs come from out of
25 State? It's because they're good. So any act at any time

1 that this body considers that takes any type of discretion
2 away from juvenile court judges, I tell you, you're going to
3 destroy the system.

4 Now, there's another problem with gangs. I
5 don't know how much investigation the district attorney from
6 Lancaster has done, but gangs have structures, and there are
7 three basic gang structures. I'm not going to go into the
8 one where you're dealing with people going across the
9 country. We're going to forget about that, the enterprise
10 structure. But I want to talk about the two basic gang
11 structures and point something out to you that's really
12 relevant to that act.

13 Number one, you have a gang structure where you
14 have one leader, Jesse James, so forth and so on. You have
15 these gangs. Most of these gangs today in the United States
16 that have the one leader with everybody else acting under
17 them are Asian gangs. Most of the other gangs are not that
18 way. Most of the other gangs are set up this way: There is
19 a hard core right here in the center. That's why they call
20 them the hard core. It is a very small number. In a gang
21 of 60 or 70 there may only be 8 or 10. These people are the
22 killers, these people are the planners, these people are the
23 people that are totally unacceptable in the juvenile
24 system. Then you have the active members. These are the
25 ones that set up the rock houses, these are the ones who

1 wear the colors, these are the ones who go out and mug
2 people. They are active. They're usually sent by
3 direction. Some of these people we can work with, whether
4 it's at the adult level or at the juvenile level.

5 Then on top of that you have a tremendous core
6 of what we call the wannabes. These are people who want to
7 be in. These are the young kids. These are the 14, 15, 16
8 year old kids. What do they do? They carry drugs. They're
9 the mules. They might be the kid that's the lookout when
10 you hold up a store. These kids, most of these kids, if we
11 get them into a program and we get them into a system, we
12 can help them. We've done that. Eighty percent of the kids
13 in my county don't come back a second time to juvenile
14 court, and only 12 percent of the kids, 1 1/2 percent of the
15 kids graduate to adult court because we employ these things
16 you've given us and we treat them as individuals.

17 Now, Representative Reber's not here. I
18 understand he's on the committee. He would vouch for you,
19 we've had many arguments. He's always been the liberal,
20 I've always been the conservative. So you understand that
21 what I'm saying here is not from any standpoint of a rally,
22 it's from the standpoint of the fact that it works.

23 My question is, you're asking me to put
24 wannabes, whether they're in this act as adults, in with
25 everybody else. I can guarantee you one thing: You give me

1 a wannabe and you put him in prison as an adult or a
2 juvenile for two years, and he's going to come out a hard
3 criminal. No question about it, because he's got no place
4 else. And by the way, what do you intend to do when you put
5 these people in prisons? Are you going to let the gangs run
6 the prisons? How are you going to set it up? How are you
7 going to segregate them? These are problems that are
8 causing serious, serious problems in California, and these
9 are things that you have to consider when you write these
10 types of acts. There's no question that something has to be
11 done. It has to be done. There's no question with the
12 ability here with the district attorney's office, with the
13 judges, with the probation department, with you people,
14 certainly something can be done.

15 And I have a couple of just suggestions for you
16 just to think about. Number one, if the district attorney
17 can tell me as a juvenile court judge and bring me evidence
18 that a kid is a hard-core member, I'm going to certify him.
19 I don't want him in my system because he doesn't belong
20 there. That type of adult I really don't have a problem
21 with what you do with him. You want to give him a mandatory
22 sentence? I don't have any problem with that. But I want
23 these people identified.

24 How do you do it? One of the ways you do it is
25 with grand juries. We got the grand jury system. We use it

1 for drugs, we use it for everything else. Get these people
2 in. Get people there, keep them confidential and find out
3 what's going on in the community. You can go down to the
4 store -- and by the way, I was born in Lancaster, Ruby
5 Street. I saw the Ann Street gang and I got upset. My
6 relatives still live there -- you get the local people, they
7 don't want these gangs, but they can't talk. But you could
8 bring them into a grand jury confidentially and you can find
9 out the structure. You can find out where Paco is and where
10 Ramone is and where Julio is and where he fits. Then come
11 into my court and either by a preponderance of the evidence
12 or clear and convincing evidence or whatever, at the
13 sentencing process you tell me this kid is hard core and
14 I'll handle him. I guarantee it.

15 The second thing, I think we should be here
16 thinking about coordinating juvenile court and the adult
17 systems. One of the difficulties is that you've told us we
18 have to sentence these kids within 30 days. I have no
19 problem with that. One of the problems I had as a DA, and
20 I'm sure the district attorney of Lancaster County is, a lot
21 of times you get juvenile offenders in with adult offenders
22 when you're talking about gangs. Yet you have 180 days to
23 try adult offenders, you have 365 days if they're not in
24 jail, and yet many, many times I'd like to use a juvenile
25 offender to come in and testify against an adult, but once

1 I've sentence the kid, which is the end of 30 days, I lose
2 control of that, because there's no contempt for juveniles.
3 I can't bring a juvenile into the adult system and say
4 testify, and if you don't testify, you're going to be held
5 in contempt. We don't have that power.

6 So one of the things we should do, I suggest
7 that you should consider, and the district attorneys I think
8 would not be opposed to this, is you ought to have a good
9 cause portion of the law, they have it out in San Diego uses
10 it, out in California, where if you have good cause, the
11 judge can waive this 30 day thing. You can slow down the
12 juvenile system, you can speed up the adult system.

13 You talked about the idea of vertical
14 prosecution. That's an excellent idea. In the cities that
15 really have gang problems, maybe you ought to have one or
16 two special judges just to handle gang cases. That would
17 make it even better. That would mean you can speed up the
18 adult system where if you need these juveniles to testify,
19 you would have them.

20 A third thing, interagency information. There
21 was some comment about this, I believe Representative Sturla
22 had mentioned it. This is a tremendous idea. When I have a
23 kid on juvenile court and he's a gang member, I have a
24 disposition sheet where I say he can't associate with the
25 other people on that gang. Now, the police watch for him

1 outside when he's out on the streets. Who watches him the
2 rest of the day? The schools. Yet we have some schools
3 won't even accept the disposition because they say, well, we
4 don't want to know that, that's a confidential issue. We've
5 settled some of this in our county because we have one
6 person assigned to each school to know what the terms and
7 conditions of every kid who's on probation there. Maybe we
8 should make all schools or maybe we should redefine
9 confidentiality. Or maybe we should include schools in part
10 of law enforcement. I mean, I would want to know if I were
11 a superintendent of a school or a principal of a high school
12 if I've got a rapist in my school, and yet we don't. I
13 would want to know if I had an arsonist, but they don't.
14 Now, we can do it through court orders, which is what my
15 county has done, but there ought to be some type of a
16 redefinition of the term "confidentiality" so that some of
17 this information can be shared appropriately. I agree with
18 you, you don't post it on a bulletin board or put it in a
19 teacher's room.

20 Also, you got to have a witness protection
21 program. Absolutely essential. I don't care whether you
22 take a kid from west Philadelphia and move him to south
23 Philadelphia, you got to have these things. Some of these
24 kids ought to be moved out of the county. And by the way,
25 when you're talking about gangs, you're talking about

1 retaliation, as was pointed out by the district attorney
2 from Lancaster. They don't retaliate just against the
3 person who testified, you might have to move a whole
4 family. We're not talking about one person the way we used
5 to talk. This is an entirely different system because these
6 people are different.

7 How about expanding your RICO statutes? Right
8 now you have to go to the Attorney General to get an okay to
9 do a RICO prosecution. Why shouldn't the local district
10 attorney have that opportunity? Now, maybe he doesn't want
11 to use it. Does he have to use it? No. Maybe you should
12 have it both criminal and civil matters.

13 REPRESENTATIVE COHEN: Excuse me, isn't this
14 bill in effect an expansion of the RICO statute?

15 JUDGE TRESSLER: It does that somewhat, but I'm
16 saying you don't need a bill to do that. I'm saying, if you
17 do that, that's true. That's why I brought out RICO. I
18 thought I'd mention it. Obviously, I didn't write this
19 after you had brought up that issue. It was something I was
20 concerned about.

21 And finally, and this is something that really
22 is a judicial thing but maybe your input can be helpful.
23 When a gang member is on probation or he's on parole and he
24 commits a new crime, there's a decision that is made by the
25 courts, either you have the probation hearing or the parole

1 hearing right away or you have it until after he's tried on
2 the new charge. Most judges wait until after the new
3 charge. If the person is acquitted on the new charge, then
4 obviously you don't have to have the hearing. I'm
5 suggesting you have the hearing immediately, and I'll tell
6 you why. If you have a probation hearing violation on a
7 person who's a gang member and the district attorney from
8 Lancaster comes into my court, he doesn't have to prove him
9 guilty of the new charge beyond a reasonable doubt, he only
10 has to prove him guilty by a preponderance of the evidence.
11 He doesn't have a jury trial. He comes in front of me as
12 the sentencing judge and he doesn't have to worry about the
13 exclusionary rule, which he does in the original
14 prosecution. Plus, the fact that these types of hearings
15 can be set up within a matter of weeks.

16 So a lot of times you have these gang members go
17 out, they come back, they've got these records, they're on
18 parole, they're on probation, and we sit there for 180 days
19 or 360 days or whatever the defense will agree to a
20 continuance to in order to prolong this thing. I'm saying,
21 let's get them in now. Maybe the courts should be told or
22 maybe a discussion with the Supreme Court should entail a
23 decision wherein in gang activities we don't wait until
24 after the new charge is disposed of. Get it done right away
25 and a lot quicker. What's the advantage to that? We get

1 them out of the local areas, we get them into the State
2 facilities, if that's where he belongs. Also, if you talk
3 about sending a message to the people, that sends a message
4 to the people.

5 I hope I didn't exceed my time here. I do want
6 to commend you for the start you've made. There are some
7 parts of this act I think are excellent, there are other
8 parts I don't.

9 The other thing I might want to mention to you
10 is, and this is just something that's gratuitous, there's a
11 Federal program in Washington, and what they do is they talk
12 about the gang problems throughout this country. One of the
13 components of that is to have a judge, a prosecutor, a
14 probation officer, a prison official, and also community
15 leaders who are handling and combating the gang problems, to
16 come in and address whatever that particular group is. I
17 don't know what your policy is here, it's the first time
18 I've ever been here, but I really think that perhaps the
19 whole committee should take an opportunity, since it's
20 available to you. It's only going to cost you food for the
21 people coming in and maybe a night overnight, because
22 they'll be flown in here and they'll be paid by the Federal
23 government. There's a fellow in Washington named Ron
24 Laney. He's with the Office of Juvenile Justice and
25 Delinquency Prevention. I think I have his address

1 somewhere, although I'm not sure. But if you call him, I am
2 sure that he will be happy to get people to tell you all the
3 problems, because these are the people that have been
4 through it, in most cases. Prosecutors from San Diego. The
5 probation officer, I believe, is from the west coast. One
6 of them is from Denver. The prison official is from
7 Denver. These are the people that have been through this
8 and they've seen some of the problems and perhaps rather
9 than having an ox to gore, which I guess, I mean, everybody
10 comes before you and everybody wants money and everybody
11 wants this and everybody wants that. These people don't
12 have any ox to gore. They'll just tell you what they've
13 experienced, and maybe that's the consolidate and give you
14 direction on how you want to go, because you've started, but
15 I think it's -- we learn from history, and rather than
16 repeat failures, I think we ought to go and look at the
17 successes, because there are some.

18 I thank the committee very much.

19 ACTING CHAIRMAN STURLA: Thank you. Comments?

20 REPRESENTATIVE MASLAND: I just want to say it's
21 easy to see you're a former prosecutor. I haven't seen a
22 judge stand up and use a flip chart like that for quite a
23 while. Should we find him guilty?

24 JUDGE TRESSLER: No.

25 CHAIRMAN CALTAGIRONE: I just want to say that I

1 appreciate the time you've given us today, both the district
2 attorneys and the judges. I'd like to take you up on that,
3 and I know Galia has written that down.

4 JUDGE TRESSLER: I will get you that. I might
5 even have the address with me, but if I don't, I'll
6 certainly see that you get it.

7 CHAIRMAN CALTAGIRONE: We can certainly plan to
8 do that this summer, but I'm reminded by staff that we're
9 not sure exactly when the Senate impeachment trial is going
10 to start, and being one of the Managers of that, I'll be
11 tied up over there anywhere from four weeks to six weeks to
12 when the cows come home. I'm just not sure how that's going
13 to play out over there, but I don't want it to interfere
14 with the business of the committee.

15 We do have tours coming up. We've been very
16 involved, by the way, with the Glenn Mills situation.
17 They've been up here lobbying and we've toured that facility
18 on two different occasions. I was very impressed with what
19 they've done. We've had conversations, very loud
20 conversations, with the Department of Welfare about this
21 very issue, and we've told them in no uncertain terms to
22 back off what they're doing, because it's not a veiled
23 threat with Glenn Mills. They told us pointblank if the
24 State, and I understand where they're coming from. They
25 don't want the State telling them what to do with their

1 money or how they should handle their programs. They're
2 doing a very effective job. They don't need us in there.
3 They don't want us dictating to them, and I agree absolutely
4 with what they're saying, and with the money that they save,
5 they send a number of students on to a full college
6 scholarship.

7 JUDGE TRESSLER: Any youngster who gets accepted
8 at a college from Glenn Mills is guaranteed at least two
9 years total free, and they're trying to make it four.

10 CHAIRMAN CALTAGIRONE: They have a tremendous
11 track record, and here you go again, government intrusion
12 into the private sector that's been doing a heck of a better
13 job. I've taken this committee around to just about, and
14 he's been one of the troopers that everything that you could
15 imagine we've been there, because I agree, seeing is
16 believing, and when you come back with the image of what
17 they've been doing in some of these facilities, you get a
18 better handle on what we might be able to do to facilitate
19 the help or just stepping away from it and let them do their
20 thing. I am so fearful that if the Department of Welfare
21 pushes what they want to do, they're going to create
22 tremendous chaos in the State, but if they think they're
23 paying a lot of money now, wait, wait until the big ticket
24 comes in when with you have to start sentencing kids out of
25 State and we lose our State facilities that are privately

1 run. And you know, I don't understand where the
2 administration is coming from on this issue. I absolutely
3 don't understand.

4 JUDGE PEOPLES: If I might just add one note on
5 that subject. Judge Cassimatis and I had the opportunity to
6 meet at the Welfare Department a couple of months ago with
7 regard to the very problem. We were told then that this set
8 of recommendations has been hacked at and hacked at for 12
9 years and suddenly now, and one of the worst times in terms
10 of needs for us as juvenile judges, now we're told this is
11 the time they're going to implement these regulations, which
12 is going to cause a reverse in the flow of the stream. I'm
13 virtually positive of it. We will have to start placing
14 kids outside of Pennsylvania. And as you said, that's a big
15 ticket.

16 JUDGE CASSIMATIS: May I make one comment about
17 sharing juvenile information with schools. This is very
18 important. And in York County we do it, as Judge Tressler
19 does in Montgomery County. We have identified persons in
20 the school district, this is done by court order, we have
21 the authority to do this by court order, to make information
22 available to that person, who in turn on an as-needed basis
23 then shares it. So the point is I think the mechanism
24 already exists to be able to do this and to structure this.
25 We now have actively underway an informal group between

1 juvenile justice and the Department of Education, seeing if
2 we can come up with some guidelines or regulations, so that
3 the concern that you expressed that we just don't make this
4 information available to anyone who wants to see it, but it
5 is available for those who need to know.

6 So we're hopeful that something will come out
7 that will address that issue, just as we have in York and
8 Montgomery Counties.

9 ACTING CHAIRMAN STURLA: One comment and a
10 question also. On the dissemination of this information to
11 the schools, do you believe that it should just be to public
12 school officials or should it go to private school officials
13 also?

14 JUDGE CASSIMATIS: My personal belief is if the
15 youngster is in a private school and there is a need to
16 know, depending on the particular behavior we're concerned
17 about, I think it would be shared with them, again, on the
18 same basis as we do with the public schools.

19 JUDGE TRESSLER: We share it with the private
20 schools, but one of the things you find is if you have a
21 youngster who's troubled, he's not just troubled in the
22 outside, he's troubled in school, and they throw him out and
23 he goes to public school. So there aren't that many kids I
24 have in probation committed someplace and are who are
25 private school individuals. Usually the conduct that they

1 exhibit in the outside is exhibited in the school, and the
2 private school has that luxury which the public school
3 doesn't.

4 ACTING CHAIRMAN STURLA: And you all mentioned
5 points that are palatable or acceptable in this bill and
6 other points that you would oppose in any situation. In
7 your spare time, which I know is tough, if you could or
8 would take the opportunity to mark up some of this
9 legislation and say absolutely get rid of these portions,
10 here's a suggestion how this can be strengthened. You may
11 just want to change this word here or there. Any of that
12 kind of information that I could get I would greatly
13 appreciate. My background is not as an attorney or with the
14 judicial system or anything like that, so I come from this
15 as someone who is trying to represent the concerns of my
16 community dealing with gang violence, and any ideas you have
17 about how I can help my community work with the gang
18 violence situation, why I would appreciate that. Thank
19 you.

20 I believe Commander Gwen Elliott from the
21 Pittsburgh Police Department is not here and she will be
22 faxing her comments.

23 MS. MILAHOV: She'll have to spread her comments
24 on the record at another date.

25 ACTING CHAIRMAN STURLA: All right, any other

1 questions, comments?

2 (No response.)

3 ACTING CHAIRMAN STURLA: Okay, thank you.

4 (Whereupon, the proceedings were concluded at

5 11:05 a.m.)

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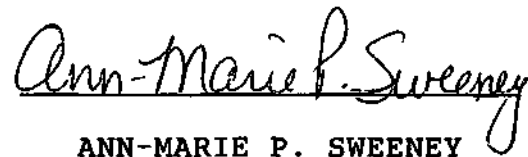
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1 I hereby certify that the proceedings
2 and evidence are contained fully and accurately in the notes
3 taken by me during the hearing of the within cause, and that
4 this is a true and correct transcript of the same.

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6 
7 ANN-MARIE P. SWEENEY

8
9
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