

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

\* \* \* \* \*

Federal Prisons

\* \* \* \* \*

House Judiciary Subcommittee  
on Crimes and Corrections

--oOo--

Room 39E, Main Capitol  
Harrisburg, Pennsylvania

Tuesday, August 22, 1995 - 10:00 a.m.

--oOo--

BEFORE:

- Honorable Jerry Birmelin, Majority Chairman
- Honorable Brett Feese
- Honorable Stephen Maitland
- Honorable Al Masland
- Honorable Thomas Caltagirone
- Honorable Lisa Boscola
- Honorable Andrew Carn
- Honorable Peter Daley
- Honorable Kathy Manderino

KEY REPORTERS

1300 Garrison Drive, York, PA 17404  
(717) 764-7801 Fax (717) 764-6367

1       ALSO PRESENT:

2

      Brian Preski, Esquire  
      Chief Counsel for Committee

4

5       Suzette Beemer  
      Judiciary Staff

6

7

      David L. Krantz  
      Minority Executive Director

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C O N T E N T S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WITNESSES

PAGE

Honorable Birmelin's opening remarks	4
Hank Sadowski, Deputy Regional Counsel Federal Bureau of Prisons Northeast Region	8
George C. Wigen, Warden Federal Correctional Institution Schuylkill County	14
Tina W. Gabbrielli, Asst. U.S. Attorney Eastern District of Pennsylvania	17
Martin F. Horn, Commissioner PA Department of Corrections	68

1                   CHAIRMAN BIRMELIN: I'd like to call  
2 this meeting to order. This is the Judiciary  
3 Subcommittee on Crimes and Corrections.

4                   We are today considering a bill that  
5 has not yet been introduced. It is not in exact  
6 form. You should have a copy of the rough draft  
7 of this bill. The bill will allow the Federal  
8 Bureau of Prisons to have concurrent  
9 jurisdiction in 3 of their most recent prisons  
10 that they've built in Pennsylvania. This has to  
11 be given to the prisons by the state via  
12 legislation.

13                   The federal corrections people asked  
14 the Casey Administration, late in the Casey  
15 Administration to do it, and they just didn't  
16 have the time to, I guess, to get around to it,  
17 and so they've asked the Ridge Administration to  
18 do it. The Ridge Administration has endorsed  
19 the proposal.

20                   We have with us 3 folks representing  
21 the federal correction institutions and the  
22 bureau and we've asked them to testify. I'll  
23 introduce them in a minute.

24                   We also have a bit of a scheduling  
25 problem, in that, after these folks testify we

1 are not scheduled to have another person testify  
2 until 11:30 when Commissioner Horn of the  
3 Pennsylvania Department of Corrections is  
4 scheduled to be here. We're trying to contact  
5 his office to ask him if it's possible to get  
6 here any earlier than 11:30. I don't want to  
7 keep the members here waiting for a long period  
8 of time just to hear one more testifier, however  
9 important he may be, and I'm sure we consider  
10 the Commissioner of the Department of  
11 Corrections to be fairly important, especially  
12 to this committee and its workings.

13 What I'd like to do is, first of all,  
14 have the members introduce themselves for the  
15 record. Then we will introduce our first guest.

16 Representative Carn, would you begin,  
17 please?

18 REPRESENTATIVE CARN: Andrew Carn.  
19 I'm from the 97th District, Philadelphia.

20 REPRESENTATIVE FEESE: Brett Feese,  
21 Lycoming County.

22 REPRESENTATIVE MASLAND: Al Masland,  
23 Cumberland County.

24 REPRESENTATIVE MAITLAND: Steve  
25 Maitland, Adams County.

1                   CHAIRMAN BIRMELIN: I'm  
2 Representative Birmelin from Wayne County,  
3 Chairman of the Subcommittee.

4                   REPRESENTATIVE CALTAGIRONE: Tom  
5 Caltagirone, Berks County.

6                   REPRESENTATIVE BOSCOLA: Lisa  
7 Boscola, Northampton County.

8                   CHAIRMAN BIRMELIN: Well, we have 3  
9 visitors with us here representing the Federal  
10 Bureau of Prisons, and when these 3 folks sit  
11 down I'm going to ask you to introduce  
12 yourselves individually so that the members here  
13 know specifically which one is which. I don't  
14 think we'll have any problem with the lady with  
15 us, but the 2 gentlemen may be hard to  
16 distinguish from one another otherwise.

17                   We've also been joined by  
18 Representative Manderino.

19                   As a footnote, I should add that  
20 yesterday I had mentioned that we didn't know  
21 who the Democratic members were of the  
22 subcommittee, but apparently that has been  
23 resolved. I did not know that; was unaware of  
24 that, so I apologize to the committee for that.

25                   Appointed to the Subcommittee on

1 Crimes and Corrections are Representative Harold  
2 James who is Democratic Chairman, Representative  
3 Manderino to my immediate left, and  
4 Representative Carn who has personally  
5 introduced himself, so we welcome you folks to  
6 the subcommittee. I'm sure we'll be able to  
7 work with you in the next year and a half on  
8 some substantive things.

9 We have with us, as I mentioned  
10 earlier, 3 members of the Federal Bureau of  
11 Prisons. I would like for those folks, if they  
12 would, to find a seat at the end of the table  
13 and if you would introduce yourselves. They are  
14 Hank Sadowski who is the Deputy Regional Counsel  
15 for the Federal Bureau of Prisons in the  
16 Northeast Region; Tina Gabbrielli, Assistant  
17 U.S. Attorney, Eastern District of Pennsylvania;  
18 and George Wigen, Warden of the Federal  
19 Correctional Institution at Schuylkill County.

20 Lady and gentlemen, we welcome you.  
21 If you would individually introduce yourselves,  
22 I'd appreciate that.

23 MR. SADOWSKI: Yes. Thank you. Good  
24 morning. I'm Hank Sadowski, Deputy Regional  
25 Counsel, Bureau of Prisons in Philadelphia.

1 MS. GABBRIELLI: I'm Tina Gabbrielli,  
2 Chief of Major Crimes in the United States  
3 Attorney's Office in Philadelphia.

4 MR. WIGEN: George Wigen, Warden of  
5 Federal Correctional Institutions, Schuylkill  
6 County, Minersville.

7 CHAIRMAN BIRMELIN: Thank you, and we  
8 welcome you to our subcommittee meeting. We  
9 would also point out to those who are testifying  
10 that, though there are certain people appointed  
11 to the subcommittee, any subcommittee meeting is  
12 open to all members of the judiciary, and so we  
13 have members besides that with us here this  
14 morning.

15 I guess what I'd like you to do -- I  
16 understand you don't have prepared statements,  
17 but I would prefer, Mr. Sadowski, if you would,  
18 is to give us a little bit better history and  
19 background than I did briefly a few minutes ago  
20 as to what this legislation does, why you feel  
21 it's needed, and whether or not there are any  
22 things that need to be included in this that,  
23 perhaps, are not at this point in time. Please  
24 share that with us.

25 MR. SADOWSKI: Thank you very much.



1       What I'd like to do is discuss the idea of  
2       territorial jurisdiction on the United States'  
3       lands generally, indicate why it's important to  
4       the Bureau of Prisons, and give a history on how  
5       this legislation came about. Warden Wigen will  
6       address any practical concerns on how this  
7       legislation will impact the Federal Correctional  
8       Institution at Schuylkill. Tina Gabbrielli is a  
9       federal prosecutor down in Philadelphia. She  
10      will address how it will impound on her office  
11      as well.

12                   Historically, when the Bureau of  
13      Prisons obtains a property, the Bureau of  
14      Prisons can obtain it either by buying it from a  
15      private individual or buying other government  
16      land. When other government land is bought,  
17      normally there is already some type of  
18      territorial jurisdiction. The institutions that  
19      are in question in this bill were all bought  
20      from private parties.

21                   When the United States buys private  
22      party land, the United States only obtains  
23      proprietary jurisdiction, what we call  
24      proprietary jurisdiction, which means we're just  
25      the owners of the land. We don't have any type

1 of territorial jurisdiction.

2 To obtain territorial jurisdiction,  
3 it's a somewhat tedious process as you're  
4 finding out where the Bureau of Prisons, in this  
5 case, has to make a request through the  
6 Department of Justice to have approval or  
7 permission to go to the government of the state  
8 to get appropriate legislation. The state has  
9 to pass legislation which will cede certain  
10 types of territorial jurisdiction over that land  
11 to the United States, and then the United States  
12 has to accept it.

13 The reason why the Bureau of Prisons  
14 goes to a territorial jurisdiction is primarily  
15 to give the bureau flexibility in processing  
16 crimes committed in federal institutions and on  
17 federal lands surrounding federal institutions  
18 that is also owned by the government.

19 In the situation where there's  
20 proprietary jurisdiction, if an inmate commits  
21 certain types of crimes, they are outside the  
22 federal criminal code. For example, a pure  
23 state crime would be one inmate assaults another  
24 inmate. One inmate can even murder another  
25 inmate. That cannot be prosecuted federally

1       because there is no specific federal statute  
2       that addresses that crime.

3               When there is territorial  
4       jurisdiction -- We're asking for concurrent in  
5       this legislation. When there's concurrent  
6       jurisdiction, the federal government can  
7       prosecute that normally state crime under the  
8       Assimilative Crimes Acts. There's a special act  
9       that allows the United States Attorney's Office  
10      to prosecute crimes committed on federal  
11      enclaves where there is territorial  
12      jurisdiction. Concurrent means that it could be  
13      prosecuted either by the state prosecutor or  
14      prosecuted by the federal prosecutor.

15              There's a series of state crimes that  
16      gives us some concern in our federal prisons  
17      that we would like to take care of ourselves,  
18      instead of asking the State District Attorney's  
19      Office to get involved and get a state sentence  
20      involved, because, if a federal sentence is  
21      imposed then that federal sentence would again  
22      be served with the Federal Bureau of Prisons.

23              There are certain types of crimes  
24      committed by inmates that are clearly federal  
25      crimes that we prefer for prosecution in the

1 U.S. Attorney's Office. We have escapes. We  
2 have assault on federal officers. We have  
3 introduction of contraband, conveying of weapons  
4 in institutions. There's a couple other ones,  
5 but those are the 4 major ones that are already  
6 being prosecuted by federal statutes.

7 This legislation will allow the  
8 Bureau of Prisons in these facilities to refer  
9 also for federal prosecution of inmate-on-inmate  
10 assaults, serious assaults, other types of  
11 offenses committed by visitors who come into the  
12 facility. It gives us more flexibility.

13 It also allows the federal and the  
14 state prosecutors to decide between themselves  
15 who would be in the better position to prosecute  
16 that case. These would be penalties that might  
17 be imposed or any type of procedural process  
18 they may have. It would also give the warden at  
19 the facility the opportunity to refer all  
20 prosecutions out first to federal authorities  
21 and then let the federal authorities contact the  
22 state authorities and decide who best to  
23 complete the investigation of prosecution of the  
24 case.

25 For this particular legislation, we

1       have -- right now in Pennsylvania we have 4  
2       pieces of land that the Bureau of Prisons owns  
3       where all we have is proprietary jurisdiction.  
4       We have the Federal Correctional Institution at  
5       Schuylkill County. We have the Federal  
6       Correctional Institution in Loretto, which is  
7       out by Altoona. We have the Federal  
8       Correctional Institution in McKean County, up by  
9       Bradford, and we just got land right now for the  
10      Metropolitan Detention Center in Philadelphia.  
11      The building is not up there yet, but we do have  
12      the land.

13                   This legislation will enable the  
14      Bureau of Prisons to obtain concurrent  
15      jurisdiction over those 4 parcels. This  
16      legislation also has a future acquisition  
17      provision in it so that, if the Bureau of  
18      Prisons has any other new institutions, opens up  
19      any new institutions in the future, that it  
20      could also obtain concurrent jurisdiction.

21                   Once this legislation is passed, then  
22      it still needs to go to the Attorney General who  
23      has to accept whatever jurisdiction is ceded  
24      from the state. The process here was, we sent  
25      it over to the Attorney General's Office. I

1 don't know if this subcommittee received a copy  
2 of the November 10, 1994 letter that was sent  
3 from the Department of Justice to Governor Casey  
4 that explained the reasons from the department  
5 on why concurrent jurisdiction is being sought.  
6 If you don't have it, I can find a copy of that.

7 I think that's essentially why we're  
8 asking for the legislation, and I'll turn it  
9 over to the warden for any practical  
10 implications of the legislation.

11 MR. WIGEN: Thank you, Hank. First  
12 of all, I'd like to thank the committee for the  
13 opportunity to give some practical viewpoints  
14 from a court administrator's standpoint on the  
15 concurrent jurisdiction issue.

16 We've been dealing with this issue  
17 for a number of years. In fact, I've been  
18 bothering our counsel with it since the day we  
19 opened back in 1991, because the issue that  
20 concerns me is inmate-on-inmate crime.

21 ( Interruption on intercom system )

22 CHAIRMAN BIRMELIN: We're apologetic  
23 for the interruption. They override the system  
24 and that occurs on numerous occasions when we're  
25 in session; not very often when we're not. If

1 that should happen again, it would be wise if  
2 you would again pause.

3 MR. WIGEN: The issue of inmate-on-  
4 inmate crime, of course, is not a federal crime,  
5 which I have trouble understanding as a laymen,  
6 but lawyers, I think, understand that.

7 As an administrator, it is very  
8 beneficial to us to be able to refer any type of  
9 offense that occurs within an institution that  
10 has prosecutorial merit to one agency to  
11 investigate and ultimately prosecute. To sit  
12 back and have to determine who has jurisdiction  
13 and who does not have jurisdiction is really  
14 time-consuming and cumbersome, and sometimes  
15 kind of inaudible as far as trying to understand  
16 what's happening.

17 To give you a little history on how  
18 complex this issue has been, I think since 1991,  
19 we've had at least 3 or 4 meetings between the  
20 state police, the county district attorney in  
21 Schuylkill County, the Federal Bureau of  
22 Prisons. Hank was at one of those meetings, I  
23 know, maybe at 2, but it took at least 3  
24 meetings, 4 meetings of this entire group for  
25 them as a group--and these are attorneys,

1       educated people in the law--to understand what  
2       the jurisdictional problems were.

3               In fact, it got to the point where  
4       the District Attorney's Office and the state  
5       police were saying that we were trying to shirk  
6       our responsibility and pass this additional  
7       crime and investigations and prosecutions on to  
8       them; when, in effect, our attorneys and the  
9       United States Attorney's Offices had to educate,  
10      show them law, why we did not have this  
11      particular jurisdiction, and that we weren't  
12      trying to get out of doing work. We weren't  
13      allowed to do work by law. After this was all  
14      arranged, then I think people finally  
15      understood.

16             It is very beneficial to me as an  
17      administrator, like I say, to go to one agency  
18      when we have an offense, to call the FBI, have  
19      them come in and do their investigations along  
20      with our staff, and then let the United States  
21      Attorney's Office and the local prosecution  
22      determine who is going to prosecute the case.

23             Claude Shields, the District Attorney  
24      for Schuylkill County, has been involved in this  
25      operation since day one. He very much endorses



1 the concurrent jurisdiction. He has--I will add  
2 to the committee--been very helpful with us in  
3 willingness to accept some of our inmate-upon-  
4 inmate assault cases, even though it's an  
5 additional burden to him and quite cumbersome  
6 from a prosecutorial standpoint due to the  
7 transporting of inmates, the nonissuing of  
8 writs. It's a number of issues that  
9 administratively have become very cumbersome to  
10 us in that process, but he has done very well  
11 with this.

12 I will just, as an administrator,  
13 encourage the allocation of concurrent  
14 jurisdiction from just ease of doing business.  
15 Thank you.

16 MS. GABBRIELLI: Good morning. I'd  
17 again like to thank the committee for the  
18 opportunity to address you this morning on this  
19 issue. I'm here on behalf of the United States  
20 Attorney's Office. I work in the Eastern  
21 District of Pennsylvania. Part of my duties as  
22 the Chief of Major Crimes is to supervise all  
23 the criminal prosecutions for a number of areas,  
24 but also to include crimes that occur within the  
25 territorial or maritime jurisdiction of the

1 United States.

2 To understand why this particular  
3 issue -- I understand the warden has said it  
4 took awhile for him to understand why an  
5 inmate-against-inmate assault was not something  
6 that could be prosecuted federally, it's because  
7 of the way the federal statutes are worded.

8 I'd like to just give one example,  
9 which is the example for assaults that occur  
10 within the maritime and territorial  
11 jurisdiction. It's because of the way the  
12 statutes begin. "Whoever within the special  
13 maritime and territorial jurisdiction of the  
14 United States is guilty of an assault, shall be  
15 punished as follows".

16 FCI Schuylkill and the other prisons  
17 that are the subject of this bill are not within  
18 either the maritime or the territorial  
19 jurisdiction of the United States and,  
20 therefore, by law, the way Congress has passed  
21 the laws, we are not able to prosecute those  
22 crimes federally.

23 If the law were to be changed so that  
24 we had concurrent jurisdiction, then the warden  
25 would be able to refer these for investigation

1 to the Federal Bureau of Investigation, and they  
2 would be able to refer them to my office, to the  
3 United States Attorney Offices here in  
4 Pennsylvania, for consideration for prosecution.

5 We often work with other federal  
6 territorial properties; for example, the  
7 Independence Park Service, which is right across  
8 from our offices in Philadelphia. If crimes  
9 occur on that facility, we are used to  
10 prosecuting those crimes on behalf of the  
11 National Park Service. There is, however,  
12 concurrent jurisdiction on that property, and if  
13 a crime were to occur, we consult with the  
14 Philadelphia District Attorney's Office as to  
15 who is the better prosecutor's office  
16 jurisdictionally to prosecute that crime.

17 Some of the factors that we consider  
18 whenever a crime occurs on a property, which is  
19 concurrent jurisdiction, is who can best handle  
20 that prosecution; in other words, who, perhaps,  
21 can send the bad guy away for the most period of  
22 time, if that's what is called in either the  
23 particular act in question.

24 Are there any jurisdictional issues  
25 which would better be handled locally rather

1       than federally? That's something that we  
2       communicate regularly with the various district  
3       attorneys' offices to make those types of  
4       determinations.

5               So this change in the statute would  
6       allow that kind of a process to occur, whereby,  
7       we would be able to utilize the best resource  
8       available to address the particular crime.  
9       Thank you.

10               CHAIRMAN BIRMELIN: I'd like to give  
11       our members an opportunity to ask some questions  
12       and share with you maybe some of their concerns  
13       if they have them.

14               I've had our staff hand out the  
15       letter that the Department of Justice sent to  
16       the Governor. As they will see it's November  
17       10, and I'm sure the Governor realized at that  
18       point it would probably not be efficient for him  
19       to try to affect the change that you're asking  
20       for, and I think that's why you're seeing this  
21       effort being made now and it wasn't made last  
22       year.

23               I apologize. I probably should have  
24       gotten this to the members earlier because I was  
25       given this letter a couple months ago, I guess,

1 and it does an excellent job of explaining the  
2 situation. I think, though, we don't have the  
3 time to read it right now, you may want to read  
4 that when you get back to your offices.

5 Representative Carn, do you have a  
6 question?

7 REPRESENTATIVE CARN: Yes. Thank  
8 you, Mr. Chairman. Besides prisoners assaulting  
9 prisoners, what other kinds of crimes are you  
10 referring to?

11 MR. SADOWSKI: Well, some of the  
12 other types of crimes that happen and cannot be  
13 prosecuted federally, you could have a theft of  
14 property between 2 staff members. You could  
15 have a theft between 2 inmates. I'm not too  
16 concerned about that as much as I am theft  
17 between staff members, or even a theft of  
18 personal property by inmates of staff members'  
19 property. None of those fall within federal  
20 statutes. Theft of government property, yes.  
21 But personal property of our staff members, that  
22 does not fall within the federal statute.

23 REPRESENTATIVE CARN: So that's the  
24 extent pretty much?

25 MR. SADOWSKI: There's also offenses

1 committed by visitors or offenses committed out  
2 in our parking lots. We've had situations where  
3 visitors have been found to have drugs in their  
4 car, but we had insufficient evidence to prove  
5 that they are going to bring it into the  
6 institution, which would make it a federal  
7 crime. So, possession of the drugs in the  
8 parking lot would not be prosecuted federally.  
9 We'd have to refer it out to the state.

10 The key crime that we look to is  
11 really the inmate-on-inmate assault. That is  
12 the key crime that gives us concern; why we try  
13 to seek for concurrent jurisdiction across the  
14 board for all of our institutions; not just in  
15 Pennsylvania.

16 REPRESENTATIVE CARN: How many other  
17 states have acquired this type of agreement?

18 MR. SADOWSKI: Well, we have about 87  
19 institutions at last count. Most of them --  
20 Well, this has been going on since probably  
21 about 1920's and 1930's, since the Bureau of  
22 Prisons has been acquiring land for  
23 institutions. In fact, in 1931, the act that  
24 we're amending here, or at least trying to  
25 amend, was an act to give exclusive jurisdiction

1 to the area that is now Lewisburg Penitentiary.  
2 So, these have been going on for years in most  
3 of the states that we work with.

4 REPRESENTATIVE CARN: You say in most  
5 of them, but Pennsylvania, I'm assuming, is the  
6 only state that doesn't have this kind of  
7 agreement?

8 MR. SADOWSKI: We have actively been  
9 seeking concurrent jurisdiction for the last 5  
10 years for not only present institutions, but to  
11 also include future so that we don't have to go  
12 through the process each time.

13 New Jersey has, for example, an  
14 exclusive jurisdiction for any federal land,  
15 which is not what we would like. We'd like to  
16 have concurrent because it gives us more  
17 flexibility, enables the state prosecution and  
18 federal prosecution and allows the prosecutors  
19 to work that out. So, there are some states  
20 that have future institutions, some do not. Our  
21 preferred way to do it now is to try to cover it  
22 all in one shot as opposed to go on piecemeal,  
23 and especially with the expansion of the prison  
24 population.

25 REPRESENTATIVE CARN: You still

1 didn't answer my question, though, of how many  
2 states. The same; half; most of them?

3 MR. SADOWSKI: Well, let's see. I'm  
4 going to say we probably have institutions in  
5 over 20, 25 states, and my feeling is that most,  
6 if not all, have some type of legislative  
7 jurisdiction, and we're opening new institutions  
8 all the time.

9 REPRESENTATIVE CARN: All right.  
10 Thank you, Mr. Chairman.

11 CHAIRMAN BIRMELIN: Representative  
12 Manderino.

13 REPRESENTATIVE MANDERINO: Thank you,  
14 Mr. Chairman. Representative Carn asked a few  
15 of my questions, but I want to follow-up a  
16 little bit more on some of the points that he  
17 was trying to bring out that I'm still confused  
18 about.

19 In your 87 federal institutions  
20 currently territorial where you have to -- Am I  
21 correct in understanding that in all 87 of those  
22 you have the kind of jurisdiction you're now  
23 asking us for in these 4 institutions here in  
24 Pennsylvania?

25 MR. SADOWSKI: No, that's not



1 correct, Representative. The newer  
2 institutions, if we bought the land from another  
3 branch of the government, of the United States  
4 Government, there's probably some type of  
5 territorial jurisdiction.

6 REPRESENTATIVE MANDERINO: There's  
7 never an issue that you have to come to the  
8 state because you have that?

9 MR. SADOWSKI: Exactly. I have a  
10 listing from 1990, now that I think about it,  
11 that I brought with me that compiled  
12 jurisdictions from the institutions that we had  
13 at that time.

14 Now, with prison expansion we  
15 probably have an additional 20 that aren't on  
16 this list. Bradford, which was called Bradford;  
17 it's now McKean, shows proprietary. The first 6  
18 institutions, there was one in Texas that was  
19 proprietary that we are seeking legislation,  
20 asking from the Department of Justice to go.  
21 This was in 1990, and the rest were either  
22 exclusive or concurrent jurisdiction.

23 REPRESENTATIVE MANDERINO: Exclusive  
24 means feds have exclusive jurisdiction over  
25 everything that happens?

1 MR. SADOWSKI: That's correct. So  
2 all crimes that are committed have to be  
3 prosecuted by the district attorney.

4 REPRESENTATIVE MANDERINO: So but for  
5 these 4 in Pennsylvania and one in Texas, you  
6 either have exclusive or concurrent jurisdiction  
7 in all of them?

8 MR. SADOWSKI: No. I'm going through  
9 the list now.

10 REPRESENTATIVE MANDERINO: Oh, I'm  
11 sorry.

12 MR. SADOWSKI: My next list of  
13 institutions--we have 80 institutions--we have  
14 some with concurrent, some with exclusive, and  
15 it looks like 3 were none, which to me means  
16 proprietary, and there's 2 that they didn't  
17 know. They're Army bases. They weren't sure if  
18 they were exclusive or concurrent.

19 Now, my next listing of about 12  
20 institutions, we have 2 exclusives, concurrent  
21 and several proprietary, and then some unknown  
22 or not determined yet.

23 My next one's about another 1, 2, 3,  
24 4, 5, 6. All but 2 were listed as exclusive or  
25 concurrent, one of which was Loretto, which is

1 one of the ones in Pennsylvania that we're  
2 dealing with today.

3 In my next group of 8 institutions we  
4 have 4 exclusives, a concurrent, and then 3  
5 other ones were none, which to me means  
6 proprietary, and there was one that was unknown.  
7 The list seems to be -- That's what seems to be.  
8 They're breaking up --

9 REPRESENTATIVE MANDERINO: So it  
10 seems that there are about a third of your  
11 institutions--I mean, I was just doing it in my  
12 head--where you don't have what you're seeking  
13 right now?

14 MR. SADOWSKI: Yes, I think that's a  
15 good estimate. If this subcommittee needs to  
16 know an exact account as now, I can obtain that  
17 for you and supply it.

18 REPRESENTATIVE MANDERINO: The term  
19 concurrent jurisdiction and the kinds of matters  
20 that that includes, is that a definition that  
21 exists somewhere either in Pennsylvania statute  
22 or by federal law; that by adopting this term  
23 concurrent jurisdiction, we know it includes  
24 these kinds of legal actions; not just  
25 inmate-on-inmate, but an action involving 2

1       civilians that happened out in your parking lot;  
2       an automobile accident that did damage to your  
3       property on your prison; an environmental  
4       violation of something that your prison did in a  
5       nearby stream?

6                   Does it include all of that, and are  
7       there any places where they say, we'll give you  
8       jurisdiction for your inmates, but not for  
9       matters over private citizens or property?

10                   MR. SADOWSKI: For concurrent  
11       jurisdiction?

12                   REPRESENTATIVE MANDERINO: Yes.

13                   MR. SADOWSKI: Is that Section 14?

14                   MS. GABBRIELLI: No. There's 14 for  
15       proprietary --

16                   MR. SADOWSKI: There's case law that  
17       has developed this concept of exclusive versus  
18       concurrent jurisdiction. There's also a  
19       definition, I think it's in 18 U.S.C. Give me a  
20       second.

21                   The wording exclusive or concurrent  
22       is just mentioned in the statute without a  
23       definition. But the way that the case law has  
24       interpreted it is precisely the way you said,  
25       Representative. In an exclusive jurisdiction

1 situation, anything that would occur, even  
2 between 2 civilians, would be a federal matter,  
3 if you will.

4 REPRESENTATIVE MANDERINO: By our  
5 giving you concurrent jurisdiction on the  
6 property here, we would be giving you federal  
7 jurisdiction over all matters that happened on  
8 that land; nothing carved out under federal case  
9 law?

10 MR. SADOWSKI: Under federal case law  
11 concurrent jurisdiction means that both the  
12 state authorities and the federal authorities  
13 would have jurisdiction over the land.

14 REPRESENTATIVE MANDERINO: Are there  
15 any states in which you have concurrent  
16 jurisdiction where they say you have  
17 jurisdiction over your inmates and things that  
18 happen with regard to your inmate population,  
19 but not with regard to private citizens?

20 MR. SADOWSKI: Not that I know of,  
21 although there have been some exclusions in some  
22 of the concurrent jurisdiction legislation that  
23 would break out the ability of the state to  
24 serve process, criminal or civil process. So I  
25 would think that there could be some exceptions

1 or some type of limiting language in a  
2 concurrent jurisdiction session.

3 REPRESENTATIVE MANDERINO: The way it  
4 works right now, either in other jurisdictions  
5 or by way of the example that we were given with  
6 regard to the park service, where you consult  
7 with the state entity or the local  
8 jurisdictional entity, usually the county  
9 district attorney's office, about who can better  
10 prosecute something, who has the final say --

11 If you had concurrent jurisdiction,  
12 who would have the final say over -- What if  
13 both offices wanted the matter? Or if you had  
14 concurrent jurisdiction and you wanted the  
15 matter, would you even have to consult with the  
16 local district attorney's office?

17 MR. SADOWSKI: I'll let Tina cover  
18 that.

19 MS. GABBRIELLI: Let me say that I  
20 know of no provision that states that one or the  
21 other has the final say. In my experience--I've  
22 been an Assistant United States Attorney for 12  
23 years now--it's a matter of consultation. You  
24 work on a day-in, day-out basis with the various  
25 district attorneys' offices, and I know of no

1 instance where, between the United States  
2 Attorney and the District Attorney, they haven't  
3 been able to come to an agreement as to who  
4 should prosecute a particular crime.

5 What normally happens is, the  
6 district attorneys' offices often are very busy  
7 and would prefer for the run-of-the-mill type  
8 cases that the United States Attorney's Office  
9 perhaps handle those. Where you're really  
10 talking about something that the District  
11 Attorney's Office are very concerned with it  
12 would be a murder case. Oftentimes, the state  
13 and the local district attorney's office are  
14 often better equipped to handle murder cases,  
15 and they also have capital punishment in many  
16 instances where it is not available with respect  
17 to federal crimes.

18 So, I don't know of any particular  
19 thing which would say the feds would have the  
20 final say versus the locals. I think it is more  
21 a matter of consultation.

22 MR. SADOWSKI: Can I answer to that,  
23 please? We had a situation in 1987, at  
24 Lewisburg where an inmate faked an injury; was  
25 able to finagle a hospital trip, and had it

1 prearranged, and our staff had been ambushed and  
2 one of our officers was shot and killed.

3           Although it wasn't a concurrent or  
4 exclusive jurisdiction problem, both the state  
5 and the federal government could prosecute the  
6 case because it was assault on a federal officer  
7 even though it was outside our institution, and  
8 the United States Attorney's Office and the DA's  
9 office got together, prosecuted it successfully  
10 in the state court, because we are seeking the  
11 death penalty. The inmate was convicted but  
12 received life. But, it was a situation where  
13 both getting together on an important case like  
14 that resulted in a good prosecution for us and  
15 it was handled pretty well.

16           REPRESENTATIVE MANDERINO: Let me  
17 just give one last example of -- One of these  
18 federal prisons, the one in Philadelphia, it's  
19 built on a stream. I don't know that it is or  
20 it isn't. But it's built on a stream or a river  
21 and I live down river or downstream of that as a  
22 private citizen, and I complain about an  
23 environmental issue that's going on right now.  
24 I would have a cause of action in state court as  
25 a private citizen against you as an entity for



1       polluting the stream or whatever, and it doesn't  
2       necessarily need to be the Pennsylvania  
3       Department of Environmental Resources versus you  
4       to bring that suit. It could be Kathy Manderino  
5       versus you, and I have that legal right to bring  
6       that suit right now in state court.

7                If you had concurrent jurisdiction,  
8       would I have to go to federal court if you so  
9       chose to have that matter happen there?

10               MR. SADOWSKI: If you were bringing  
11       suit against a federal entity, my reaction is,  
12       it would probably have to be brought in the  
13       federal court in any event. If you brought it  
14       to state court --

15               REPRESENTATIVE MANDERINO: They could  
16       kick it over?

17               MR. SADOWSKI: -- we could bring it  
18       over to the federal court to try to keep it in  
19       federal court. So, even under the current  
20       situation with proprietary jurisdiction, that  
21       would not change. The way that the  
22       environmental laws impact on us, this would have  
23       no impact on that one way or the other. The  
24       laws that apply to us, apply to us.

25               REPRESENTATIVE MANDERINO: Thank you.

1 I'm just a bit concerned. I mean, I have no  
2 problem with the inmate stuff. I just think  
3 that we have limited federal jurisdiction and  
4 reserve most of our crimes to the states for a  
5 valid public policy reason, and I'm trying to  
6 figure out which crimes --

7 I mean, there's always a yelling  
8 from the state governments that the feds are  
9 co-opting so much just in terms of the statutes  
10 being passed by Congress and making things  
11 federal crimes that are, some would argue, are  
12 within the purview of the state. I'm wondering  
13 what else we're losing here.

14 MR. SADOWSKI: I understand your  
15 concerns. The motivating force for us primarily  
16 are the crimes committed by the prisoners. They  
17 are prisoners. They still commit crimes in the  
18 institutions and --

19 REPRESENTATIVE MANDERINO: Well, if  
20 you had concurrent jurisdiction that limited  
21 itself to actions involving inmates, would that  
22 be a burden for you to put that limitation on  
23 it?

24 MR. SADOWSKI: I would prefer it not  
25 be there since it may give the inmates or

1       whoever is charged with the crimes some  
2       additional mechanisms to try to defend  
3       themselves from the indictment or whatever.  
4       There's also circumstances where you could have  
5       a staff situation, where staff steals property  
6       from another staff member that you may want to  
7       take personnel action and it's a lot easier for  
8       us to prosecute the case as well.

9                   REPRESENTATIVE MANDERINO:   But you  
10       don't have jurisdiction right now just as the  
11       federal government over crimes involving  
12       property of private citizens?

13                   MR. SADOWSKI:   That's correct.

14                   REPRESENTATIVE MANDERINO:   And the  
15       only people who prosecute crimes against a  
16       person of personal property is not individuals,  
17       but the Commonwealth?

18                   MR. SADOWSKI:   That's correct.

19                   REPRESENTATIVE MANDERINO:   So you  
20       would be assuming Commonwealth jurisdiction?  
21       Like, an employer can't assume Commonwealth  
22       jurisdiction.  I mean, obviously, they go to  
23       Commonwealth court, but it's Commonwealth versus  
24       Kathy Manderino.

25                   MR. SADOWSKI:   It'll still be a

1 request to either the federal prosecutor or the  
2 state prosecutor for prosecution. The Bureau of  
3 Prisons can't prosecute a case on its own.

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

6 MR. SADOWSKI: I think Tina answered  
7 that.

8 MS. GABBRIELLI: If I could address  
9 that. Other facilities, for example, where  
10 these issues might arise; for example, the VA  
11 hospitals, at Coatesville, or some of the other  
12 federal properties that we do, the Navy base in  
13 Philadelphia, some of those are exclusive, some  
14 of them are concurrent.

15 For example, at the VA Hospital in  
16 Coatesville you have a patient whose \$50 was  
17 stolen by, perhaps, a nurse. That's something  
18 that -- Are you going to refer that to the  
19 locals each and every time? I mean, that adds a  
20 lot of burden to their already heavy schedules  
21 of prosecuting crimes; whereas, if that goes  
22 federal, we have a provision where we can  
23 prosecute that federally and we're able to  
24 handle those with a special court session, which  
25 we do for many of the types of smaller offenses

1 that might occur on federal facilities.

2 REPRESENTATIVE MANDERINO: And the  
3 penalty that comes with the crime, does that  
4 follow the state penalty of the jurisdiction  
5 that you're in or do you have your own federal  
6 penalties?

7 MS. GABBRIELLI: It depends on the  
8 crime. If it's something that is -- Like, for  
9 example, the assault statute that I was  
10 referring to, which is within the special  
11 maritime and territorial jurisdiction of the  
12 United States, then that has its own penalty  
13 provision set forth. So, it would depend on  
14 what the type of crime is.

15 REPRESENTATIVE MANDERINO: And if it  
16 doesn't it follows the state?

17 MS. GABBRIELLI: I had asked this  
18 question to Mr. Sadowski earlier, so I'm not  
19 certain of the answer on that. The provision  
20 that you would fall back on, if there's not a  
21 specific federal statute, is the Assimilative  
22 Crimes Act, which is under 18 U.S.C., Section  
23 13. On the way up we were discussing this, and  
24 I'm not certain whether the penalties fall under  
25 the federal statutes or under the local

1 statutes.

2 MR. SADOWSKI: The way that the  
3 federal statute reads is, if it comes under the  
4 Assimilative Crimes Act; if you're a state crime  
5 that was committed on a territory of the United  
6 States, would be guilty of a like offense and  
7 subject to a like punishment. So reading to  
8 that it would be the same punishment for the  
9 state crime.

10 CHAIRMAN BIRMELIN: Representative  
11 Caltagirone.

12 REPRESENTATIVE CALTAGIRONE: Thank  
13 you. On the third page of the letter that we  
14 had received from Lois Schiffer, in the second  
15 paragraph it mentions Lewisburg and Allenwood,  
16 and then it says, appear to be under the  
17 exclusive legislative jurisdiction. I notice  
18 that in the draft of the legislation those 2  
19 institutions were not included. I'm always of a  
20 mind, if we're going to do something, let's do  
21 it once and not have to come back to revisit it.

22 Allenwood and Lewisburg have been  
23 left out of the list here on the legislation  
24 that's drafted. Would it be advisable to  
25 include them, so that if there would be any

1 question as to whether or not -- If this  
2 legislation moves on a committee and gets to the  
3 floor and gets approved and signed into law and  
4 then at some future date we say, oh, geez, you  
5 know, we found out that Lewisburg and Allenwood,  
6 there would be some question legally as to  
7 whether or not they should have been included.

8 MR. SADOWSKI: Allenwood and  
9 Lewisburg are exclusive jurisdiction. It was  
10 done many, many years ago. Lewisburg back in  
11 1931. Allenwood was Department of Defense  
12 property that was ceded over to the Bureau of  
13 Prisons, and it was exclusive jurisdiction at  
14 that time.

15 We have actually 4 separate  
16 institutions on the Allenwood property. We have  
17 a camp, which is our lowest level, a low, a  
18 medium, and a high. So, we have all 4 levels on  
19 there. We've expanded that from just a camp, so  
20 we're talking about 5 institutions.

21 Our policy is to seek concurrent  
22 jurisdiction wherever we can. What's most  
23 important to us is to try to get some kind of  
24 concurrent jurisdiction specifically on the ones  
25 where we do not have it. The exclusive

1 jurisdiction institutions seem to be working  
2 okay. If I had my choice, I'd say sure, let's  
3 include them all, but I don't want that to be a  
4 make or break on getting this bill through.

5 REPRESENTATIVE CALTAGIRONE: Okay. I  
6 see what you're saying. I was just wondering if  
7 we're going to do it and there's no real  
8 objections to doing it the way it really should  
9 be done to make it all exclusive so that we  
10 wouldn't have to at some future point come back  
11 to revisit it, you would prefer to do it that  
12 way?

13 MR. SADOWSKI: The Bureau of Prisons'  
14 policy is to try to get concurrent jurisdiction  
15 where we can. So to change from exclusive to  
16 concurrent -- The legislation -- I would have no  
17 opposition to that.

18 I don't know about the Department of  
19 Justice. They look like -- In this letter it  
20 suggests to me that they would be seeking  
21 concurrent at a later date. Any legislation  
22 that is passed and signed by the Governor here  
23 still needs to be approved by the Attorney  
24 General anyway to accept jurisdiction.

25 I think the Attorney General, if



1 she wasn't happy with concurrent on Lewisburg  
2 ground she would choose not to take those two.  
3 But if you can get the bill through with  
4 Allenwood and Lewisburg included, so be it.  
5 That would be great for us.

6 REPRESENTATIVE CALTAGIRONE: I was  
7 just curious about that, because I thought if  
8 there's no real serious objections to it, it  
9 would just make sense to me to include them,  
10 rather than to have to come back and revisit  
11 this at some future point. If there were  
12 questions that would arise that you could get it  
13 done -- I don't see that there would be any  
14 serious objections, unless there's something I'm  
15 missing.

16 CHAIRMAN BIRMELIN: Before I give the  
17 other members a chance to ask some more  
18 questions, I want to just zero on a little bit  
19 on the question that Representative Caltagirone  
20 raised, and that is on the copy of the bill. I  
21 think you have it there, do you not? It doesn't  
22 have a number. But on the top of the page where  
23 it says, an act, if you look on the back on page  
24 2, line 2, it says Kelly Township, Union County.  
25 What facility do you have in Kelly Township,

1 Union County?

2 MR. SADOWSKI: That's the Lewisburg  
3 Penitentiary. That's what my recollection is.

4 CHAIRMAN BIRMELIN: That's what I  
5 thought. But in the letter that we received  
6 that we were just reading from Lois Schiffer,  
7 the Assistant Attorney General, is that separate  
8 and apart from what you've just described as 4  
9 federal facilities in one?

10 MR. SADOWSKI: Representative, what  
11 it looks like to me is that, that was just a  
12 change in the language from Township of Kelly,  
13 County of Union, to Kelly Township, Union  
14 County.

15 CHAIRMAN BIRMELIN: It's already in  
16 the existing --

17 MR. SADOWSKI: That's an amendment to  
18 the existing act for Lewisburg.

19 CHAIRMAN BIRMELIN: That's just to  
20 cover the Lewisburg Federal Correctional  
21 Institute? It does not cover, like,  
22 Allenwood --

23 MR. SADOWSKI: I don't know if it  
24 actually covers the --

25 CHAIRMAN BIRMELIN: I mean, Allenwood

1 and Lewisburg are pretty close.

2 MR. SADOWSKI: Yes. They're about 20  
3 minutes away. I don't think that this  
4 legislation as drafted would specifically cover  
5 Lewisburg, since it talks about existing lands  
6 and all future lands and then specifies 4  
7 particular institutions, defines them as the  
8 existing lands. That's how I read the  
9 legislation.

10 CHAIRMAN BIRMELIN: Well, I'm having  
11 a little bit of a problem here with how many  
12 facilities you own and what you're asking for,  
13 and I would suggest and I will -- After the  
14 other members have had an opportunity to ask  
15 some questions, I will get a little more pointed  
16 with it. I would suggest that we may need to  
17 correct this language that you see in front of  
18 you, because I'm not sure it addresses  
19 everything that we're trying to do here.

20 MR. SADOWSKI: What we're seeking in  
21 this particular bill is to obtain concurrent  
22 jurisdiction over the 4 lands that we now own  
23 where all we have is proprietary. That's  
24 Loretto, McKean, Schuylkill, and Philadelphia,  
25 and also to have concurrent jurisdiction over

1 any future lands that we acquire for  
2 institutions. We weren't trying to bring back  
3 in Lewisburg and Allenwood in this particular  
4 legislation. That was not our intention. If it  
5 happens, that's fine, but that was not our  
6 intention in this particular bill.

7 CHAIRMAN BIRMELIN: We'll discuss  
8 that at a later time today. Representative  
9 Feese.

10 REPRESENTATIVE FEESE: Thank you, Mr.  
11 Chairman. I don't know if it's a comment or a  
12 question, but again, it's on the issue that  
13 Representative Caltagirone brought up.

14 If you already have exclusive  
15 jurisdiction in Allenwood and Lewisburg how can  
16 we cede concurrent jurisdiction now? We don't  
17 have anything to yield to the federal  
18 government. Wouldn't the process be reversed;  
19 the federal government would have to initiate  
20 that process to yield some jurisdiction back to  
21 the state?

22 MR. SADOWSKI: That's a very good  
23 question, as a matter of fact, and I wish I knew  
24 the answer to that. These things are very  
25 complicated. I would think that if you had a

1 bill that allowed concurrent jurisdiction for  
2 Allenwood and Lewisburg, it would still take  
3 some action by the Attorney General to accept  
4 it. I think that you could still pass the bill,  
5 but it would still need an act from the federal  
6 government to give you back concurrent  
7 jurisdiction.

8 REPRESENTATIVE FEESE: Possibly add  
9 another section indicating that the legislature  
10 or the Commonwealth is willing to accept  
11 concurrent jurisdiction and then have that  
12 action by the U.S. Attorney?

13 MR. SADOWSKI: Something like that  
14 would seem to fit the bill, no pun intended.

15 CHAIRMAN BIRMELIN: Representative  
16 Boscola.

17 REPRESENTATIVE BOSCOLA: Is there a  
18 difference in the penalty when the Commonwealth  
19 convicts for inmate-inmate assault and this  
20 would allow you now to prosecute at the federal  
21 level, is the penalty stricter for this type of  
22 assault, inmate-inmate assault, if it would give  
23 you this concurrent jurisdiction?

24 MS. GABBRIELLI: The way that the  
25 statutes work is that, if there is a specific

1 federal bill which applies to a particular crime  
2 and we have to use that federal bill and with  
3 respect to assaults, there is a particular  
4 federal statute which does apply, which is 18  
5 U.S.C., Section 113, is one of the statutes.  
6 There's actually more than one statute, I  
7 believe, that would apply for federal assaults.  
8 Therefore, we can't use the fall-back statute,  
9 which is referred to as the Assimilative Crimes  
10 Provision.

11 If there was not a federal aggravated  
12 assault statute, then we could use it under the  
13 Assimilative Crimes Provision and then, as we've  
14 just learned by reading the statute, it would be  
15 the same penalty as would apply for the local  
16 statute.

17 So, with respect to agg (sic)  
18 assaults, the penalties would be different if we  
19 prosecuted them federally than if they were  
20 prosecuted locally, and that's where the  
21 consultation process comes in if there's  
22 concurrent jurisdiction as to which jurisdiction  
23 would best be suited to try that particular  
24 case.

25 There are also other legal issues

1 that you take into consideration in determining  
2 which jurisdiction might be better suited to try  
3 the case. There's differences in procedures  
4 between federal court and the local courts.  
5 There's different standards sometimes with  
6 respect to evidentiary issues between federal  
7 court and state court.

8 So, the District Attorney's Offices  
9 and the United States Attorney's Office, that's  
10 why we consult with each other and make these  
11 types of determinations as to, you know, where a  
12 particular case would best be suited.

13 REPRESENTATIVE FEESE: I think  
14 there's a double jeopardy issue too, isn't  
15 there?

16 MS. GABBRIELLI: They could both do  
17 it, yes.

18 REPRESENTATIVE FEESE: You could  
19 prosecute in the state court and then prosecute  
20 in the federal court, but you could not  
21 prosecute in the federal court, then prosecute  
22 in the state, because I think the state  
23 interprets our double jeopardy statute to mean  
24 that; if you're prosecuted federally, you cannot  
25 be prosecuted in the state court. But, federal

1 double jeopardy statutes is the reverse; that  
2 you could prosecute in state and then prosecute  
3 in federal also, I believe.

4 MS. GABBRIELLI: It depends on the  
5 statutory elements. But generally, you're  
6 correct. If the elements are exactly the same  
7 in federal court as they were in the state  
8 prosecution, then there still would be a bar to  
9 proceed in federal court again.

10 CHAIRMAN BIRMELIN: Do you have any  
11 other questions? Representative Masland.

12 REPRESENTATIVE MASLAND: I want to  
13 pick up where Representative Feese left off. My  
14 question deals with, are there any situations  
15 where the federal government has ceded  
16 concurrent jurisdiction to the states? Does it  
17 do that? I mean, we're talking about the  
18 prospect of them doing that where they have  
19 exclusive jurisdiction. Are there situations  
20 where they have?

21 I used to be an Assistant DA in  
22 Cumberland County and we had the United States  
23 Army War College there, and we were always told  
24 that's a federal enclave, and whatever happens  
25 there, it's an island onto itself.



1 MS. GABBRIELLI: Exclusive  
2 jurisdiction, perhaps.

3 REPRESENTATIVE MASLAND: Right. Are  
4 there situations where they do cede concurrent  
5 jurisdiction?

6 MR. SADOWSKI: I don't know of any  
7 myself. That could be why the letter from the  
8 Assistant Attorney General did not take a  
9 position on getting concurrency for Lewisburg or  
10 Allenwood. It could be the same legal issue  
11 that they have.

12 REPRESENTATIVE MASLAND: It's safe to  
13 say then, wherever you have maritime and  
14 territorial jurisdiction, you have exclusive  
15 jurisdiction?

16 MR. SADOWSKI: No, that's not  
17 correct.

18 REPRESENTATIVE MASLAND: That's not  
19 correct?

20 MR. SADOWSKI: No. If you have  
21 territorial jurisdiction, it could be either  
22 exclusive or concurrent. Either would  
23 constitute territorial jurisdiction.

24 REPRESENTATIVE MASLAND: But the only  
25 hangup you really have, which brings you to us

1 today, is with the statutes that say where the  
2 United States has maritime or territorial  
3 jurisdiction they may do X, Y, and Z, and that  
4 doesn't cover you in cases like Loretto where  
5 you only have proprietary?

6 MR. SADOWSKI: That's correct.

7 REPRESENTATIVE MASLAND: So that's  
8 really the sole reason?

9 MR. SADOWSKI: The sole reason is to  
10 prosecute those crimes committed primarily by  
11 prisoners where there's not a specific federal  
12 statute that covers it.

13 REPRESENTATIVE MASLAND: Okay.  
14 That's all I have.

15 CHAIRMAN BIRMELIN: Representative  
16 Manderino is one step ahead of you,  
17 Representative Feese.

18 REPRESENTATIVE FEESE: She always is.

19 REPRESENTATIVE MANDERINO: Thank you.  
20 I gave up too early on my environmental example,  
21 and I want to go back to it. I, as a private  
22 citizen in Pennsylvania, have an environmental  
23 cause of action that state law gives me. We  
24 have a couple of those instances that I'm  
25 thinking of right now. I may end up in federal

1 court because I sue you and on diversity you  
2 remove it to federal court, correct?

3 MR. SADOWSKI: Well, it wouldn't be  
4 diversity, because when the United States is a  
5 party it would be removed to the federal court.

6 REPRESENTATIVE MANDERINO: But that's  
7 why I'm being removed.

8 MR. SADOWSKI: That's correct.

9 REPRESENTATIVE MANDERINO: But my  
10 cause of action exists by way of state statute,  
11 and I wouldn't have a cause of action under  
12 federal law. So if I give you, as this bill  
13 asks for, or at least I was reading the letter,  
14 concurrent criminal and civil jurisdiction over  
15 any real property, what I would be saying as a  
16 state entity that this cause of action that you  
17 as a private citizen would have under state law,  
18 you don't have that cause of action anymore if  
19 it's against one of these federal properties,  
20 because we've given them exclusive concurrent  
21 civil jurisdiction, or am I wrong there?

22 MR. SADOWSKI: I don't think that  
23 that changes it if, in fact, you have an action  
24 under state law. Concurrency just means that  
25 you also have an action of the federal law or



1 jump in here? Excuse me, Representative Feese.

2 CHAIRMAN BIRMELIN: Representative  
3 Feese, can Representative Masland proceed?

4 REPRESENTATIVE FEESE: Proceed.

5 REPRESENTATIVE MASLAND: Just to  
6 follow-up on that, why don't we just put  
7 criminal jurisdiction in if that's all you want,  
8 right? You want to be able to prosecute inmate  
9 versus inmate. Is there any problem with ceding  
10 concurrent criminal jurisdiction?

11 REPRESENTATIVE MANDERINO: See, I'd  
12 feel so much more comfortable with that.

13 REPRESENTATIVE MASLAND: Then you  
14 don't have to worry about the situation, and I'm  
15 not sure I follow everything --

16 REPRESENTATIVE MANDERINO: Well, I'm  
17 thinking about things like -- I mean, right now  
18 we have this whole notion of slap suits that are  
19 being brought against private entities because  
20 they exercise their right under state law to  
21 bring an environmental violation, etc., and  
22 that's a cause of action that's given to them  
23 just on a state level.

24 I'm sure we can think of lots of  
25 other instances in tort law or in some other law

1 of civil matters where somebody would have a  
2 right under state law that you can't even bring.  
3 Just like I can't bring a civil rights claim  
4 under state law, but I can bring one under  
5 federal law. Employment discrimination, I don't  
6 know. I guess that can go both ways depending  
7 on how you couch it.

8 I'm just concerned that we're going  
9 to carve out whole areas that we're not  
10 realizing we're going to carve out the way it's  
11 drafted. But the criminal stuff I have no  
12 problem with it. It makes perfect sense to me.

13 MR. SADOWSKI: Well, my preference  
14 would be to leave the words concurrent  
15 jurisdiction in there just so that we don't have  
16 any misunderstanding that it complies with the  
17 federal statutes that defines territories.  
18 There's exclusive or concurrent jurisdiction.  
19 It doesn't say exclusive or concurrent criminal  
20 jurisdiction.

21 However, as a practical matter, I  
22 think that we could argue if you had concurrent  
23 jurisdiction for criminal matters in that bill,  
24 that would give the protection that we're  
25 looking for, would you feel comfortable

1 prosecuting cases?

2 MS. GABBRIELLI: It's a concurrent  
3 jurisdiction?

4 MR. SADOWSKI: It's a concurrent  
5 jurisdiction for purposes of criminal matters.

6 MS. GABBRIELLI: The statute in  
7 question is 18 U.S.C, Section 7, subparagraph 3  
8 and it reads, "any lands reserved or acquired  
9 for use of the United States and under the  
10 exclusive or concurrent jurisdiction thereof."  
11 I'm not certain whether if you start excluding  
12 or delineating what concurrent jurisdiction is,  
13 what impact that would have on it, so that may  
14 be an issue.

15 CHAIRMAN BIRMELIN: Representative  
16 Feese.

17 REPRESENTATIVE FEESE: More a  
18 comment, Mr. Chairman, and that was following up  
19 on the Lewisburg Federal Penitentiary and  
20 Allenwood Penitentiary issue. If we would  
21 consider trying to add those somehow to create  
22 concurrent jurisdiction, I think maybe we should  
23 touch base with the District Attorney of Union  
24 County, because they have one part-time DA and  
25 one part-time Assistant DA, and, of course, that

1 county joins Lycoming County. And my guess is  
2 that they would not want anything to do with it,  
3 quite frankly.

4 REPRESENTATIVE MASLAND: My guess is  
5 that we wouldn't get it anyhow. My guess is  
6 they haven't ceded concurrent jurisdiction to us  
7 when they got exclusive, and they're not about  
8 to start.

9 MR. SADOWSKI: To return back to a  
10 comment I made before. If this makes the matter  
11 too complicated, we're happy with the service  
12 that we're getting from the U.S. Attorney's  
13 Office up at Allenwood and Lewisburg, and I  
14 would rather have it that this bill be  
15 considered.

16 CHAIRMAN BIRMELIN: Do members have  
17 any more questions?

18 ( No response )

19 CHAIRMAN BIRMELIN: I just had a  
20 couple for you, if I could. The listing that  
21 you have of the facilities on page 2, lines 12  
22 through 15, I think I heard you correctly say  
23 that the first 3, Loretto, McKean, and  
24 Schuylkill, are already in operation and they're  
25 up and running.



1 MR. SADOWSKI: That's correct.

2 CHAIRMAN BIRMELIN: And the fourth is  
3 the Philadelphia Detention Center which you've  
4 bought the land for, but you've not built the  
5 building?

6 MR. SADOWSKI: That's correct.

7 CHAIRMAN BIRMELIN: It's my  
8 understanding that you're also in the process of  
9 constructing or soon will be looking to  
10 construct one in Northeastern Pennsylvania; is  
11 that correct?

12 MR. SADOWSKI: That's correct. Up by  
13 Scranton, that's correct.

14 CHAIRMAN BIRMELIN: Do you know the  
15 location of that?

16 MR. SADOWSKI: I'm not sure where the  
17 location is. I call it Scranton.

18 MR. WIGEN: Jessup.

19 CHAIRMAN BIRMELIN: Where is it?

20 MR. WIGEN: It's outside of Jessup.

21 MR. SADOWSKI: Outside of Jessup by  
22 Scranton.

23 CHAIRMAN BIRMELIN: That's in my  
24 backyard. Are you confident that the language  
25 that we have before us would include that prison

1 when it's completed?

2 MR. SADOWSKI: Well, yes, because the  
3 language above it says all future lands,  
4 buildings, and waters thereafter acquired  
5 release for the Bureau of Prisons.

6 There was a question about whether or  
7 not we had actually acquired the land for that,  
8 whether or not title for the land had passed to  
9 us, which is why we do not ask for that to be  
10 included. That's how it was explained to me.

11 CHAIRMAN BIRMELIN: These different  
12 facilities that you have right now, the 3 that  
13 are in operation and any future ones,  
14 statistically speaking, how many crimes occur  
15 that you would have used concurrent jurisdiction  
16 to resolve as opposed to what you have to do  
17 today?

18 MR. SADOWSKI: Well, the way to  
19 answer that is this. There are a series of  
20 crimes that are committed or potential crimes  
21 committed that are referred to a prosecutor.  
22 But as a general rule, only 10 percent are  
23 actually prosecuted by the State U.S. DA or the  
24 attorney's office.

25 In 18 months, since January 1, '94,

1 Schuylkill had referred to both the DA and the  
2 U.S. Attorney's Office 120 cases for possible  
3 prosecution. The U.S. Attorney's Office  
4 prosecuted 7; 3 or 4 of which were escapes, and  
5 the DA prosecuted 2, and they were serious  
6 inmate-on-inmate assaults. So, just because we  
7 refer a case over, we need to allow the  
8 prosecutors to exercise a discretion of whether  
9 or not prosecution will occur.

10 CHAIRMAN BIRMELIN: In these 3  
11 institutions that you do not have concurrent  
12 jurisdiction, if a crime is committed that you  
13 consider to be exclusively a state violation,  
14 what's the process whereby you handle that?  
15 Take me through the steps of what you would do.

16 MR. SADOWSKI: George, correct me if  
17 I'm wrong on any of these. We have an  
18 investigative branch in the institution. We  
19 call them our SIS. The SIS would then contact  
20 the state DA's office or the state police to  
21 come in and investigate the crime scene and  
22 we'll refer over for prosecution, and we  
23 essentially turn it over to them and allow them  
24 to do the investigation work and interviewing,  
25 and then they make a decision yea or nay on

1 prosecution. If it's something that we feel  
2 strongly about, we'll convey our views, but  
3 essentially it's a matter of discretion from the  
4 DA's office.

5 CHAIRMAN BIRMELIN: You don't get  
6 involved investigating it at all?

7 MR. SADOWSKI: Well, sometimes we  
8 have to, to begin with, determining if there's a  
9 crime that was committed before we can refer it.  
10 But if we come across a scene, like if there's  
11 an inmate-inmate assault -- If we see an inmate  
12 laying there in a pool of blood, we obviously  
13 have to do something pretty quickly for our own  
14 internal processes as well. But whatever  
15 information that we get, we share it with the  
16 DA's office.

17 George is going to give you the real  
18 answer now. I gave you the attorney answer.

19 MR. WIGEN: Now that you've got the  
20 lawyer's answer, let me tell you how it really  
21 works.

22 What generally happens--and this has  
23 happened 3 times to us in the last about 18  
24 months on inmate-inmate assaults--what we do is,  
25 the special investigating supervisor referred to

1 as the SIS actually does the investigation and  
2 virtually almost concludes to a "T" what has  
3 happened. At that point we contact the Local  
4 District Attorney, Claude Shields' Office. He  
5 usually sends out his investigators to look at  
6 it. Either we do a good job or they don't feel  
7 they have to do any more, and I'm not sure  
8 exactly how to phrase that.

9 But, they generally then at that  
10 point have taken our investigative packet in  
11 total and taken that to a grand jury for  
12 indictment and have used that as a means to  
13 prosecute the offense. They have not at this  
14 point in time done any of the investigative work  
15 in the institution. We've basically done that  
16 ourselves.

17 CHAIRMAN BIRMELIN: So what this  
18 legislation would do if it became law is, it  
19 would allow you to complete the process by you  
20 taking him into court should you decide to do so  
21 and following through as opposed to turning it  
22 over to the DA or the state police or whoever?

23 MR. WIGEN: Yeah, and from an  
24 administrator's standpoint it's much easier. If  
25 we turn the case over to the FBI, which we would

1 be allowed to do, then the FBI would do the  
2 investigation along with our staff, would  
3 complete it. If they were then indicted in  
4 federal court for the offense, then to get that  
5 individual into federal court would be nothing  
6 more than the state's attorney and the district  
7 court issuing a writ. A marshall would pick up  
8 the individual and take them to court. Whereas,  
9 now what has to happen is, we cannot relinquish  
10 jurisdiction to the District Attorney's Office  
11 or to the county for prosecution.

12 That means that I have to issue an  
13 escorted trip for them; use my staff to escort  
14 those inmates down, and be with them during the  
15 prosecutorial standpoint in local court and then  
16 bring them back. So it's much more of a burden  
17 on me the way it is now than it would be if we  
18 were to get the concurrent jurisdiction and it  
19 was actually done in federal court.

20 CHAIRMAN BIRMELIN: Let me just  
21 conclude my remarks by saying that I think that  
22 there may be some changes that may need to be  
23 made in this legislation that you have before  
24 you, and I would suggest to you that if you have  
25 any, if you think something should be changed

1 here that clarifies or adds to whatever it is  
2 you want, that you direct them to this  
3 committee.

4 The bill has not been introduced  
5 yet. I would prefer that we make changes before  
6 we introduce the bill as opposed to trying to,  
7 you know, amend it; not that that's impossible,  
8 but it makes it a little easier to get all of  
9 our problems resolved before we put it in final  
10 form. I would suggest to you folks, if you  
11 would, to do that and address it to the  
12 Judiciary Committee here in the House within the  
13 next couple of weeks. It would be helpful if  
14 you could do that.

15 Meanwhile, our next person testifying  
16 is the Commissioner of Corrections in  
17 Pennsylvania. I haven't read his statement yet,  
18 but he may have some suggestions as well. I'd  
19 like to fine tune this, and then when it is  
20 introduced maybe we can resolve the differences  
21 that we have and get it passed as quickly as  
22 possible.

23 Representative Manderino for a quick  
24 last question.

25 REPRESENTATIVE MANDERINO: Yes.

1 Thank you. To either of the attorneys, give me  
2 an example of a civil matter, because we will be  
3 giving you -- If we give you what you're asking  
4 for, you're asking for criminal and civil  
5 jurisdiction. Give me an example of a civil  
6 matter right now that you don't have  
7 jurisdiction over, but you think you should and  
8 will under this legislation?

9 MR. SADOWSKI: Is this a bar  
10 question?

11 REPRESENTATIVE MASLAND: No, but I am  
12 keeping a clock on it.

13 REPRESENTATIVE CALTAGIRONE: You will  
14 be graded.

15 MR. SADOWSKI: I can't think of any  
16 off the top of my head. Whenever we deal with  
17 jurisdiction we're usually looking at criminal  
18 prosecution. I don't think that ceding  
19 concurrent jurisdiction and the United States  
20 accepting it is going to have any impact on  
21 civil matters at all. I think it's going to  
22 retain whatever state rights are there, and I  
23 don't think it's going to create any additional  
24 federal ones, civil ones.

25 MR. PRESKI: What about civil



1 forfeiture in criminal cases?

2 MR. SADOWSKI: There's a federal  
3 statute that governs that in any event. It's  
4 not necessary to have a federal enclave.

5 REPRESENTATIVE MANDERINO: I guess  
6 then -- I mean, I would feel much more  
7 comfortable with the language that  
8 Representative Masland suggested for the purpose  
9 of prosecuting criminal matters being added  
10 after the notion of concurrent jurisdiction. If  
11 you find out, you know, when you go back in  
12 further research of some reason why that  
13 shouldn't be limited that way, I'd like to know.  
14 I think that the risks of not limiting that way  
15 and --

16 I mean, it seems to me that, again,  
17 the Commonwealth of Pennsylvania who might want  
18 to bring an environmental action against the  
19 federal government would not be able to do that  
20 under here if it was a cause of action that we  
21 have carved out in state law but isn't in the  
22 federal EPA rights.

23 It seems to me that if this is  
24 giving you all criminal and civil jurisdiction  
25 over any real property in the Commonwealth

1       acquired by the Federal Bureau of Prisons that  
2       we would be precluded, and I don't want to do  
3       that personally, anyway.

4               MR. SADOWSKI: Representative, I  
5       don't think that that would happen because of  
6       the concurrency, but I can understand your  
7       concern. Any comments that we direct, is this  
8       the address that I direct it to?

9               CHAIRMAN BIRMELIN: Direct it to the  
10       Judiciary Committee General Counsel, Preski,  
11       P-r-e-s-k-i. That's the gentleman to my right.  
12       He's the brains of the outfit. I would  
13       appreciate if you would address that specific  
14       question that Representative Manderino brought  
15       up whether or not you need that civil concurrent  
16       jurisdiction.

17              MR. SADOWSKI: Right. The questions  
18       that I have listed were the institution that  
19       we're planning in Scranton, to assure that we  
20       don't have -- it's not that it's an existing  
21       land, which if it is, we should put it in here;  
22       whether or not the federal government has to  
23       take some action to cede back and have you  
24       accept concurrency; you know, what comes first?  
25       Do we do that first or do you do legislation

1 first? The other one was, what if we just limit  
2 it to concurrent for criminal purposes, would  
3 that jeopardize anything from the federal  
4 interest? Are those the 3 questions?

5 CHAIRMAN BIRMELIN: Are there any  
6 other questions members would like them to come  
7 up with an answer for?

8 REPRESENTATIVE MANDERINO: I'm sorry.  
9 And the one that we did earlier and we kind of  
10 guessed that it was probably about a third of  
11 the --

12 MR. SADOWSKI: Would you like a more  
13 up-to-date listing of jurisdictional --

14 REPRESENTATIVE MANDERINO: Yeah, a  
15 comprehensive listing of jurisdictions.

16 MR. SADOWSKI: I'm trying to get a  
17 more up-to-date list. Like I said, mine is from  
18 1990.

19 REPRESENTATIVE MANDERINO: Thank you.  
20 Thank you for your indulgence, Mr. Chairman.

21 CHAIRMAN BIRMELIN: Thank you folks  
22 very much for coming to testify. We appreciate  
23 your being with us.

24 Our next and last visitor who is  
25 going to share with us some ideas on this

1       legislation is our new Commissioner of  
2       Corrections, Mr. Horn. Mr. Horn, we welcome you  
3       to the Judiciary Subcommittee on Crimes and  
4       Corrections. We hope to see a lot more of you.  
5       What I've seen of you has been on TV, basically,  
6       and I think you handled yourself quite well when  
7       the Senate was giving you the third degree as  
8       far as confirmation as your position was  
9       concerned. It's good to have you here with us.  
10      I'm not sure if this is your first appearance  
11      before any House Judiciary meeting or not?

12               MR. HORN: No. I've been before a  
13      meeting of the full committee, I believe.

14               CHAIRMAN BIRMELIN: I actually missed  
15      that one. I apologize for that then. I know  
16      this is the first time you've met with the  
17      subcommittee because this is our first meeting.  
18      We do welcome you. I know you have a prepared  
19      statement you'd like to read and, of course,  
20      with all of our people who testify we would  
21      encourage you to be able to answer questions  
22      when you're finished.

23               MR. HORN: Sure. I'm pleased to be  
24      here and to meet all of you. Thank you. Good  
25      morning, Chairman Birmelin, members of the

1 Subcommittee on Crimes and Corrections:

2 I appreciate the opportunity to  
3 appear before you to testify on legislation  
4 which would authorize the Commonwealth to cede  
5 to the United States concurrent jurisdiction  
6 over the real property in the Commonwealth  
7 acquired by the Federal Bureau of Prisons.

8 The Ridge Administration supports  
9 this legislation. Benefits will accrue to the  
10 United States and to the Commonwealth. In  
11 particular, its enactment is expected to realize  
12 savings for taxpayers at both the state and the  
13 local levels. We envision that savings  
14 occurring in 2 ways.

15 First, the investigation and  
16 prosecution of crimes committed within these  
17 federal correctional facilities will be handled  
18 primarily by the FBI and the United States  
19 Attorney's Offices in lieu of local law  
20 enforcement and prosecutors.

21 Secondly, and perhaps more  
22 importantly to me directly and to the  
23 Commonwealth government, our state corrections  
24 facilities will not have to house inmates  
25 convicted of crimes committed while they are

1 confined in a federal correctional facility.

2 Allow me to elaborate.

3 An inmate incarcerated at one of the  
4 delineated federal prisons who assaults a  
5 corrections officer would be investigated by  
6 local police absent this legislation; absent  
7 this legislation would have to be prosecuted by  
8 the county district attorney; and absent this  
9 legislation, if found guilty of assault, would  
10 receive a sentence that would result in  
11 imprisonment in a state prison.

12 Frankly, I don't need any more  
13 inmates in my facilities. Today we have a  
14 population of 30,684 inmates in our prisons.  
15 Less than 3 weeks ago we had 30,293. By  
16 year-end we anticipate housing 33,000 inmates.  
17 We are at critical levels of overcrowding.  
18 Thus, our efforts to deal with this problem will  
19 be facilitated by enactment of this bill.

20 Mr. Chairman, this concludes my  
21 prepared remarks. I'd be happy to answer any  
22 questions you might have.

23 CHAIRMAN BIRMELIN: Are there members  
24 that have questions for Commissioner Horn? Ms.  
25 Manderino.

1                   REPRESENTATIVE MANDERINO: Thank you.  
2 Thank you, Commissioner. Based on your prepared  
3 statement, am I correct in assuming that the  
4 administration's support of this legislation is  
5 for -- the interest is with regard to criminal  
6 matters and that you haven't looked at the issue  
7 of civil matters and how it would affect --

8                   MR. HORN: Well, I think the  
9 likelihood and the frequency with which civil  
10 matters would arise is so small given that any  
11 inmate who had a grievance would invariably  
12 bring the claim in the federal courts. Quite  
13 frankly, the issue of civil never occurred to  
14 us. I think the big payoff is in the criminal  
15 area. I'm not a lawyer, and I couldn't comment  
16 at all on the civil issue at all. It didn't  
17 even occur to us.

18                   REPRESENTATIVE MANDERINO: Okay.  
19 Thank you. Maybe, Mr. Chairman, another person  
20 at least ask for a review and opinion of would  
21 be our Attorney General's Office, because they  
22 prosecute for the state, at least matters  
23 involving the state, not just criminal, but also  
24 civil. Maybe they would be able to give us an  
25 opinion as to whether or not there are certain

1 reasons why they either would or wouldn't want  
2 the ceding of civil jurisdiction.

3 CHAIRMAN BIRMELIN: That's an  
4 excellent suggestion, and we will do it. Do you  
5 have any further questions?

6 REPRESENTATIVE MANDERINO: No.  
7 That's it. Thank you.

8 CHAIRMAN BIRMELIN: Any other members  
9 with questions? Representative Boscola.

10 REPRESENTATIVE BOSCOLA: Just based  
11 on your statement I just have a quick question.  
12 Is there any federal prisoners now in our state  
13 institutions that you know of?

14 MR. HORN: There are a small number.  
15 There is an agreement that exists among the  
16 several states and the federal government that  
17 allows for the transfer of inmates. After the  
18 Camp Hill riots, for example, Pennsylvania sent  
19 a fair number of inmates to the federal prison  
20 system. There was reciprocity, and on occasion  
21 the federal prison system will ask us to take an  
22 inmate from them. We are today housing inmates  
23 for them under that interstate contact.

24 REPRESENTATIVE BOSCOLA: And I did  
25 ask this question earlier. I asked that if an



1 inmate-inmate assault is prosecuted by the  
2 Commonwealth, there are certain penalties that  
3 are assigned. Now, what happens if we give this  
4 jurisdiction to the federal government? Is  
5 there an increase in the penalty? Are they  
6 incarcerated longer or is it prosecuted  
7 differently because we're now giving the federal  
8 government --

9 MR. HORN: Well, it's prosecuted  
10 under federal law, and if the individual is  
11 found guilty you would have to -- It depends on  
12 what they were found guilty of and it would be  
13 governed by the federal sentencing guidelines,  
14 but I can tell you that although Pennsylvania  
15 has a very harsh sentencing scheme, the new  
16 federal guidelines particularly with respect to  
17 assault offenses are substantially severe and  
18 there is no parole for new convictions from  
19 federal sentences, so that inmate would serve  
20 their full term.

21 REPRESENTATIVE BOSCOLA: You answered  
22 my question. Thank you very much.

23 MR. HORN: You're welcome.

24 CHAIRMAN BIRMELIN: Representative  
25 Masland.

1                   REPRESENTATIVE MASLAND: Thank you,  
2                   Mr. Chairman. I guess, really, the main concern  
3                   is similar to a situation now. If a state  
4                   prisoner commits a crime in prison, the county  
5                   judge, the last thing he wants to do is give  
6                   that person a consecutive county sentence so  
7                   that they end up coming from the state prison to  
8                   the county prison. They're going to give them a  
9                   state sentence. Your concern is, you commit the  
10                  crime in the federal prison, you can have a  
11                  federal sentence in a federal prison. We don't  
12                  want you back here, right?

13                  MR. HORN: We don't want the  
14                  individual walking the streets, but if the  
15                  federal government is prepared to continue  
16                  housing them, I think that would prove to the  
17                  benefit of the Commonwealth, yes.

18                  REPRESENTATIVE MASLAND: Thank you.

19                  CHAIRMAN BIRMELIN: Any other members  
20                  with questions for Commissioner Horn?

21                  ( No response )

22                  CHAIRMAN BIRMELIN: Just a question  
23                  that has absolutely nothing to do with why  
24                  you're here; just to keep you on your toes.  
25                  Under Chairman Caltagirone's leadership in the

1 last several years, we've done a lot of visiting  
2 of state correctional institutions, and I know  
3 that since we've taken some of those visits,  
4 we've had some new members who have come on  
5 board on this committee, and we may have some  
6 interest in some of our newer members visiting  
7 some of these institutions.

8 I wonder if I were to find out  
9 whether or not there is any interest, if we  
10 could arrange for the tours of some of these  
11 state prisons under your purview?

12 MR. HORN: Absolutely. I would not  
13 only welcome it, but I would encourage it.  
14 There are a lot of misconceptions about our  
15 prisons. There are differences among them. We  
16 have prisons that we've opened in the last 2 or  
17 3 years that I think people need to see and then  
18 we have prisons like Graterford and Camp Hill  
19 and Huntingdon and Pittsburgh, Huntingdon and  
20 Pittsburgh which are nearly 100 years old.

21 I think you need to see several to  
22 get an understanding, because we are a very  
23 diverse system and nothing would facilitate my  
24 ability to speak to you about the issues that  
25 I'm dealing with on a day-to-day basis than if

1       you and your members had seen 2 or 3 of these  
2       places up close, firsthand. I welcome it. We'd  
3       be happy to facilitate it, assist you in any way  
4       we can. I think you know my new legislative  
5       assistant, Marybeth Marschik.

6                   CHAIRMAN BIRMELIN: She does look  
7       familiar.

8                   MR. HORN: Please have your staff  
9       contact her and we can work around your  
10      schedules.

11                   CHAIRMAN BIRMELIN: I remember being  
12      in the Camp Hill Prison, which Chairman  
13      Caltagirone arranged for that visit a week after  
14      the riots, and we were amazed at how good the  
15      place looked the week after, you know, the  
16      riots. A lot had been cleaned up in that  
17      one-week's time. I don't know if it's because  
18      we were coming here or what, but I know that was  
19      very helpful to me as a member of this  
20      committee.

21                   I know that Representative Boscola is  
22      on this committee; Representative Maitland is  
23      and some others and if they were interested I'd  
24      surely love to make the arrangements. I don't  
25      want to do it if they're not interested and, you

1 know, have nobody show up. If you're willing to  
2 do that with us, maybe I could work through Ms.  
3 Marschik for that.

4 MR. HORN: Yes, and it doesn't have  
5 to be a group visit to one prison. We can  
6 arrange for representatives to visit those  
7 prisons that are most proximal to their home  
8 districts.

9 CHAIRMAN BIRMELIN: In my particular  
10 case the Waymart Correctional Institution is  
11 within a stone's throw literally of my house, so  
12 I'm very familiar with it. Your superintendent  
13 there is Mr. Zimmerman and he's invited me up  
14 there on many occasions, fortunately, just for  
15 visits; not to stay. I think it is a good idea.

16 I also received quite an education by  
17 going to Muncy and to the Dallas Prison and I  
18 was in Graterford, and I think that that would  
19 be very helpful, especially as the Chairman of  
20 the Crimes and Corrections Subcommittee. I  
21 think that's something we ought to really focus  
22 in on.

23 MR. HORN: Absolutely. We will make  
24 ourselves available at your convenience.

25 CHAIRMAN BIRMELIN: Well, we thank

1       you for coming here this morning. Our members  
2       thank you, and we look forward to working with  
3       you in the future on this and other issues in  
4       the future.

5                       MR. HORN: Thank you very much.

6                       CHAIRMAN BIRMELIN: Meeting is  
7       adjourned.

8                       ( At or about 11:30 a.m. the hearing  
9       concluded )

10                                       \*    \*    \*    \*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, Lisa L. Carrigan, Reporter, Notary Public, duly commissioned and qualified in and for the County of Lancaster, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me, to the best of my ability, and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

This certification does not apply to any reproduction of the same by any means unless under my direct control and/or supervision

Dated this 28th day of September, 1995.

BY: *Lisa L. Carrigan*  
Lisa L. Carrigan - Reporter  
Notary Public